



CHAPTER 304.

An Act respecting the Office of Sheriff.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

Short Title.

Short title.

1. This Act may be cited as the "Sheriffs Act." R.S. 1936, c. 260, s. 1.

Interpretation.

Expressions interpreted.

2. In this Act, unless the context otherwise requires:—
"Proceeding" includes writ of summons, writ of ejectment, or other writ at law, citation in probate and notice, subpœna, and other proceeding at law or in probate or otherwise:

"Writ" includes any process. R.S. 1936, c. 260, s. 2.

Appointment, Jurisdiction, and Tenure.

Appointment of Sheriffs.

3. It shall be lawful for the Lieutenant-Governor in Council to appoint a Sheriff for each county, or for any less or greater jurisdiction. R.S. 1936, c. 260, s. 3.

List of Sheriffs to be published annually.

4. A list giving the full name and post-office address of each Sheriff in the Province, and showing the limits of each Sheriff's bailiwick or county, shall be published in the Gazette during the month of July in each year. R.S. 1936, c. 260, s. 4.

Oath of allegiance to be taken and declaration made by Sheriff.

5. Every Sheriff shall, before he enters on the execution of his office, take and subscribe the oath of allegiance in Form A, and make and subscribe a declaration in Form B, or to the like effect, before a Judge of the Supreme or County Court, or before any Justice of the Peace; and every such oath or declaration shall be filed in the office of the Clerk of the Peace or the Government Agent. R.S. 1936, c. 260, s. 5.

Deputy Sheriffs
and bailiffs.

6. Any Sheriff may appoint one or more Deputy Sheriffs and one or more bailiffs, who respectively shall represent him in his bailiwick and may exercise all the powers of his office without special authority delegated to them from time to time to that effect. R.S. 1936, c. 260, s. 6.

Traders prohibited
from holding office
of Sheriff or Deputy
Sheriff.

7. No person shall hold the office of Sheriff or Deputy Sheriff whilst carrying on the business of a wholesale or retail trader. R.S. 1936, c. 260, s. 7.

Process of Supreme
Court, in absence of
Sheriff, may be
executed by person
appointed by Judge.

8. Where any Judge of the Supreme or County Court orders or requires to be done any act, matter, or thing which ought by law to be done by a Sheriff or by some person acting under his authority, and no such Sheriff or person acting under his authority is in readiness to do such act, matter, or thing, it shall be lawful for the Judge, by writing under his hand, to appoint any person whom he thinks fit to act as Sheriff, taking from the person so appointed such security for the due performance of his duties as the Judge thinks proper; and every such appointment shall endure and be in force for the space of one calendar month, and no longer, unless renewed by the Judge or by the Sheriff for the county or place within which the person so appointed is acting; and it shall be lawful for the Judge to renew any appointment made under and in pursuance of the power hereby conferred, from time to time, as he deems necessary; and every such appointment and reappointment, and all things which are done under the same, shall be reported in writing as soon as conveniently may be by the Judge to the Lieutenant-Governor in Council; but no act or neglect on the part of a person appointed to act as Sheriff under the provisions hereof shall affect the Sheriff (if any) appointed or holding office under section 3 or 52 for the county or place with any personal liability except as to acts done after renewal by him of the appointment of such person. R.S. 1936, c. 260, s. 8.

Power of Judges of
Supreme and County
Courts to appoint a
person to act as
Sheriff during
vacancy of office of,
or illness or absence
of, Sheriff.

9. In the event of the office of Sheriff of any county or jurisdiction being for the time being vacant, or in the case of the absence or illness of any Sheriff, it shall be lawful for any Judge of the Supreme or County Court, for the purpose of the due service, carrying-out, or execution of any order, writ, or process of such Court in any cause or matter, to empower, by appointment in writing intituled in the cause or matter and given under the hand of the Judge, any person to perform the duties of a Sheriff in the cause or matter; and the appointment shall be filed in the district registry of the Court, and the person appointed shall furnish, to the satisfaction of the Registrar of the Court, such security as the Judge directs. R.S. 1936, c. 260, s. 9.

On death of Sheriff,
his deputy to
continue the office.

10. Upon the death of any Sheriff, the Deputy Sheriff, or, if there is more than one Deputy Sheriff, the Deputy Sheriff whose appointment is senior, shall nevertheless continue the office of Sheriff, and execute the same, and all things belonging thereto, in the name of the deceased Sheriff, until another Sheriff has been appointed and sworn into office; and the Deputy Sheriff shall be answerable for the execution of the said office, in all respects and to all intents and purposes whatsoever, during such interval, as the Sheriff so deceased would by law have been if he had been living; and the security given by the Deputy Sheriff and his pledges shall remain and be a security to His Majesty, and to all persons whatsoever, for such Deputy Sheriff's due performance of the duties of the office of Sheriff during such interval. R.S. 1936, c. 260, s. 10.

