

CAP. XVII.

Executed.

An ACT for applying certain Monies therein mentioned, for the Service of the Year of Our Lord One Thousand Seven Hundred and Ninety Four, and for appropriating such part of the Supplies granted in this Session of General Assembly, as are not already appropriated by the Laws or Acts of the Province.

At the GENERAL ASSEMBLY of the Province of Nova-Scotia, begun and holden at Halifax, on the Twentieth Day of March, Anno Domini 1793, and thence continued by several Prorogations to the Twelfth Day of March, Anno Domini 1795, in the Thirty-Fifth Year of the Reign of Our Sovereign Lord George the Third of Great-Britain, France, and Ireland, KING, Defender of the Faith, &c. being the Third Session of the Seventh General Assembly convened in the said Province.*

* In the time of Sir John Wentworth, Lieutenant-Governor; Sir Thomas Andrew Strange, Chief Justice, and President of Council; Thomas Barclay, Speaker; James Gautier, Secretary of Council; and James B. Franklin, Clerk of Assembly.

CAP. I.

An ACT to amend, and reduce into one Act, the several Acts made by the General Assembly, relating to the Office of Sheriffs; and also for altering the form of the Summons heretofore used.

Nomination and
appointment of
Sheriffs.

BE it enacted, by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful for the Chief Justice of His Majesty's Supreme Court, or in his absence, for the senior Judge of the said Court, once in every year, that is to say: on the last day of Michaelmas term, to nominate for each county in the Province respectively, three proper and fit persons to be made High Sheriffs, a list of whom he is hereby directed to present to the Governor, Lieutenant-Governor, or Commander in Chief for the time being, who is hereby empowered immediately to prick one out of the said number for each county, to serve the office of high Sheriff for the ensuing year, which Sheriff, being resident in his proper county, and having entered in the Secretary's office for the Province, good and sufficient security for the faithful execution of his office, as Sheriff, shall, immediately upon receiving his patent, be fully invested with all the powers,

powers and authorities of a high Sheriff, and be subject to all such laws, customs, ordinances, regulations and directions, as the high Sheriffs in the several counties in England are subject to: and also to all such Acts of this Province as in any way or manner relate to the execution of the office of a Provost Marshal, or to the said office of high Sheriff.

Sheriff to give security.

II. *And be it further enacted,* That the Sheriff, so appointed, shall continue in office until another shall be sworn in his stead.

Sheriff to continue in office till another be sworn.

III. *And be it further enacted,* That when any person or persons, who shall be so appointed to execute the said office of high Sheriff, shall refuse to accept the same, the person or persons so refusing shall be subject to a fine of fifty pounds for such his refusal: and the Governor, Lieutenant-Governor, or Commander in Chief for the time being, shall and may prick any other of the number then remaining upon the list so returned as aforesaid, instead of the person so refusing.

Penalty for such as refuse to serve.

IV. *And be it further enacted,* That it shall and may be lawful for the said Chief Justice, or senior Judge of His Majesty's Supreme Court, in the list of persons to be presented as aforesaid, to the Governor Lieutenant-Governor, or Commander in Chief for the time being, to return over again the name of such person, as shall be then in the office of Sheriff for any county, in case such person shall have signified to such Chief Justice, or senior Judge, his consent in writing, to serve for the ensuing year, unless a representation, signed by a majority of the Justices, in their General Sessions assembled, in any county within the Province, shall be filed in His Majesty's Supreme Court at Halifax, as of any Michaelmas term hereafter ensuing, praying thereby, that the person then serving the office of Sheriff in such county, may not be returned in the Judge's list to serve the office of Sheriff for the then ensuing year; in which case, the Judge who is to return such list shall not return the name of such person so petitioned against.

The same Sheriff may be again returned.

V. *And be it further enacted,* That all Sheriffs to be hereafter appointed, shall before entering upon the duties of their office, take and subscribe the following oath, viz.

Sheriffs to take the following oath on entering their office.

I 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 which belong to my office, as far as I legally can or may. I will truly preserve the King's rights, and those which belong to the Crown; and where I have any knowledge of their being concealed, or withdrawn, I will use my utmost endeavours, to make them be restored to the Crown again; and if I cannot cause them to be so restored, I will certify and inform the King's representative in 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 not do wrong to any person whatsoever, for any gift, reward or promise, nor for favour or 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 all such debts, duties, fines and forfeitures, to the Crown, as shall be levied by me, or come to my hands; I will take nothing whereby the King may lose, or the revenue of this Province be injured or diminished; I will duly return, and truly serve, without favour or affection, all the King's writs that shall come to my hands; 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 upon their office, to take such oaths as I do, in what belongeth to their several occupations; I will duly make fair and impartial lists and pannels of persons able and sufficient as it is appointed by the laws of this Province; I will not, during the continuance of my office, receive, either directly, or indirectly, any fee, favour or reward, for constituting any person or persons, my deputy, or bailiff, but will keep a strict eye over such deputy or bailiff, that he or they do not exact unreasonable fees, and be not guilty of extortion and oppression in their offices; I will truly to the best of my skill and judgment, execute the laws and

Form of the oath.

statutes of this Province, and in all things will act uprightly in my office, for the honour of the King, and the good of his subjects. So help me God.

