

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1850.* Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1850.

13 Victoria – Chapter 50

**An Act to consolidate and amend the Laws relating to the Office of Sheriff. Passed 26th April 1850.**

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That an Act made and passed in the sixth year of the Reign of His late Majesty William the Fourth, intituled *An Act for the better regulating of the Office of Sheriff in this Province*; also an Act made and passed in the first year of the Reign of Her Majesty Queen Victoria, intituled *An Act to alter the times for the appointment of Sheriffs and Supervisors of Great Roads*; also an Act made and passed in the third year of the said last mentioned Reign, intituled *An Act to amend the Act to alter the times for the appointment of Sheriffs and Supervisors of Great Roads*; also an Act made and passed in the ninth year of the said last mentioned Reign, intituled *An Act in amendment of the Law relating to the appointment of Sheriffs*; be and the same are hereby repealed: Provided, that the appointment of Sheriffs or Deputy Sheriffs heretofore made, and all bonds heretofore given, and all judgments heretofore recovered, and all other acts, matters and things heretofore done, and all liabilities heretofore incurred under and by virtue of any of the said Acts hereby repealed, shall continue and remain in full force and effect so far as the same are in accordance with the provisions of the said Acts hereby repealed, or any of them, notwithstanding the repeal of the said Acts.

II. And by it enacted, That the Sheriffs of the several Counties in this Province, save and except the Sheriff of the City and County of Saint John, shall be appointed annually by the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice and consent of the Executive Council, in the month of March in each and every year; provided that nothing in this Act contained shall prevent the appointment of any such Sheriff at any other time when the same may become necessary in consequence of the death or removal from office of any Sheriff.

III. And be it enacted, That every Sheriff appointed or to be appointed, shall remain in office until another shall be appointed and sworn in his stead; and every such Sheriff, in addition to the Bond (A) required to be given to Her Majesty, shall give a bond (B) with two good and sufficient sureties in the sum of five hundred pounds to the Lieutenant Governor or Administrator of the Government for the time being, to answer for any moneys or damages that may be recovered against the said Sheriff, or by reason of any Act, misdoing or neglect of such Sheriff or any of his Deputies, in the discharge of the duties of his office for the year or portion of a year for which he may be so appointed, and a new bond (B) shall be annually given by every Sheriff, although such Sheriff shall be re-appointed and continued in office; and every such Sheriff shall forthwith after his appointment lodge such bond (B) in the office of the Secretary of the Province, to be by him laid before the Lieutenant Governor or Administrator of the Government for the time being, for his approval of the sureties therein named, and the bond shall not be deemed to be perfected until such approval shall be given and endorsed thereon; and in case of the failure of any Sheriff to give

such bond with sureties that shall be so approved of, for the space of one month after his being appointed, another person shall be appointed in his stead for the then current year, to end on and at the same day in March then next ensuing as the appointments of the other Sheriffs, and every such bond when so perfected shall be transmitted by the Secretary of the Province to the office of the Clerk of the Pleas of the Supreme Court, and shall be filed by him and remain on file with the records of the said Court.

IV. And be it enacted, That if any person shall recover a judgment against any Sheriff in any Court of Record in this Province, for any moneys due to or damages sustained by him or them for or by reason of any act, doing, misdoing or neglect of such Sheriff, or any of his Deputies, in the discharge of the duties of his office, during the year or portion of a year for which any such bond may be given, and shall issue any writ of *feri facias* upon such judgment into the County where such Sheriff may reside, and a return of *nulla bona* as to the whole or any part of the amount of such judgment shall be made upon such writ of *feri facias*, such person may forthwith, upon such return being made, apply to the said Supreme Court or any Judge thereof, and such Court or Judge shall thereupon grant an order for such bond to be put in suit by such person, and such person may thereupon bring an action of debt upon such bond in the Supreme Court in his own name, and a copy of such bond, certified under the Seal of the said Court, shall all cases be good evidence thereof without the production of the original; provided that no action shall be brought upon any such bond unless the suit in which such judgment shall have been obtained against such Sheriff, for a cause of action accruing during the year for which such bond was given, shall have been commenced before the expiration of one year after the end of the year for which such bond was given; nor shall any such action on such bond be brought after the expiration of one year from the day of the signing of such judgment recovered against such Sheriff; and provided also, that no order for putting such bond in suit shall be made, unless the requisite facts shall be made to appear by affidavit to the satisfaction of the Court or Judge.