On forfeiture of office,
Sheriff to continue
until successor
appointed.

11. Notwithstanding any Sheriff may have forfeited his office and become liable to be removed therefrom by reason of his not having complied with the provisions of this Act, he shall nevertheless continue to hold and to execute the duties of his office, and the liability of himself and of his sureties shall remain, until a new Sheriff has been appointed and sworn in his stead. R.S. 1936, c. 260, s. 11.

Security.

Bonds to be given by
Sheriff and sureties.

12. Every Sheriff appointed under this Act shall give a bond with four sureties in such sums as the Lieutenant-Governor in Council thinks fit, with a condition that the Sheriff will well and faithfully account for and pay over all the moneys he receives for His Majesty, and such bond and conditions shall be in Form C, or to the like effect; and every Sheriff appointed under this Act, and four sufficient sureties, shall enter into a joint and several covenant, in Form D, or to the like effect, such sureties to be approved by the Lieutenant-Governor in Council; and such covenant shall be filed in the office of the Provincial Secretary, and may be examined by any person at all reasonable hours on payment of a fee of twenty-five cents, and a copy of the same shall be furnished to any person requiring the same on payment of a fee of one dollar: Provided that nothing herein contained shall prevent the acceptance by the Lieutenant-Governor in Council of the bond or policy of insurance of any guarantee insurance company lawfully carrying on business in the Province as such security. R.S. 1936, c. 260, s. 12.

Any person may sue
on the covenants in
the bond.

13. The covenant entered into shall be available to and may be sued upon by any person suffering damages by the default or wilful misconduct of the Sheriff, notwithstanding that the person claiming the benefit of the covenant is not a party thereto; and the sureties aforesaid shall be liable to indemnify the party to

any legal proceeding against any omission or default of the Sheriff in not paying over the moneys received by him, and against any damages sustained by any such party in consequence of the Sheriff's wilful or negligent misconduct in his office, and the Sheriff shall be joined in any action to be brought on the covenant. R.S. 1936, c. 260, s. 13.

Action for other default, notwithstanding prior recovery.

14. Except as hereinafter mentioned, the person so suing, or any other person, notwithstanding such suit, may bring an action upon the same covenant for any other default or misfeasance, and such action shall not be barred by reason of any prior recovery, or of any judgment for the defendant rendered in a former action, or of any other action being depending upon the same covenant for any distinct cause of action. R.S. 1936, c. 260, s. 14.

A surety when he pays or becomes liable for amount for which he is surety to be discharged, and Sheriff to give fresh securities.

15. In case any one of the sureties has paid or become liable under his covenant or bond to pay an amount equal to the sum for which he became surety, the bond or covenant shall as to him be deemed discharged and satisfied as to any claim thereon beyond such payment or liability; and the Sheriff shall, within four months after such discharge, give anew such security as is required by this Act; but if the amount which such surety has paid or has become liable to pay as aforesaid be not equal to the full amount for which he became security, the Court, after deducting from such full amount the sums which he has so paid or become liable to pay, shall render judgment against him for any sum not exceeding the balance of the sum for which he became surety. R.S. 1936, c. 260, s. 15.

New bond where surety dies, removes from Province, becomes insolvent, or is discharged.

16. In case proof is made, by affidavit or otherwise, to the Provincial Secretary that any of the sureties in any such bond or covenant has died or become resident out of the Province, or become insolvent, or that the covenant has been discharged as aforesaid, the Provincial Secretary shall give notice thereof to the Sheriff for whom the bond or covenant has been given or entered into, and the Sheriff shall, within four months after such notice has been given, give anew the like bond or covenant (as the case may be) as hereinbefore required, and every Sheriff shall in all other respects observe the same formalities in furnishing security, giving notice of death, bankruptcy, insolvency, or removal from the Province of any of his sureties, and in registering and depositing his bond security as other servants of the Crown, and shall be liable, upon default, to the penalties and forfeitures mentioned in the "Public Officers' Security Act." R.S. 1936, c. 260, s. 16.

Procedure where allegation of insolvency made against any Sheriff.

