

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on the Sixth Day of June, 1770, in the Tenth Year of the Reign of Our Sovereign Lord George the Third, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. and there continued by several Prorogations until the Sixth day of October, 1783, in the Twenty Third Year of his said Majesty's Reign, being the Fifth General Assembly convened in the said Province.

23 George III – Chapter 1

An Act for the better regulating the Office of Sheriffs, and the Manner in which the Sheriffs, Clerks of the Crown, and Clerks of the Peace shall return and pass their Accounts of all Fines and Forfeitures, which shall be Imposed by their respective Courts, and which shall be levied by the Sheriffs for the Use of the Crown.

Be it enacted, by the Governor, Council, and Assembly, that it shall and may be lawful, for the chief justice or in his absence for the eldest Judge of His Majesty's Supreme Court in the last day of Michealmas term annually, in the list of persons, which they are by law to give to the Governor, Lieutenant Governor, or Commander in Chief for the time being, to return over again the names of such person or persons as shall be then in office of sheriff in each county; provided it shall appear to such judge or judges, that such person or persons, by writing under their hand or hands directed to the judge or judges of the said court, signifying his consent, that he is willing to serve again for the ensuing year: And if the Governor, Lieutenant Governor, or Commander in Chief, for the time being, shall see fit to nominate such person or persons as shall be then in the office of High Sheriff to serve again for the ensuing year, that then such person or persons shall within two months after such appointment or appointments take over again the usual oaths of office, together with the oaths herein after prescribed, and give new securities, and take a new patent out of the secretary's office for the second year, as tho' he or they had never served the office of sheriff before, and shall take new oaths, give new securities, and take a new patent for each and every year, that he or they shall afterwards continue in office as aforesaid, and if such person or persons so continued in office from year to year as before prescribed, shall neglect for a longer time then two months to take such new patent, new oaths, and give such new securities, such person or persons shall forfeit and pay the sum of fifty pounds, to be levied in the manner and form specified in the law for appointing sheriffs through this province, and on such neglect as aforesaid, it shall and may be lawful for the Governor, Lieutenant Governor, or Commander in Chief for the time being, to appoint one of the other persons returned in the said list of three by the judges as aforesaid.

II. And be it further enacted, that if a representation signed by the justices in their general sessions assembled in any county within this province, shall be filed in His Majesty's Supreme Court, at Halifax, as of any Michaelmas term, after the publication of this law, praying thereby, that the person then serving the office of sheriff in such county should not be returned in the judges list of three to serve the office of sheriff for the ensuing year, that then, and in such case the judge whose business it is to return such list, shall on no account

whatsoever return in his list the name of such person so petitioned against, and it shall not be lawful for such person so petitioned against to be continued in office a second year.

III. And be it further enacted, that if any sheriff or the deputies by him appointed shall levy or receive any sum or sums of money whatsoever by virtue of any execution, writ or process whatsoever, and shall detain such sum or sums of money in his or their hands twenty four hours after the person or persons legally authorized to receive the same, or any person lawfully by him or them appointed for that purpose, shall in the presence of one credible witness demand such sum or sums of money to be paid over to him or them, that then such sheriff shall forfeit to the party intitled to receive such sum or sums of money for each and every week, that, he or his deputy or deputies shall detain the same, the sum of five shillings for each and every pound of lawful currency of this province, which he or they shall detain after demand made as aforesaid, the same to be recover'd by bill, plaint or information, in His Majesty's supreme court at their sittings in any part of this province.

IV. And be it further enacted, that if any sheriff of any county within this province after any writ, process or execution directed to him, out of any court of record within the same, shall have come to his hand or the hands of his deputies, he or they, on any account whatsoever, shall omit or neglect returning such writ, process or execution with his or their doings thereon, indorsed on the back thereof in due time into the court where such writ shall be returnable, such sheriff for each and every such neglect of himself or his deputies, shall forfeit and pay the sum of twenty pounds, the same to be recovered by any person or persons whatsoever by bill, plaint or information in any his Majesty's court of record within this Province.

V. And be it further enacted, that if any sheriff or his deputies shall on any pretence whatsoever, after any summons, capias or attachment shall have come to his or their hands, settle with, or receive from the party or persons against whom such summons, capias or attachment shall issue any sum or sums of money whatsoever, for or on account, or in full, for such sum or sums of money as such summons, capias or attachment shall be issued for the recovery of, or shall return such summons, capias or attachment settled or satisfied without leave being first had in writing from the party or person issuing such summons, capias, or attachment, or some person lawfully authorized by him, thereby empowering such sheriff or deputies to compromise the suit or suits for the commencement of which such summons, capias or attachments was issued, that then such sheriff, on receiving such sum or sums of money, or returning such writ or writs satisfied without leave as aforesaid, shall forfeit and pay for each and every offence, the sum of ten pounds, to be recovered by any person whatsoever, by bill, plaint or information in any of his Majesty's courts of record in this province.

