

The Provincial Statutes of Lower-Canada, Being the fourth session of the Second Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1800.

40 George III – Chapter 1

An Act to provide Returning Officers for Knights, Citizens and Burgesses to serve in Assembly, and regulating Elections to be held for that purpose. (29th May, 1800.)

Whereas an Act passed in the thirty third year of His Majesty's Reign, intituled, "An Act to provide Returning Officers for Knights, Citizens and Burgesses to serve in Assembly" has been by several Acts continued to the first day of January in this present year, and from thence to the end of the present Session of the Provincial Parliament at which time it will expire; and Whereas it is necessary to make further and more ample Provision, respecting Returning Officers and regulating the Elections of Knights, Citizens and Burgesses to serve in Assembly, Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of and under the authority of an act, passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled An Act for making more effectual provision for the Government of the Province of Quebec in North America and to make further Provision for the Government of the said Province" And it is hereby enacted by the authority of the same, that the Governor, Lieutenant Governor or Person administering the Government of this Province, for the time being, shall have power and authority to name and appoint, whenever it shall be necessary, fit and proper, persons to act and officiate as Returning Officers in the respective Counties, Cities and Boroughs in this Province.

II. And be it further enacted by the authority aforesaid, that every Returning Officer so nominated and appointed, shall not be obliged to act and officiate as Returning Officer more than once; Provided always, that no Member of the Executive or Legislative Council or House of Assembly, or of any Religious Order, Physician, Surgeon, Miller or Maitre de Poste, nor any Person being sixty years of age or upwards, shall be named or appointed Returning Officer.

III. And be it further enacted by the authority aforesaid, that every person refusing to perform the duty of Returning Officer, after having been nominated and appointed thereto in manner aforesaid, and his receipt of a Writ of Election, shall forfeit the sum of twenty five pounds current money of this Province: Provided always, that every person named and appointed Returning Officer, be a resident and qualified as an Elector of the County, City or Borough, for which he shall have been so named and appointed.

IV. And be it further enacted by the authority aforesaid, that nothing contained in this Act, shall extend or be construed to extend, to prevent or exclude any person who shall be nominated and appointed a Returning Officer, from being elected a Member of the

Assembly, for any County, City or Borough, other than the County, City or Borough, for which such persons shall have been nominated and appointed Returning Officer.

V. And be it further enacted by the authority aforesaid, that every Returning Officer shall be paid at the rate of twenty Shillings, current money of this Province, for each day, that he shall have kept an open Poll, and shall moreover be reimbursed any unavoidable expence he shall be put to, in the execution of his Office; and for such payment and reimbursement, he shall make application to the Governor, Lieutenant Governor or person, administering the Government for the time being, who, and each of them, are hereby authorised to order every such payment and reimbursement from the funds appropriated for the support of the Civil Government of this Province.

VI. And be it further enacted by the authority aforesaid; that every person who shall be nominated and appointed to Act and officiate as a Returning Officer, shall, before proceeding to any Election, take and subscribe before a Magistrate, the Oath No 1 in the Schedule hereunto annexed: and the Certificate of such Oath, Shall be signed by the Magistrate administering the same, and annexed to the return of every Writ of Election, under a penalty of fifty pounds, current money of this Province, upon every Returning Officer neglecting so to do.

VII. And be it further enacted by the authority aforesaid, that each Returning Officer may nominate and appoint in writing under his hand, a person to aid and assist him as Clerk at the Poll, and in such case, the said Returning Officer is hereby authorised and requited to administer to such person the oath N ° 2, in the Schedule hereunto annexed, before he shall act in the said capacity of Clerk.

VIII. And be it further enacted by the authority aforesaid. that every person nominated and appointed as Returning Officer in the manner herein before directed, shall, on receiving any writ of Election to him addressed, indorse thereon the date on which he shall receive the same, and shall. within ten days, then next following, cause public notice to be given of the day and hour or the days and hours, at which such Elections will be held, at such place or place, (as the case may require) as by this Act is or are fixed on for such purpose; and the said notice shall be by an advertisement conformable to the form No 3 in the Schedule hereunto annexed, published and posted up immediately after Divin Service at the door of every Church or Chapel in each Parish of the City, Town, Borough or County, for which such Election is to be held, on a Sunday, not less than eight days, nor more than fifteen days, preceding the first day fixed for holding such Election; and where there is no Church or Chappel, such advertisement shall be published and posted up at the most public place or places of the County or Parish; and every Returning Officer refusing or neglecting to give such notice, as is herein before directed, shall, for every such notice, forfeit the sum of ten pounds current money of this Province.