In case of the death of a Sheriff, how another shall be appointed.

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 superseded, the deputy Sheriff 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 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, if the said Sheriff had been living; and if such Sheriff, shall have left no deputy by him appointed, it shall and may be in the power of any two of the Judges of the Inferior Court of the county to which he shall have belonged, of whom the senior Judge of the same, then within the county, shall be one, and they are hereby required, forthwith to appoint some proper and fit person to act as Sheriff, during such interval, who, before he shall enter upon the duties of his office, shall take the oath herein before prescribed, and shall give good and sufficient security to the satisfaction of the said Justices, for the faithful discharge of the duties thereof, until a Sheriff shall be appointed, and sworn, in manner as he is herein before directed.

Writs of Summons to be directed to Sheriff.

VII. And be it further enacted, That from and after the publication hereof, all writs of summons, to be issued from any Court of Record within this Province, shall be directed to the Sheriff of the County within which such writ is to be served, and that the form of all summonses, to be hereafter issued from any Court of Record, shall be as follows:

Form of Summons.

(L.S.) George the Third, by the Grace of God, of Great-Britain, France and Ireland, King, Defender of the Faith, &c. &c. &c.
To the Sheriff of the county of _____ Greeting:
We command you, that you summon _____ if he may be found in your precinct, to be and appear before our Justices of our Court, at _____ on the _____ of _____ next, then and there to answer to _____ in a plea of _____ to the damage of the said _____ pounds, as is said, and have you then there this writ.
Witness, _____ Esqr. at this day of _____ in the _____ year of our reign, annoque domini, 179 _____ Proy.

A copy of which summons, shall, in all cases, be served by the Sheriff, upon the defendant or defendants.

Fees allowed the Sheriff.

VIII. And be it further enacted, That the fees hereafter to be allowed and taken by the several Sheriffs for their services to be done and performed in the said office, shall be as follows: Serving every summons, or *scire facias*, and making return thereof, three shillings and six pence.
Serving every other writ of *mesne profits*, five shillings.
Serving every execution, and making return thereof, five shillings.
Serving writ of possession, ten shillings; travel, three pence per mile, for every mile from the place of residence of the Sheriff, to the place where he shall serve any writ; and one penny per mile, and no more, for every mile from the place of residence of the Sheriff, to the Court House, where such writ is returnable; provided such Court be out of his bailiwick, and not otherwise.
Bail bond, three shillings.
Summoning a Jury in each cause, two shillings and six pence.
Executing writ of enquiry, summoning a jury, and making return; ten shillings.

Returning:

Returning Special Jury; ten shillings.

On executions or attachments (where a sale shall take place) extended on personal property, sale and payment of the monies received, to the plaintiff, or his attorney, as follows, viz.

For any sum not exceeding fifty pounds, one shilling.

From fifty pounds, to one hundred pounds, nine pence.

All above one hundred pounds, six pence.

On executions or attachment, where a sale shall take place, extended on real estates, three pence in the pound, on the appraised value for laying the same thereon; and the sale of such real estate, and payment of the proceeds of such sale to the plaintiff or his attorney; the further fee of three pence in the pound.

For making inventory of goods and chattels attached, such reasonable fees as shall be taxed by the Court, out of which the writ shall have issued.

IX. *And be it further enacted*, That the appraisers of goods, chattels or estates, taken upon attachment, or in execution, shall be allowed two shillings and six pence each for such appraisement, or where the property is so extensive, or complicated, as to require a long time to ascertain its value, three shillings and six pence each per day, for every day while they are actually, and *bona fide*, employed in such appraisement; and where goods and chattels of a perishable nature, or live stock of any kind, shall be taken by attachment, and appraised, and the party whose goods or stock are so taken, shall not, within three days after notice of such appraisement being made, give sufficient security for the value thereof, according to law, it shall and may be lawful for any Judge of the Court, out of which such writ of attachment shall have issued, upon application of the plaintiff, and notice thereof to the defendant, or, if the defendant be an absent or absconding debtor, to his agent, factor or trustee, if he have any, and no good cause to the contrary shewn, to order the goods, chattels or stock, so attached and appraised, to be sold by the Sheriff at public auction: and the money arising from such sale, to be retained in the hands of the Sheriff, or paid into Court, to respond the judgment, to be afterwards given in such cause.

X. *And be it further enacted*, That if any Sheriff, or his deputy, shall demand and take any greater or other fees, in respect of any of the services herein before mentioned, than are ascertained and allowed by this Act, he or they so offending, shall, for each offence, be liable to the penalties and forfeitures, specified in an Act, made in the twenty eighth year of His Majesty's reign, entitled, An Act for the establishment of fees, as regulated by the Governor and Council, at the request of the House of Assembly; and to be recovered in manner, and to the uses therein mentioned.