V. And be it enacted, That the person by whom such action of debt upon such bond shall be brought, may recover in such action the amount of the judgment against the Sheriff, with the costs of suit, provided that the amount of such judgment does not exceed the penalty of the bond, and the amount of debt recovered in any action on such bond shall be deemed a satisfaction of the bond shall be deemed a satisfaction of the bond *pro tanto*; and in case of a subsequent order being obtained for putting the bond in suit at the instance of any other party, there shall be recovered in such subsequent action no more than the residue of the penalty which may remain after such part satisfaction of the bond in such former action, together with costs of suit, and so on *toties quoties*; and the aggregate of the debt recovered in all actions upon any such bond shall never exceed the penalty of the bond; and in case any action shall be brought upon any such bond, wherein there shall be nothing recovered, the defendant shall have judgment with costs of suit.

VI. And be it enacted, That any Sheriff may appoint one or more fit and proper persons to act as Deputy Sheriffs under him, and any person so appointed Deputy Sheriff shall give to the said Sheriff security for the faithful performance of his duty; and the said Sheriff shall immediately after such appointment publish the name of any person whom he may so appoint as a Deputy Sheriff in

one of the public newspapers of the County, and if none be published therein, then in the Royal Gazette of this Province, which publication may be proved by the production of the said Gazette or newspaper in which the said notice shall have been published, and the same shall be sufficient evidence of such person being such Deputy Sheriff; and no person shall be authorized to act as Deputy Sheriff until he shall have given security, and his name shall have been published in the manner aforesaid; provided always, that nothing in this section contained shall apply to any person deputed by any Sheriff to do particular acts only.

VII. And be it enacted, That in all cases where the High Sheriff of the County is or shall be permitted to reside out of the Shire Town of the County, it shall be the duty of such Sheriff, and he is hereby required, not only to keep a Deputy or Under Sheriff resident in the Shire Town of the County, but also an office as near as conveniently may be to the Court House, which office such Sheriff is hereby required to keep open at all reasonable times for the transaction of business.

VIII. And be it enacted, That if any Sheriff or his Deputy shall levy or receive any sum of money by virtue of any execution, writ or process, and shall retain the same in his hands for the space of one month after the same shall have been demanded by the person authorized to receive the same, that then such Sheriff shall forfeit to the party entitled to receive such sum of money, for any time that he or his Deputy may retain the same, at the rate of one shilling per pound for every month that the same shall be so detained after the expiration of one month after demand, made as aforesaid, to be recovered by action of debt at the suit of the party entitled to receive the same, in the Supreme Court of this Province, or in the inferior Court of Common Pleas for the County where such offence shall have been committed; provided such action shall be brought within three months next after such demand made, and not otherwise.

IX. And be it enacted, That no person (save and except the High Sheriffs respectively, and their respective Deputies) shall charge or be allowed to receive any fee or reward whatsoever for the services of any writ or process issued from the Supreme Court or any of the Inferior Courts of Common Pleas in this Province, nor shall any fee for the service of any writ or process issued from any of the said Courts be allowed or taxed in any case unless such service has been made or performed by the Sheriff or some one of his Deputies of the County or City and County in which the writ or process shall have been served, or by some person specially authorized by the said Sheriff to make the particular service, any law, usage or custom to the contrary in any wise notwithstanding; and it shall be the duty of every Attorney issuing any process from any of the said Courts to put the same into the hands of the Sheriff or one of his Deputies to be served, unless when the service is intended to be entirely gratuitous.

X. And be it enacted, That the Attorney issuing any writ or process, whose name is endorsed on such writ or process, shall in all cases be considered as the employer of the Sheriff serving any such writ or process, and as such, liable to the Sheriff for his legal fees for serving or executing the same; provided that nothing herein contained shall be construed to defeat the liability of the plaintiff to such Sheriff for the service of any writ or process.

XI. And be it enacted, That the Justices of the Peace of the several Counties in this Province, at their respective General Sessions, shall allow the said Sheriffs respectively such reasonable compensation for their services in summoning the Grand and Petit Jurors of their respective Counties, and for attending the Courts therein, as to the said Sessions respectively shall appear just and right, not exceeding in any one year the sum of twenty pounds; which allowance or compensation when so awarded by the Sessions as aforesaid, shall be paid by the County Treasurer out of any funds in his hands belonging to the said Counties respectively, by order of the said Sessions, provided that the limit of twenty pounds hereinbefore mentioned shall apply only to the services hereinbefore specifically described, and shall not be construed to extend to any remuneration to be made by the said Justices to the said Sheriff out of the County funds for any other services by him performed.