17. In case, during the period for which any bond or covenant required by this Act has been given, any one of the sureties apprehends that the Sheriff for whom the bond or covenant has been given or entered into has become insolvent, and transmits to the Provincial Secretary an affidavit to that effect made by him intituled in the matter of this Act and in the matter of the office of Sheriff for the county or jurisdiction to which such affidavit relates, and sworn before any Commissioner for taking Affidavits within British Columbia, or before the Registrar of the Supreme or County Court, the Provincial Secretary shall thereupon officially notify the Sheriff that he must forthwith furnish new security in manner hereinbefore provided, or on affidavit, intituled and sworn as aforesaid, deny that he is insolvent, setting forth in his affidavit such facts and matters as may be necessary for the purpose of establishing the fact of his solvency, to the satisfaction of the Provincial Secretary, and if the Sheriff does not comply with the terms hereof within one month next after such notification, he shall for that cause be removed from office. R.S. 1936, c. 260, s. 17.

When new security given, former surety not discharged for defaults suffered while he was surety.

18. In case any new security by bond or covenant is given, either at the end of the stated period of any formerly existing security, or by way of substitution for any other security within the stated period thereof, the former surety shall only be discharged as to defaults or misfeasances suffered or committed after the perfecting of the new security, and not as to any previous defaults or misfeasances. R.S. 1936, c. 260, s. 18.

Writ of execution on covenant directed to Coroner to levy on goods of Sheriff first, and then on other defendants.

19. Upon any writ of execution under a judgment recovered on any such security by way of bond or covenant, the plaintiff or his solicitor shall, by an endorsement on the writ of execution, direct the Coroner to levy the amount thereof upon the goods and chattels of the Sheriff in the first place, and in default of goods and chattels of the Sheriff to satisfy the amount, then to levy the same, or the residue thereof, upon the goods and chattels of the other defendants named in such judgment and writ of execution, and so in like manner with any writ of execution against lands and tenements upon a judgment on any such security by way of bond or covenant. R.S. 1936, c. 260, s. 19.

Duties, Powers, and Liabilities.

Office hours.

20. Every Sheriff shall each day, except a holiday, keep his office open from ten o'clock in the forenoon until four o'clock in the afternoon, and during all that time he, his deputy, or some clerk competent to do business for him, shall be present to transact the business of the office. R.S. 1936, c. 260, s. 20.

Duty of citizens to assist Sheriffs in arresting criminals.

21. (1) Every person in a county shall be ready and appalled at the command of the Sheriff, and at the cry of the country, to arrest a criminal or supposed criminal, and in default shall, on summary conviction, be liable to a penalty not exceeding one hundred dollars; but nothing herein shall prevent the offender from being liable to any other penalty or liability arising by law.

Posse comitatus where execution of writ resisted.

(2) If a Sheriff finds any resistance in the execution of a writ, he shall take with him the power of the county and shall go in proper person to do execution, and may arrest the resisters and commit them to prison, and every such resister shall be guilty of an offence against this Act. [50 & 51 Vict., c. 55, s. 8 (1) (*part*), (2)]; R.S. 1936, c. 260, s. 21.

Duties of Sheriff in respect of precepts, writs of Nisi Prius, and jury process.

22. Every Sheriff shall execute and return before the Judge or Judges assigned to hold the Assizes, or to execute any commission, or to hold any Court of Assize and Nisi Prius, or of Oyer and Terminer and General Gaol Delivery in his district, all precepts and writs of Nisi Prius and other jury process delivered to him or his deputy, and such Sheriff shall give his attendance upon such Judge or Judges as well for the returning of such "tales de circumstantibus" as may be prayed for the trial of issues, as for the maintenance of good order in His Majesty's Courts, and for the doing and executing of all other things to the office of Sheriff in such case belonging. R.S. 1936, c. 260, s. 22.

Sheriff to be an officer of Supreme Court.

23. Every Sheriff shall be an officer of the Supreme Court generally, and not merely of the Judge or Judges sitting or acting in his county or jurisdiction, and shall accordingly obey the lawful orders of the Supreme Court and of the Judges thereof in whatever county or jurisdiction such orders are made, provided anything be required to be done under them by such Sheriff. R.S. 1936, c. 260, s. 23.

Liability of Sheriff to render damages for false imprisonment.

24. A person unlawfully imprisoned by a Sheriff or any of his officers shall have an action against such Sheriff, in like manner as against any other person that should imprison him without warrant. [50 & 51 Vict., c. 55, s. 15]; R.S. 1936, c. 260, s. 24.

Liability of a Sheriff for the escape of any person in his charge under legal process.

25. (1) If a person in the custody of the Sheriff or any of his officers, or of any other person, either in execution or for non-performance of a judgment or order of the Court, or for contempt of Court or otherwise, in the course of a civil proceeding escapes out of legal custody, such Sheriff or other person shall be liable to pay the damages sustained by the person at whose suit such prisoner was taken into custody, and all costs of any action or other proceedings to recover the same, but not any further sum.

(2) A Sheriff shall not be liable for the escape of any prisoner when confined in any common gaol. [50 & 51 Vict., c. 55, s. 16]; R.S. 1936, c. 260, s. 25.