IX And whereas from the great extent of certain Counties many of the Electors are prevented from attending at the Elections of said Councils, and for this reason it is

expedient, in such Counties, to fix upon two places where the votes may be taken: and Whereas it is expedient also that the places for holding the Elections in the other Counties, should be fixed and ascertained, Be it further enacted by the authority aforesaid, that in future the Elections in the respective Counties of this Province, shall be held in the several places following, to wit; the Election for the County of Gaspé, first at Gaspé and Afterwards at Carlisle: the Election for the County of Cornwallis, in the Parish of Kamouraska. The Election for the County of Devon, in the Parish of l'Islet. The Election for the County of Hertford in the Parish of St. Vallier. The Election for the County of Dorchester in the Parish of Pointe Lévy, and Afterwards in the Parish of Saint Joseph, Nouvelle Beauce. The Election for the County of Buckinghamshire in the Parish of Lotbinière, and Afterward, in the Parish of Nicolet. The Election for the County of Richelieu, in the Parish of Saint Ours. The Election for the County of Bedford, in the Seignory of St. Armand, and afterwards in the Parish of Point Olivier. The Election for the County of Surrey, in the Parish of Vercheres. The Election for the County of Kew, in the Parish of Longueuil. The Election in the County of Huntingdon in the Parish of St. Philip, and afterwards in the Parish of Chateauguay. The Election for the County of York in the Parish of Vaudreuil, and afterwards in the Parish of the River du Chêne. The Election for the County of Montreal, in the Parish of St. Laurent. The Election for the County of Effegham, in the Parish of Saint Rose. The Election for the County of Leinster, in the Parish of l'Assomption. The Election for the County of Warwick, in the Parish of Berther. The Election for the County of Saint Maurice, in the Parish of Machiche, and afterwards in the Parish of Champlain. The Election for the County of Hampshire, in the Parish of Dechambault, and afterwards in the Parish of Pointe aux Trembles. The Election for the County of Ouebec, in the Parish of Charlebourg. The Election for the County of Northumberland, in the Parish of Sainte Anne, and Afterwards in the Parish of Saint Peters in St. Paul's Bay. The Election for the County of Orleans, in the Parish of Saint Johns. Provided always, that in all cases where there is a communication by land between the two places of Election, every Returning Officer shall, and he is hereby required to open and commence the second Poll, on the third day after the conclusion of the former Poll.

X. And be it further enacted by the authority aforesaid, that every Returning Officer, shall at the tune and place fixed for holding any Election, make Proclamation in the presence of the Electors then and there present, conformably to the form N ° 4 of the Schedule hereunto annexed, and shall thereafter, require the Electors then and there present, to name the person or persons of whom they make choice, as a Member or Members to serve in the Assembly. And if the Candidates or their respective representatives and the Electors do agree and are satisfied, upon a show of hands, that the said Candidates or any or either of them, or any other person or persons proposed by the Electors, is or are duly elected, then the said Returning Officer shall immediately close the said Election, and shall proclaim such person or persons duly elected and named as Member or Members of the Assembly. But if any of the Candidates or any person representing a Candidate, or any three Electors, then and there present, do not agree, that the Election ought to be immediately closed, and shall ask or demand a Poll, then it shall be the duty of the Returning Officer and he is hereby required to grant the same, and forthwith to proceed and take the votes and enter them in a Book, which he shall keep or cause to be kept for that purpose, according to the form N °5,

in the Schedule hereunto annexed. And in all cases, where an Election is to be held in a County, where two places are fixed upon or appointed by this Act for holding the Poll, the Returning Officer may not hold the said Poll more than four days at the first place, and the said Poll shall be held open eight hours, at the least, each day, between eight o'clock in the morning and six o'clock in the evening. And he shall be afterwards held to adjourn the said Poll to the second place, if he be thereunto required by any Candidate or by any person representing a Candidate, or by any three Electors, then and there present.

XI. And be it further enacted by the authority aforesaid, that nothing in this Act contained, shall extend or be continued to extend, to prevent any Returning Officer from closing any Election to be held in virtue of this Act, by and with the consent of all the Candidates or the Representative or Representatives of such Candidate or Candidates, then present, at any period of such Election, whether the same be at the first or second place fixed for holding such Election, if no vote has been given in the space of one hour proceeding. Provided always, that when an Election for any County is by this Act directed to be held at two different places, it shall and may be lawful, for any three Electors for the said County, duly qualified and then present, to require of the Returning Officer to adjourn the Poll to the second place fixed for holding such Election, or which he shall make a minute in the Poll Book, and adjourn such Election accordingly to such second place. Provided also, that any Elector then present, may declare himself the Representative of any absent Candidate, without any special power to that effect.

XII. And be it further enacted by the authority aforesaid, that the place for holding any Election or Poll in any County, shall be near the Church of the Parish either in the open air or in some building near to the Church, provided it be not a Tavern or Ale house, and that free access be had thereunto by all and every Elector; and where there is no Church, then at the most public place of the Parish or place fixed on for such Election by this Act.

XIII. And be it further enacted by the authority aforesaid, that no Returning Officer or person authorised by him to aid and assist him as Clerk, shall refuse the vote of any Elector, unless all the Candidates or person representing any Candidate, shall agree that such person is not qualified to vote at such Election, and in every case of objection by a Candidate or the Representative of a Candidate, to the vote of any person, the said Returning Officer or the person by him authorised to aid and assist as a Clerk, shall enter in the Poll Book opposite the Elector's name, the word "objected to."

