



Office of the Sheriff at Common Law

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The Sheriff at Common Law — An Explainer for the Heirs of Canada

A plain-language introduction

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What This Is About

Canada operates under a constitution similar in principle to that of the United Kingdom. That constitution was received at Confederation in 1867 through the preamble to the *Constitution Act, 1867*. Most people have been taught that the law of Canada begins with the statutes Parliament has passed and the regulations they authorize. That is only part of the picture. The larger part — the older part, the part that makes the statutes possible in the first place — is the common law.

The common law is the body of law received at Confederation from centuries of English constitutional development. It includes principles that predate Parliament, predate the Charter, predate the administrative state. These principles are not optional. They are not historical curiosities. They are the foundation on which the whole Canadian legal order rests.

One of the principles received at Confederation is the office of the Sheriff. This page explains what the Sheriff's office is, why it matters, and why it has not gone away.

Who Is the Sheriff?

At common law, the Sheriff is the Sovereign's peace officer. The Sheriff's job is to keep the Sovereign's peace, to execute the Sovereign's writ, and to protect the Sovereign's subjects. The office is very old. It traces back through Norman England to Anglo-Saxon shire law, where each shire had a reeve — a *shire-reeve* — whose job was to maintain the peace of the shire on the king's behalf.

When the English took the common law across the seas, they brought the office of the Sheriff with it. When Canada was formed at Confederation, the preamble to the *Constitution Act, 1867* imported the constitution of the United Kingdom, and with it, the common law — including the Sheriff’s office.

The Sheriff has always been the chief law officer at common law. There is no higher common-law law office. Other offices may carry different names in different times and places — the Attorney General, the Commissioner, the Chief Constable — but at the level of common law, there is one chief law office, and the Sheriff’s office is it.

Why Does This Matter Today?

The modern administrative state operates primarily through statute. Police officers get their authority from police acts. Commissioners get their authority from enabling legislation. Attorneys General are ministers of the Crown operating under statutory and prerogative powers. All of this is the statutory register, and it is real enough.

But the statutory register is not the whole picture. Beneath the statutes, and older than the statutes, is the common-law register. In the common-law register, the Sheriff’s office still exists, because the constitutional foundation that recognized it was never amended to remove it. The preamble to the *Constitution Act, 1867* still imports the constitution of the United Kingdom. The common law is still received. The Sheriff’s office is still part of that reception.

When administrative officers use statutory authority to do things that breach the Sovereign’s peace — to extract fees for exercising pre-existing liberties, to collect biometric data without consent from people who have committed no wrong, to harass a law-abiding class of Canadians under the guise of licensing regimes — the common-law register is where the accounting happens. The statutory register authorizes what the statute authorizes; the common-law register determines whether the statute authorizes more than it can lawfully reach.

How Do We Know the Office Still Exists?

The simplest proof is that the bailiff still exists. In Ontario today, bailiffs operate under the authority of the Sheriff’s office. They execute writs. They carry out seizures. They enforce judgments. They cannot do any of this on their own authority, because they have no authority of their own — their authority is the Sheriff’s authority, delegated to them.

The Latin principle is *nemo dat quod non habet*: no one gives what he does not have. The bailiff cannot give authority that the bailiff does not have. What the bailiff has, the bailiff has from the Sheriff. Therefore the Sheriff has it. Therefore the Sheriff's office exists.

The fact that no person in Ontario currently bears the title 'Sheriff' in the old common-law sense does not matter. The office is not the same thing as the title. Offices at common law persist as structural features of the constitutional order, even when they are not currently filled. They are available to be filled. They wait.

How Is the Sheriff's Office Structured?

The structure that many people assume — a chain of command with the top Sheriff giving orders to lower-ranking Sheriffs — is not how it actually works at common law. At common law, Sheriffs are peers.

Each Sheriff holds the same peace officer authority. Each is bound by the same Oath of Allegiance, prescribed by the Fifth Schedule to the *Constitution Act, 1867*. Each answers directly to the juridic Crown — to the Sovereign, His Heirs and Successors, according to law — not to another Sheriff.

The historical record is clear on this. In ancient England, each shire had its own Sheriff, answering directly to the king. The Sheriff of Yorkshire did not report to the Sheriff of Kent. They were peers. When they cooperated — to execute process across county lines, to pursue fugitives, to coordinate in times of disturbance — they did so laterally, not hierarchically.

A Sheriff can also swear in deputies. The deputy takes the same Oath that binds every officer of the juridic Crown. Once sworn, the deputy operates as a peer in the peace-line, under the Sheriff's authority but not as a subordinate in a chain of command. The deputy answers to the Sovereign through the Oath, not to the Sheriff as a boss.