Sheriff to take no fees other than those prescribed by law.

26. No Sheriff or officer of a Sheriff shall demand or take any reward to do his office, except such remuneration as is given to the Sheriff by the Crown, or is given to an officer of the Sheriff by the Sheriff, and such fees and poundage as are allowed by or in pursuance of some Statute of the Province or rule of Court, and, save as allowed by this Act, shall not demand or take, directly or indirectly, any reward for doing his office or duty, or for abstaining or in respect of the mode in which he does his office or duty. [32 Geo. 2, c. 28, s. 12]; R.S. 1936, c. 260, s. 26.

Declaration to be made by Deputy Sheriffs.

27. Every Deputy Sheriff shall, before he enters on the execution of his office, make a declaration in Form B, or to the like effect, before a Judge of the Supreme or County Court, or before a Justice of the Peace. R.S. 1936, c. 260, s. 27.

Office of Sheriff or Deputy Sheriff not to be let or taken to farm.

28. (1) No person shall, directly or indirectly, by himself or by any person in trust for him or for his use, let or take to farm the office of Sheriff, Deputy Sheriff, bailiff, or any other place appertaining to the office of Sheriff.

Proviso.

(2) Provided that this section shall not prevent the Sheriff or Deputy Sheriff from demanding and taking the lawful fees of the office of Sheriff or of any place or employment belonging thereto, nor from taking security for duly answering for the same, and shall not prevent any officer of a Sheriff from accounting to the Sheriff for the fees and perquisites received by him in respect of his office, nor from giving security so to account, and shall not prevent a Sheriff from giving nor an officer from receiving a salary or remuneration for the execution of his office. [23 Hen. 6, c. 7]; R.S. 1936, c. 260, s. 28.

Sheriff and his officers not to purchase at any sale under execution.

29. No Sheriff, Deputy Sheriff, bailiff, or officer acting under the authority of a Sheriff shall, directly or indirectly, purchase any goods or chattels, lands or tenements by him exposed to sale under execution. R.S. 1936, c. 260, s. 29.

Penalty on bailiff or Sheriff's officer for misconduct in the execution of writ or process.

30. Every bailiff or officer entrusted with the execution of any writ or process who misconducts himself in the execution of the same, or wilfully makes any false return to such writ or process, shall, on conviction thereof before a Court of competent jurisdiction, be liable to fine and imprisonment in the discretion of the Court, not to exceed two hundred dollars, and shall answer in damages to any party aggrieved by such misconduct or false return. R.S. 1936, c. 260, s. 30.

Coroners and Elisors.

31. The last two preceding sections shall extend and apply to Coroners and Elisors employed in the service or executing the process of the Supreme or County Court. R.S. 1936, c. 260, s. 31.

Penalty for false return.

32. A Sheriff who wilfully makes any false return upon a writ or warrant of execution directed to him and placed in his hands for execution shall be liable to forfeit his office. R.S. 1936, c. 260, s. 32.

Sheriff to supply himself with and keep process-books.

33. Every Sheriff shall supply himself with and keep in his office the following books, namely: Process-books, in which shall be entered a memorandum of every process other than writs of execution, or writs in the nature of writs of execution received by the Sheriff, the Court out of which the same issued, the date of the receipt, the nature of the process, the name of the parties thereto, the solicitor by whom issued, the date of the return, and the nature of the return made thereto, or what was thereunder or therewith done respectively; execution-books for goods and lands respectively, in which shall be entered a memorandum of every writ of execution, or writ in the nature of a writ of execution, the Court out of which the same issued, the names of the parties thereto, the solicitor by whom issued, the date of return, and the nature of the return made thereto, or what was done thereunder or therewith; and a cash-book, in which shall be entered all cash received or paid away by the Sheriff in his official capacity, or in connection with his office, for any service whatever, for fees, poundage, service of process and papers, attendance at Courts, moneys levied under execution, or under writs in the nature of writs of execution, or otherwise, the date of the receipt or payment, the cause, matter, or service in which or on account of which the same was received or paid away. R.S. 1936, c. 260, s. 33.

Deputy of Deputy Sheriff to deliver to Sheriff or his successors summonses and process.

34. If any Deputy Sheriff, bailiff, or Sheriff's officer has in his possession, custody, or control any writ of summons, fieri facias, or other writ, or any bench warrant or process whatsoever, and upon demand made by the Sheriff from whom the same was received, or his successor in office, or by any other party entitled to the possession of the same, neglects or refuses to deliver up the same, the Sheriff, or his successor in office, or the party entitled to the possession of the same, may proceed by summons and order before any Judge having jurisdiction in the Court out of which the writ, warrant, or process issued, to compel the production thereof; which order may be enforced in the same manner as like orders for return of writs against Sheriffs, and with or without costs, or be discharged with costs against the party applying, in the discretion of the Judge. R.S. 1936, c. 260, s. 34.