VI. And be it further enacted, that if any sheriff of any county within this province, shall happen to die before his year shall be expired, or before he be lawfully superceded, nevertheless the deputy sheriffs so by him appointed shall continue to execute the said office in the name of the deceased sheriff, until another sheriff shall be appointed for the

said county, and sworn into office, and the securities given by the sheriff for the faithful discharge of his office, shall be accountable for the conduct of the said deputy or deputies in the same manner as they would have been was the said sheriff living.

VII. And be it further enacted, that all sheriffs which in future shall be appointed on their entering upon their office shall take and subscribe the following oath: "I A. B. do solemnly swear, that I will truly serve the King in the office of sheriff of the county of _____ and promote His Majesty's profit in all things that belong to my office, as far as I legally can or may, I will truly preserve the King's Peace and all rights, which belong to his crown, and where I have any knowledge of the King's revenue being diminished, concealed or wasted, or of any person or persons concerned in collecting the same, being negligent in their duty, I will certify, and inform the King's representative within this province, or some of his judges of the same, I will do right as well to poor as to rich in all things belonging to my office. I will do no wrong to any person whatsoever for any gift, reward or promise, nor for favour no hatred, I will disturb no man's rights, I will at the end of the year render to His Majesty's supreme court at Halifax a true and faithful account of such debts, duties, fines or forfeitures to the crown, as shall be levied by me, or otherwise come to my hands. I will do nothing whereby the king, or any of his subjects may lose, or whereby the revenue of his province may be injured or diminished. I will without respite or delay return, and truly serve all the writs coming to my hands without favor or affection. I will take no deputy or bailiff into my service, but such as I will answer for, and will cause each of them before they enter on their office to take and subscribe this oath: I will make due return every year I shall be continued in this office, to the King's courts at their sittings within my bailiwick of all the freeholders and persons qualified for grand or petty juries within the limits of the same. I will not during the continuance of my office receive from any person or persons whatsoever, either directly or indirectly, any fee, favor, or reward for constituting such person or persons my deputy or bailiff, but will keep a strict eye over such person or persons, that they do not exact unreasonable fees, or that they are not guilty of extortion or oppression in their offices. I will not ask or demand from any person or persons whatsoever, any more travel for the service of any writ or process, than what I have actually and bona fide travelled over for the service of the same. I will truly and diligently execute the laws and statutes of this province, and in all things will strictly behave myself in my office for the honour of the king, and the good of his subjects."

So help me God.

VIII. And whereas great and many inconveniencies have arisen, by reason of the clerks of the crown, clerks of the peace and sheriffs, neglecting regularly to account for such fines and forfeitures and shall be adjudged to be levied for the king in their respective counties.

Be it therefore enacted, that from and after the publication hereof, all clerks of the crown, and clerks of the peace in the several counties within this province, shall once in every six months certify under the seal of their respective courts into the office of the clerk of the supreme court at Halifax, an account, stating therein the several fines, penalties and forfeitures adjudged to the King in their respective courts, together with the names of the

persons, who shall be adjudged to pay such fines, penalties and forfeitures, and in case no fine, penalty, or forfeiture shall be adjudged to the crown in any, or either of said courts within the said six months, then the clerk of such court shall certify the same as aforesaid; and in case any clerk of the crown, or clerks of the peace for any county within this province, shall neglect to make returns in the manner aforesaid every six months, such clerk shall forfeit and pay for each and every neglect the sum of five pounds, to be recovered on information by any person whatsoever in his Majesty's supreme court at Halifax, and in case any sheriff of any county within this province, shall neglect or delay longer than two months after his year of office shall expire, to render an account on oath to the said clerk of the supreme court in Halifax, of all such fines, forfeitures, penalties, or other debts or dues of the crown as shall be levied by him, together with the names of the persons on whom the same shall be levied, such sheriff, for each and every neglect as aforesaid, shall forfeit and pay the sum of twenty pounds, the same to be recovered on the information of any person whatsoever, before his Majesty's supreme court at Halifax, one half said penalty to go to the informer, and the other half to the crown.

IX. And be it further enacted, that at the end of every Easter term, the clerk of his Majesty's supreme court in Halifax, shall state a general account of all the fines, forfeitures and penalties adjudged to the crown in the several courts within this province, particularizing each county, and the names of the persons who shall be adjudged to pay such fines, forfeitures and penalties, as also the sums levied on account thereof, and the sums that shall be then due, and the names of the persons who owe the same, which said account stated as aforesaid, the said clerk of the said supreme court shall certify under the seal of said court into the treasury of this province, and in case the said clerk shall neglect to return such account in fourteen days after the end of every Easter term, such clerk shall forfeit and pay the sum of twenty pounds, for each and every neglect, or omission; the same to be recovered before the said supreme court in Halifax, on the information of any person whatsoever, one half said penalty to go to the King, and the other half to the informer.