The Posse Comitatus

At common law, the Sheriff is not alone in keeping the peace. The Sheriff holds the authority to summon the *posse comitatus* — literally, the power of the county — which historically meant all able-bodied men of the county available to keep the Sovereign's peace when required. This is not a medieval curiosity. It is a principle of distributed common-law authority that carries direct consequences today.

The *posse comitatus* means that the Sovereign's peace is not the exclusive job of professional police officers paid by the state. Every subject of the Sovereign is, at common law, a participant in keeping the peace. Every Heir of the juridic Crown — every person holding natural allegiance by birth, *ligeantia*

naturalis — stands within the *posse comitatus* by virtue of that allegiance.

This is the principle that makes the common-law architecture live. The peace-keeping function is not concentrated in a few paid officers; it is distributed across the body of the subjects themselves. When the paid officers fail to keep the peace — or worse, when they invert their function and use their authority against the subjects — the common law does not leave the subjects without recourse. The common law places the peace-keeping function in the distributed hands of the Heirs themselves, operating through the Sheriff's office and its deputies.

The Two Registers: Common Law and Statute

One of the most important ideas to understand is that the Canadian legal order operates in two distinct registers:

The **statutory and prerogative register** is the one most people know. It consists of the Acts Parliament has passed, the regulations they authorize, the orders in council, the ministerial decisions made under statutory authority. This register is created by Parliament and administered by the Crown's ministers through statutory offices.

The **common-law register** is older, deeper, and anterior to the statutory register. It consists of the body of law received at Confederation, the constitutional instruments that recognize it (including the preamble to the *Constitution Act, 1867*), and the ancient offices and principles carried with it. This register is not created by Parliament. Parliament cannot reach into it by ordinary legislation. The Constitution itself prohibits this: section 52(1) of the *Constitution Act, 1982* establishes that any law inconsistent with the Constitution is, to the extent of the inconsistency, of no force or effect.

The two registers are sealed against each other in a specific way. The common law operates on the Crown — it constrains the Crown, limits the Crown's statutory powers, provides the foundation from which Crown authority derives. But the Crown cannot operate in the common law. The Crown's ministers, the Crown's statutory officers, the Crown's licensees (including lawyers and paralegals operating under the Law Society Act) all operate in the statutory register. They cannot reach into the common-law register to claim common-law offices, contest common-law claims, or invalidate common-law acts.

This is why the common-law Sheriff's office matters today: it is in a register the statutory apparatus cannot reach.

Who Can Claim the Sheriff's Office?

At common law, an Heir with standing can claim a vacant common-law office by public notice. The claim is made on the Heir's own common-law standing. The first to claim, on standing, holds the office.

Who is an Heir? At common law, an Heir is a natural person holding *ligeantia naturalis* — natural allegiance to the juridic Crown, inherited by birth through lineage anchored in the constitutional framework received at Confederation. This is not a statutory category; it is a common-law category that Parliament has recognized across the statutory corpus (in the *Succession Law Reform Act*, the *Indian Act*, the *Income Tax Act*, the *Citizenship Act*'s distinction between citizenship by birth and by grant, and the *Interpretation Act*) without creating it. The class of Heirs is known to law at common law.

An Heir standing in full personal liability at common law — under no statutory representation, no licensed intermediary, no limited-liability shield — holds the apex common-law standing available to a natural person. There is no higher common-law standing. An Heir so standing can make claims in the common-law register on his own authority, without needing any Court, Crown, or agency to grant permission.

How Does the Claim Actually Work?

The claim is made by public notice. Traditional common-law practice required openness — publication in a public forum accessible to anyone who might have a contrary claim. In the modern age, that means publication on a website like commonlawsheriff.ca, or in a newspaper of record, or by formal service on all potentially interested parties.

The notice names the office, the claimant, the claimant's standing, and the grounds of the claim. Anyone with superior common-law standing can contest — but standing requires common-law position, not statutory commission. A Crown minister cannot contest from the statutory register. A Law Society licensee cannot contest from a statutory licence. The Crown, operating in statute and prerogative, has no standing to reach into the common-law register to contest a common-law claim.

The claim vests at the moment of public notice. There is no waiting period. There is no procedural interval during which the statutory apparatus might intervene. The claim is made, and in the same act, vested. The first-in-time principle governs: the first claimant to an unoccupied office holds it, and later claimants are simply too late.