Sheriff to transmit
account of fines to
Minister of Finance.

35. Every Sheriff shall, monthly, transmit to the Minister of Finance an account, to be verified upon oath, of all fines, penalties, and forfeitures which he has been required and commanded to levy and make by any lawful authority, and of the receipt and application of the same, or of the reason why the same have not been received and applied, and each Sheriff shall pay over to the proper officer or person lawfully entitled to receive the same the several sums collected by him as aforesaid, within one month next after the date of the collection thereof; and every Sheriff neglecting or refusing to transmit such monthly account, or to pay over any such sum or sums of money so collected by him within the period hereby prescribed, shall, on summary conviction, be liable to a penalty not exceeding five hundred dollars. R.S. 1936, c. 260, s. 35.

Documents pertain-
ing to Sheriff's office
the property of the
Government.

36. All books, accounts, records, papers, writs, warrants, processes, moneys, and other matters and things in the possession or under the control of any Sheriff by virtue of or pertaining to his office as Sheriff shall be the property of the Government of this Province, and the same and every of them shall, immediately upon the resignation, removal from office, or death of any such Sheriff, be by the person or persons in whose possession the same or any of them may be at the time of such death, removal from office, or resignation as aforesaid, or into whose possession they may thereafter come, handed over to and taken possession of by the successor in office of such Sheriff, or by such person as the Lieutenant-Governor in Council appoints to receive the same. R.S. 1936, c. 260, s. 36.

Successor in office
of Sheriff to have
such documents.

37. It shall not be lawful for any person, except the successor in office of the Sheriff, or the person so to be appointed by the Lieutenant-Governor in Council as aforesaid, or otherwise under this Act, to take, have, or hold any such books, accounts, records, papers, writs, warrants, processes, moneys, or other matters or things; but any person having or holding any of the matters aforesaid shall forthwith, on demand, deliver over the same and every of them to the said succeeding Sheriff, or to the person appointed as aforesaid; and any person neglecting or refusing so to do shall, on summary conviction, be liable to a penalty of not less than ten and not exceeding fifty dollars for every day he so neglects or refuses. R.S. 1936, c. 260, s. 37.

Sheriff after resig-
nation to have the
right to search and
examine papers
formerly in his
possession and in
control of succeed-
ing Sheriff.

38. Any Sheriff, after resigning office or removal from office, or the heirs, executors, or administrators of any such Sheriff, shall at all times thereafter have the right and be at liberty to have access to, and to search and examine into, all accounts, books, papers, writs, warrants, and processes of whatever kind and all other matters and things which were formerly in the possession

of the said Sheriff before his resignation or removal, and which, at the time of the making or the requiring to make such search or examination, are in the possession or control of the succeeding Sheriff or the then Sheriff for the county or jurisdiction, free of all costs, charges, and expenses. R.S. 1936, c. 260, s. 38.

Salary and Fees.

Salary and fees
of Sheriff.

39. It shall be lawful for the Lieutenant-Governor in Council to pay to each Sheriff such salary as he may think fit, and all fees legally payable to the Sheriffs for any matters and things done by them by virtue of the said office shall be retained by them for their own use and benefit. R.S. 1936, c. 260, s. 39.

Sheriff's fees in
certain cases.

40. The Lieutenant-Governor may from time to time, by Order in Council, fix and determine the fees and allowances to Sheriffs, whose annual allowance from the Government does not exceed five hundred dollars, to be taken by such Sheriffs for or in respect of any acts and duties done and performed in any Court of Oyer and Terminer or General Gaol Delivery, or of Assize or Nisi Prius, in this Province. R.S. 1936, c. 260, s. 40.

Endorsement of
receipt of process ;
non-service ;
redelivery to
plaintiff ; costs
of service.

41. Upon the delivery of any proceeding in equity or at law, in probate or otherwise in the Supreme Court, at the office of any Sheriff, to be served by him, the Sheriff, his deputy or clerk, shall endorse thereon the time when it was so delivered, and in case the proceeding is not fully and completely served within ten days after such delivery, the plaintiff or defendant, his solicitor or agent, shall be entitled to receive back the same, and the Sheriff, Deputy Sheriff, or clerk shall endorse thereon the time of the redelivery ; and the costs of the mileage and service of the proceeding by any literate person afterwards shall, in case the person to be served was at any time during such ten days within the bailiwick of the Sheriff, be allowed, on the taxation of costs, as if the service had been made by the Sheriff or his officer. R.S. 1936, c. 260, s. 41.