XI. *And be it further enacted*, That the several fines and forfeitures imposed by this Act, shall be recovered by bill, plaint or information, before the Supreme Court: and when recovered shall be paid to the Treasurer of the Province, for the use and service thereof.

XII. *And be it further enacted*, That no writ of *mesne* process, issuing from the Inferior Court of Common Pleas, shall hereafter be directed to any Sheriff within the Province, except to the Sheriff of the county or district for which such Inferior Court shall sit, and belong to; and no person or persons whomsoever shall be hereafter sued before any Inferior Court of Common Pleas, within this Province, unless such person or persons shall be actually resident within the county or district where such Inferior Court shall sit, and belong to.

XIII. *And be it further enacted*, That if any Sheriff, or his deputy, shall levy, or receive, any sum or sums of money, by virtue of any execution, writ or process, and shall detain the same in his or their hands for the space of twenty-four hours after the same shall have been demanded, that then such Sheriff shall forfeit, to the party entitled to receive such sum or sums of money, for each and every week that he, or his deputy, shall detain the same, the sum of five shillings

Fees on appraisement of goods or estates.

Manner of proceeding on the attachment of goods of a perishable nature.

Sheriffs taking illegal fees.

Recovery and application of fines.

Issue of *mesne* process from the Inferior Court. No person to be sued out of his county before any Inferior Court.

Penalty for Sheriff detaining money in his hands.

shillings for each and every pound which he shall so detain after demand so made as aforesaid: to be recovered by bill, plaint or information, in His Majesty's Supreme Court, at their fittings in any part of this Province: *provided*, Such action shall be brought within three months after such demand as aforesaid, and not otherwise:

This Act to be in force instead of the following Acts.

18th of Geo. 3d.

23d of Geo. 3d.

28th of Geo. 3d.

Except so much of the 23d Geo. 3d. as respects the obligation of Clerks of the Crown, and Peace to make returns to Supreme Court.

XIV. *And be it further enacted*, That, from and after the publication hereof, this Act shall be wholly substituted, and be in force, instead of the Acts herein after mentioned, *viz*:

An Act, made in the eighteenth year of His Majesty's reign, entitled, An Act to empower the Governor, Lieutenant-Governor or Commander in Chief, to appoint Sheriffs in such counties where it may be found necessary. And also instead of an Act, passed in the twenty-third year of His Majesty's reign, entitled, An Act for the better regulating the office of Sheriffs, and the manner in which 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 likewise instead of an Act, passed in the twenty-eighth year of His Majesty's reign, entitled, An Act for the regulating the manner of issuing process and execution from the Inferior Courts of Common Pleas for the several counties in this Province, and also for altering the form of the summonses heretofore used: any thing in the said Acts, or either of them, to the contrary hereof, or different from the several provisions of this Act, in any wise notwithstanding. *Provided always, and it is hereby enacted*, That nothing in this Act contained, shall extend, or be construed to extend, to repeal so much of the Act, passed in the twenty-third year of His present Majesty's reign, above recited, as respects the obligation of Clerks of the Crown, and Clerks of the Peace, in the several counties within this Province, to make their returns to the Supreme Court, in the manner, and subject to the penalties expressed in, and by the eighth section thereof.

CAP. II.

An ACT to enable the Governor, Lieutenant Governor, or Commander in Chief for the time being, to appoint persons to solemnize Marriages, in places wherein no established Clergyman resides.

Preamble.

WHEREAS great inconveniences have arisen, and do still exist, in many parts of this Province, for want of persons being legally authorized to solemnize marriages, for remedy whereof:

Appointment of persons to solemnize marriages in places where no established Clergyman resides.

I. *Be it enacted, by the Lieutenant-Governor, Council and Assembly*, That from and after the publication hereof, it shall and may be lawful for the Governor, Lieutenant-Governor, or Commander in Chief for the time being, to appoint such fit and proper persons as he shall think necessary, within any of the townships or districts in this Province, wherein no regular or licenced Clergyman doth reside, to solemnize marriages within such townships or district, between parties, both of whom shall have resided one month at least, within such township or district, by licence or otherwise as required by the laws of this Province, and all marriages so solemnized shall be as good and valid in law, as if the same had been solemnized by any regular licenced clergyman; any law, usage or custom, to the contrary notwithstanding.

Certificate of such marriages to be returned to the Clerk of the Peace.

II. *And be it further enacted*, That each and every person, solemnizing marriages as aforesaid, by virtue of this Act, shall, within thirty days after the solemnization as aforesaid, file with the Clerk of the Peace, for the county wherein such marriage is solemnized, a certificate thereof, under pain of forfeiting the sum of ten pounds for each and every offence.

III. *And be it further enacted*, that the Clerks of the Peace in their respective counties shall record