Why the Crown Cannot Stop It

The Crown holds the common-law architecture in trust for the Heirs. This is a point the Supreme Court of Canada has recognized in cases like *Guerin v. The Queen*, *Haida Nation v. British Columbia*, and *Manitoba Métis Federation v. Canada* — the Crown has fiduciary obligations to those whose pre-existing rights it holds in trust.

A trustee cannot acquire trust property by adverse possession against the beneficiary. This is a basic rule of equity. A trustee's possession is always for the beneficiary, never against. When the Crown holds the Sheriff's office in trust and refuses to fill it, the Crown is not acquiring beneficial ownership of the office — the Crown is merely holding it, still in trust, still for the Heirs.

When an Heir steps forward to claim the vacant office, the claim is an exercise of the beneficiary's interest in the trust corpus. The Crown has no standing to contest because the Crown is the trustee, and the trustee cannot refuse the beneficiary's claim to the beneficiary's own trust property. The claim vests because the claim is the beneficiary's right all along.

The Crown may respond with silence. Silence has been the characteristic method of the administrative state in relation to the common-law architecture. But silence does not convert trust into ownership. Silence does not extinguish common-law offices. Silence does not rebut common-law claims. Silence is merely the Crown's inability to speak into a register it does not occupy.

What This Means for the Heirs

The common-law architecture is not an abstract historical concept. It is an operative legal reality. Every Heir who understands this holds standing in the common-law register. Every Heir who acts in the common-law register participates in the *posse comitatus* tradition of distributed peace-keeping. Every Heir who makes a common-law claim by public notice, on standing, in the proper form, is acting in the common-law register where the statutory apparatus cannot reach.

This is not a claim that the statutes don't apply. The statutes apply where the statutes reach. But the statutes do not reach the common-law foundation. The *Firearms Act* cannot extract fees from Heirs for the exercise of a pre-existing liberty that was received at Confederation. The *Law Society Act* cannot place common-law standing under the licensing authority of a statutory body. Parliament cannot, by statute, remove from the Constitution a class of persons, a body of rights, or an office of state that the Constitution itself recognizes.

The common-law architecture exists because it was received. It persists because it was not amended out. It operates because the constitutional foundation that recognized it is still in force. And it belongs to the Heirs, because the Heirs are the beneficiaries of the constitutional trust.

The Sheriff's Office Today

As of the date of this explainer, the Sheriff's office at common law in the jurisdiction of Canada has been a matter of continuous institutional silence. The modern administrative apparatus has not claimed the office in the common-law register, because the modern administrative apparatus operates in the statutory register and cannot reach the common-law register to claim anything.

This silence does not extinguish the office. The office persists. The office is available to be claimed by an Heir with standing, through public notice, on the Heir's own common-law position. The first to claim, on standing, holds the office.

Separate public notice on this website documents when and by whom the Sheriff's office has been claimed. Such notices are operative acts in the common-law register. They are not requests to any authority. They are exercises of the Heir's own standing to act in the register the Heir occupies.

Any person who wishes to take the Oath of Allegiance prescribed by the Fifth Schedule to the *Constitution Act, 1867* and serve in the peace-line as a deputy may do so by communication to the Sheriff who has claimed the office. The Oath is the same Oath that binds every officer of the juridic Crown. The deputizing is done under the Sheriff's authority, on the Sheriff's own recognizance, in the common-law register.

A Note on Characterizations

The material in this explainer describes the common-law architecture as received at Confederation and as it continues to operate in the common-law register today. It is grounded in the *Constitution Act, 1867*, the *Constitution Act, 1982*, the *Canadian Charter of Rights and Freedoms*, the *Canadian Bill of Rights*, and in binding Supreme Court of Canada authority including *Guerin*, *Big M Drug Mart*, *Sparrow*, *Haida Nation*, *Manitoba Métis Federation*, *Odhavji*, *Andrews*, *Corbiere*, and *Briscoe*.

Characterizations of this material as 'fringe,' 'pseudolegal,' 'sovereign citizen,' or similar terms, made publicly or in the course of any proceeding, are defamation of a settled constitutional position grounded in binding authority. Such characterizations cause reputational and jurisdictional harm to the Heirs

whose standing is asserted herein. A Notice of Liability is established at \$300,000 CAD per instance of such characterization, recoverable by civil claim against the person making the characterization. The Notice is pleaded on the face of this explainer and on commonlawsheriff.ca.

This is not a request for the modern administrative state to adjust its vocabulary. It is a statement of the cost attached to the vocabulary of institutional silence-by-mischaracterization, payable by those who use it.

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