Failure by Sheriff
to redeliver.

42. If any Sheriff, upon application made to him, neglects or refuses to return any proceeding forthwith after the expiration of the aforesaid period of ten days, the plaintiff or defendant (as the case may be) may procure another copy of the pleading, petition, or information, notice, or other proceeding, or may issue a duplicate or concurrent writ or another subpœna on the præcipe already filed, and the costs of the first proceedings not returned may be charged against and recovered from the Sheriff by the plaintiff or defendant or his solicitor, and the costs of the mileage and service of the second proceeding may be allowed as if made under the latter part of the last preceding section. R.S. 1936, c. 260, s. 42.

Mileage.

43. No mileage shall be taxed or allowed for service of any proceeding without an affidavit being made and produced to the proper taxing officer, stating the sum actually disbursed and paid for such mileage, and the name of the party to whom such payment has been made; and (except in the cases provided for in the last two preceding sections, and except also the usual services between solicitors after appearance entered) no fees shall be allowed for mileage or service of any proceeding unless served, and sworn in the affidavit of service to have been served:—

(a) By a Sheriff, his deputy or bailiff; or

(b) By a Coroner, when the Sheriff is a party to the suit.

R.S. 1936, c. 260, s. 43.

**Persons authorized to
serve process of the
County Court.**

44. Notwithstanding anything in the “County Courts Act” contained, any person who may serve a writ of summons under the “Supreme Court Rules, 1943,” may serve summonses, orders, judgments, and other processes of the County Court. R.S. 1936, c. 260, s. 44.

**Solicitor issuing
process responsible
for costs of service.**

45. The solicitor whose name appears upon any proceeding served by a Sheriff shall be responsible to the Sheriff for his fees for service and mileage on serving the same, and the solicitor whose name appears upon any writ of *capias ad respondendum*, writ of *replevin*, or any other writ of *mesne process* shall be responsible to the Sheriff for his fees for executing the same. Nothing herein contained, however, is to make the solicitor responsible for Sheriff’s fees on the execution of any writ of *fieri facias*, *capias ad satisfaciendum*, *sequestration*, or any other writ of final process. R.S. 1936, c. 260, s. 45.

**Sheriffs, before suit
for fees, may serve
notice of application
to the Court for
payment.**

46. Before any action is commenced by a Sheriff for the recovery of a bill of fees chargeable against a solicitor, and after the expiration of one month from the service of the bill, the Sheriff may serve the solicitor with a notice of an application or with a rule or summons returnable before the Supreme Court or a Judge thereof, not earlier than eight days from the day of service, for the payment of the amount of the bill, and particulars of the amounts claimed shall be set forth in the notice, rule, or summons. R.S. 1936, c. 260, s. 46.

**Power of the Court
or Judge, and pro-
ceedings on return
of the notice.**

47. On the return of the notice, rule, or summons, the Court or a Judge may, without a reference, direct the payment to the Sheriff of the amount of his demand, or of any less amount, either without costs or with costs, to be fixed by an order or to be taxed; or the Court or a Judge may order the bill and the demand thereon to be taxed by the proper officer of the Court, and may direct that the officer shall tax to the party entitled thereto his costs of the reference and may also direct that the Sheriff or the

solicitor shall respectively pay what may be found due to the other upon the conclusion of the reference and taxation; and the Court or Judge making the reference may restrain the bringing of any suit pending the reference, and in case the order of reference does not make provision in this behalf, the officer named in the order of reference may, in his discretion, having regard to the matters in dispute between the parties and occasioning the costs, tax the costs of the order and reference, or any portion thereof, in favour of either party, or may disallow any part thereof. R.S. 1936, c. 260, s. 47.

Execution for amount payable to the Sheriff.

48. The party entitled to payment may, in manner provided by law, at the expiration of eight days from the date of the order or of the certificate of the taxing officer, as the case may be, issue or proceed to obtain execution against goods or lands for the amount ordered or certified to be payable to him. R.S. 1936, c. 260, s. 48.

Sheriff not entitled to costs of interpleader proceedings.

49. No Sheriff shall be entitled in any interpleader action or proceedings to any costs as between party and party subsequent to the date of the interpleader order, unless the Court or the Judge otherwise orders. R.S. 1936, c. 260, s. 49.

Costs by or against Crown where Sheriff party to action.

50. Where a Sheriff who is an officer of and acting for the Crown is a party to an action, matter, or proceeding in any Court, the Court or Judge may pronounce a judgment or make an order or direction as to costs in that action, matter, or proceeding in favour of or against the Crown. R.S. 1936, c. 260, s. 50.

Provisions applicable to certain Portions of the Province.

Application of ss. 52 to 59.