XII. And be it enacted, That the following Fees shall be allowed in lieu of the Fees now authorized to be taken by the Sheriff's respectively for the like services, viz:—

Drawing and taking a Bail Bond, ... ..	£ 0	10	0
Arrest of every defendant on mesne process, where sum sworn to does not exceed fifty pounds, ... ..	0	2	6
Where it exceeds fifty pounds and not one hundred pounds,	0	5	0
Where it exceeds one hundred pounds and not two hundred and fifty pounds, ... ..	0	7	6
When above two hundred and fifty pounds, ... ..	0	10	0
For serving a Declaration in Ejectment, ... ..	0	5	0
Travelling, per mile, from the Court House, ... ..	0	0	3
Executing <i>Habere Facias Possessionem</i> , ... ..	0	10	0
Travelling, per mile, from the Court House, ... ..	0	0	3
<i>Gaoler's Fees.</i>			
For locking and unlocking each Debtor, ... ..	0	7	6

#### SCHEDULE A.

Known all men by these presents, that we \_\_\_\_\_ of \_\_\_\_\_ County of \_\_\_\_\_ in the Province of \_\_\_\_\_ County of \_\_\_\_\_ in the Province aforesaid, \_\_\_\_\_ and \_\_\_\_\_ County of \_\_\_\_\_ in the Province aforesaid, are held and firmly bound unto our Sovereign Lady Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c. in the sum of one thousand pounds of lawful money of New Brunswick, to be paid to our said Lady the Queen, Her Heirs or Successors, for which payment well and truly to be made, we bind ourselves and each of us by himself, for and in the whole, our Heirs, Executors and Administrators, and every of us, firmly by these presents. Sealed with our seals. Dated this

\_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_, and in the \_\_\_\_\_ year of Her Majesty's Reign.

Whereas the above bounden has \_\_\_\_\_ by Letters Patent under the Great Seal of the said Province of New Brunswick, been appointed High Sheriff of the \_\_\_\_\_ County of \_\_\_\_\_ in the said Province. Now the condition of the above obligation is such, that if the said \_\_\_\_\_ shall in all things well, truly and faithfully demean and behave himself in the said office of High Sheriff of the said County of \_\_\_\_\_ during his continuance in the said office, and faithfully execute and perform all and singular the duties belonging to the said office, and also shall duly account for and pay over to Her Majesty's Receiver General for the said Province for the time being, or to such other person as shall be authorized to receive the same, all moneys which shall or may be received by him the said as such Sheriff on account of or to the use of Her said Majesty, Her Heirs or Successors, when duly required from time to time so to do, then the said obligation to be void, or else to be and remain in full force and virtue.

Signed, sealed and  
delivered in presence of }

#### SCHEDULE B.

Know all men by these presents, that we \_\_\_\_\_ are held and firmly bound unto the Lieutenant Governor or Administrator of the Government of the Province of New Brunswick for the time being, in the sum of five hundred pounds of lawful money of the said Province, to be paid to the said Lieutenant Governor or Administrator of the Government of the said Province for the time being, for which payment to be well and truly made, we bind ourselves and each of us by himself, for and in the whole, our and each of our Heirs, Executors and Administrators, firmly by these presents. Sealed with our seals. Dated the \_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_.

Whereas the above bounden \_\_\_\_\_ has been duly appointed High Sheriff of the County of \_\_\_\_\_ (or the City and County of \_\_\_\_\_ as the case may be,) for the year ending on the \_\_\_ day of March next ensuing the date of this obligation. Now the condition of this obligation is such, that if the said \_\_\_\_\_ Sheriff as aforesaid, his Executors or Administrators, shall well and truly pay and satisfy, or cause to be paid and satisfied, all moneys and damages that may be recovered against him the said \_\_\_\_\_ Sheriff as aforesaid, by any person or persons for or by reason of any act, doing, misdoing, or neglect of such Sheriff or any of his Deputies in discharge of the duties of his office, during the said year ending on the \_\_\_ day of March next ensuing the date of this obligation, then this obligation to be void, otherwise to remain in full force and virtue.

Signed sealed and  
delivered in presence of }