51. (1) The next succeeding eight sections shall apply to and have effect within:—

- (a) The County of Vancouver:
- (b) The County of Victoria:
- (c) Such other portions of the Province as the Lieutenant-Governor in Council by Proclamation pursuant to section 60 determines.

Limitation of application of ss. 3, 6, 12, 26, 39, and 40.

(2) Sections 3, 6, 12, 26, 39, and 40 shall not apply to or have effect within any portion of the Province mentioned or referred to in subsection (1). R.S. 1936, c. 260, s. 51.

Appointment of Sheriffs and Deputy Sheriffs.

52. The Lieutenant-Governor in Council may appoint such Sheriffs and Deputy Sheriffs as may be deemed necessary, and may prescribe the area within and the place at which the duties devolving upon them shall be performed. R.S. 1936, c. 260, s. 52.

Appointment and remuneration of bailiffs.

53. The Lieutenant-Governor in Council may appoint one or more bailiffs to represent any Sheriff in his bailiwick, and to exercise all the powers of the Sheriff's office without other

authority than the order making the appointment; and may make provision for the remuneration of such bailiffs, either by salary or by payment to them, in such manner as may be found advisable, of the whole or any portion of the fees payable upon the service or execution of any writ which by law such bailiffs are authorized to serve or execute. R.S. 1936, c. 260, s. 53.

Bonds.

54. (1) Every person appointed Sheriff or Deputy Sheriff under this Act shall give such bond as the Lieutenant-Governor in Council may see fit to require as security for the due performance of the duties of his office and for the due accounting by him of any moneys or property coming to his hands by virtue of his appointment. The bond may contain the covenants and be in the form set out in Forms C and D, or to like effect, or may be in such form, with such sureties, and contain such covenants as the Lieutenant-Governor in Council may require.

(2) The Lieutenant-Governor in Council may accept as such security the bond of any guarantee insurance company lawfully carrying on business in the Province, in which event the premiums upon the bond may be paid in the first instance by the Provincial Treasurer out of any moneys appropriated for the purpose by the Legislature; and the Provincial Treasurer, when authorized so to do by the Lieutenant-Governor in Council, may require the person bonded to repay the amount of any such premium. R.S. 1936, c. 260, s. 54.

Taking of fees other than those prescribed by law prohibited.

55. No Sheriff, Deputy Sheriff, or bailiff shall demand or take any reward or fees to do his office, except such remuneration as is given to him by the Crown and such fees and poundage as are allowed by or in pursuance of some Statute of the Province or rule of Court, and, save as allowed by this Act, shall not demand or take, directly or indirectly, any reward for doing his office or duty, or for abstaining from doing or in respect of the mode in which he does his office or duty. R.S. 1936, c. 260, s. 55.

Books.

56. All books which a Sheriff is required to keep in his office shall be supplied to him through the Department of the Attorney-General; and every Sheriff, Deputy Sheriff, and bailiff shall keep a separate book in which he shall enter from day to day all fees received by him for any matter or thing done by virtue of his office, showing separately the fees for each service performed, and such further facts and information as the Attorney-General may require. R.S. 1936, c. 260, s. 56.

Fees.

57. (1) Every Sheriff and every Deputy Sheriff shall be entitled to collect all fees specified in that behalf in any tariff of fees in force from time to time, and such other fees as may be allowed by any regulation or order or by virtue of any Statute.

(2) All fees and poundage legally paid to any Sheriff, Deputy Sheriff, or bailiff, pursuant to any Statute of the Province or rule of Court, for any matter or thing done by him by virtue of his office shall, subject to the provisions of section 53, be accounted for and paid over to the Minister of Finance, and shall form part of the Consolidated Revenue Fund. R.S. 1936, c. 260, s. 57.

Salaries.

58. Every Sheriff and every Deputy Sheriff shall be paid such salary or remuneration for his services as may be fixed by the Lieutenant-Governor in Council. R.S. 1936, c. 260, s. 58.

**Power of Attorney-
General to make rules.**

59. The Attorney-General may make such rules and give such directions as he may deem necessary or advisable for the carrying-out of the provisions of this Act. R.S. 1936, c. 260, s. 59.

Power of Lieut.-Governor to extend application of ss. 52 to 59.

60. The Lieutenant-Governor may from time to time, by Proclamation published in the Gazette, provide for the coming into operation in any portion of the Province of sections 52 to 59, and said sections shall come into operation accordingly. R.S. 1936, c. 260, s. 60.

SCHEDULE.

FORM A.

(Section 5.)

I, *A. B.*, do swear that I will be faithful and bear true allegiance to His Majesty King George VI, his heirs and successors, according to law. So help me God.

Sworn by the above-named
at this day of ,
19 , before me—

FORM B.

(Sections 5, 27.)

OATH OF OFFICE OF SHERIFF.

DOMINION OF CANADA:
PROVINCE OF BRITISH COLUMBIA.
COUNTY OF .
To Wit:

I, A. B., of _____, in the County of _____, Esquire, having been appointed [Sheriff or Deputy Sheriff] for the County of _____, do solemnly declare that I will well and truly perform and execute all the duties required

of me under the laws of this Province pertaining to the said office of Sheriff, so long as I continue therein, and that I have not given, directly or indirectly, or authorized any person to give, any money, gratuity, or reward whatsoever for procuring the said office for me. [I have not sold or let to farm, nor contracted for, nor have I granted or promised for reward or benefit, nor will I sell or let to farm, nor contract for or grant for reward or benefit, by myself or any other person for me, or for my use, directly or indirectly, my sheriffwick or any bailiwick thereof, or any office belonging thereunto, or the profits of the same, to any person or persons whatsoever.]*

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the "Canada Evidence Act."

Declared before me at this }
day of , 19 }

* *In the case of Deputy Sheriffs, omit the words between brackets and say:—*

[I have not bought, purchased, or taken to farm or contracted for, nor have I promised or given any consideration, nor will I buy, purchase, or take to farm or contract for, promise or give any consideration whatsoever, by myself or any other person, for me or for my use, directly or indirectly, to any person whomsoever, for the office of Deputy Sheriff for the County of , which I am now to enter upon and enjoy, nor for the profits of the same, nor for any bailiwick thereof, or any other place or office belonging thereunto; I have not sold nor contracted for, or let to farm, nor have I granted or promised for reward or benefit, by myself or any other person for me, or for my use, directly or indirectly, any bailiwick thereof, or any other place belonging thereunto.]

FORM C.

(Sections 12, 54.)

Know all men by these presents that we, A. B., of the District of , British Columbia, Esquire [*if about to be appointed Sheriff, or*], Sheriff for the County of [*if already in the office of Sheriff*]; C. D., of , in the District of , British Columbia, Esquire; E. F., of , in the District of , British Columbia, Esquire; G. H., of , in the District of , British Columbia, Esquire; and I. J., of , in the District of , British Columbia, Esquire, are held and firmly bound to our Sovereign Lord the King, his heirs and successors, in the several sums following, that is to say: The said A. B., in the sum of dollars; the said C. D., in the sum of dollars; the said E. F., in the sum of dollars; the said G. H., in the sum of dollars; and the said I. J., in the sum of dollars; to be paid to our Sovereign Lord the King, his heirs and successors; for which payments to be well and truly made we bind ourselves severally and respectively, and each of us, his heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated this day of , in the year of our Lord .

The condition of this obligation is such that if the above-bounden A. B., his executors or administrators, shall well and faithfully account for and pay over to the officer in charge of the Treasury, or to such person as may be authorized to receive the same, all such sum and sums of money as he shall receive as such Sheriff, as aforesaid, for our said Lord the King, his

heirs or successors, as are part of the general revenue of the Province, and shall well and faithfully perform the duties of his office, from the date of this obligation, and during the time he holds such office of Sheriff as afore-said, then this obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed, and delivered in the presence of— _____	{	A. B.	[L.S.]
		C. D.	[L.S.]
		E. F.	[L.S.]
		G. H.	[L.S.]
		I. J.	[L.S.]

FORM D.

(Sections 12, 54.)

Know all men by these presents that we, A. B., of _____, British Columbia, Esquire [if about to be appointed Sheriff, or], Sheriff for the County of _____, British Columbia [if already in the office of Sheriff]; C. D., of the District of _____, British Columbia, Esquire; E. F., of the District of _____, British Columbia, Esquire; G. H., of the District of _____, British Columbia, Esquire; and I. J., of the District of _____, British Columbia, Esquire, do hereby jointly and severally for ourselves, and for each of our heirs, executors, and administrators, covenant and promise that A. B., as Sheriff for the County of _____, British Columbia, shall well and truly pay over, to the person or persons entitled to the same, all such moneys as he shall receive by virtue of his said office of Sheriff, from the date of this covenant to the expiration of four years thence next ensuing, and that neither he nor his deputy shall, within that period, wilfully misconduct himself in his said office to the damage of any person being a party in any legal proceeding; nevertheless, it is hereby declared that no greater sum shall be recovered under this covenant, against the several parties hereto, than as follows, that is to say:—

Against the said A. B., in the whole.....	\$
Against the said C. D.....	\$
Against the said E. F.....	\$
Against the said G. H.....	\$
Against the said I. J.....	\$

R.S. 1936, c. 260, Sch.

VICTORIA, B.C.:

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