XIV. And be it further enacted by the authority aforesaid, that as soon as any Election shall be closed, the Returning Officer for such Election, shall immediately proclaim the same, with a loud and audible voice to the Electors then and there present, and shall immediately execute an Act or Instrument of Indenture thereof, under his hand and seal, with the person or person elected, in the presence of three Electors at the least, agreeable to the form N ° 6, in the Schedule annexed; one part of which Act of Indenture, shall be immediately delivered to such of the persons elected or his representatives, and another part with the Writ of Election, the Oath of the Returning Officer and that of his Clerk, (if he has any) required by

this Act, shall be transmitted by the said Returning Officer to the Clerk of the Crown in Chancery, without delay.

XV. And be it further enacted by the authority aforesaid, that every Returning Officer, at the request of any Candidate or person representing any Candidate, shall administer the Oath No 7 in the Schedule annexed, to each person offering his vote previous to taking the same, and in case of the refusal of such person to take the said Oath, the Returning Officer shall not admit him to vote.

XVI. And be it further enacted by the authority aforesaid, that if any person who shall have taken the Oath herein before mentioned, shall thereby voluntarily perjure himself, or if any person shall bribe or corrupt another to take an Oath, whereby, such person shall become guilty of perjury, every such person upon conviction thereof, under a charge of voluntarily and corrupt perjury, shall incur the pain and penalties inflicted by the Laws in force in this Province, against wilful and corrupt perjury or of subornation thereof.

XVII. And be it further enacted by the authority aforesaid, that all and every person, who by himself or by means of others in his interest or favour, shall before or during the time of any Election. employ or cause to be employed any means of corruption, to obtain any vote at such Election, or to prevent any Elector from giving his vote thereat, in keeping him back by any threat of causing him to lose any salary or advantage, or by making him any promise, gift, advantage or reward, shall be subject to a penalty of fifty pounds current money of this Province.

XVIII. And be it further enacted by the authority aforesaid, that no Candidate shall at any time within one month, prior to any Election, nor during the same, either by himself or by any other person by him employed, or by any ways or means whatsoever, directly or indirectly, make a present of, or allow to any person having a right to vote at any such Election, any sum of money or promise of money or other reward, and shall not at his cost and charge open or support, or cause to be opened and supported, any house of public entertainment, during the period herein above mentioned, within any County, City or Borough, for which any such Election is to be made, upon pain of such person so offending, incurring a penalty which shall not exceed fifty pounds, nor be under twenty five pounds current money of this Province.

XIX. And be it further enacted by the authority aforesaid, that no Returning Officer shall take any part either before or during any Election by him held, by favoring or influencing or causing to be favoured or influenced, the interest of any particular Candidate, but that the said Returning Officer shall conduct himself in an upright and impartial manner, in the discharge of the Duties of his Office, and shall take and enter or cause to be taken and faithfully entered, the votes of the Electors in the before mentioned Poll Book, under pain of incurring a penalty of the sum of twenty five pounds current money of this Province.

XX. And be it further enacted by the authority aforesaid, that in case of any vacancy happening in the Assembly, by the death of any Member thereof or otherwise, on information thereof being given to the Speaker, by any Member rising in his place, or if such vacancy shall happen during any Recess of the Assembly, by Prorogation or Adjournment, on information thereof being given to the Speaker for the time being, under the hands and seals of any two Members of the Assembly, it shall be the duty of the Speaker, to give notice thereof, by Warrant under his hand and seal, to the Clerk of the Crown in Chancery, that a new Writ may issue for the Election of a Member of Assembly, to fill up such vacancy.

XXI. And be it further enacted by the authority aforesaid, that the fines and forfeitures incurred under this Act, shall be recovered by Bill, Plaint or Information or by Action of debt in any Court of Record, by any person suing for the same, and that one half of every such fine or penalty, shall be paid to the Receiver General for the use of this Province and be applied to the support of the Government thereof; and shall be accounted for to the Crown through the Commissioner of His Majesty's Treasury for the time being, as the Crown shall direct: and the other half to the Informer suing for the same, with the costs incurred in the prosecution thereof, to be by him received for his own use and benefit. Provided always, that if any Suit or Action be brought against any person or persons for any Penalty by this Act imposed, such Suit or Action shall be commenced within six Months next after the fact committed, and not afterwards.

XXII. And be it further enacted by the authority aforesaid, that this Act shall be in force to the fifth day of January, which will be in the year of our Lord one thousand eight hundred and three, and from thence to the end of the then next Session of the Provincial Parliament and no longer.

XXIII. And be it further enacted by the authority aforesaid, that the present Act shall be printed a part, within twenty days after the passing thereof, and that a copy of it be immediately thereafter forwarded to every person to whom the Provincial Statutes are sent agreeable to Law, as also to every Returning Officer who shall be named for the next General Election, and to every other Returning Officer, for any ensuing General or Special Election, with the Writ of Election that shall be addressed to him.

N° 1

Oath of the Returning Officer.

I, A. B. Returning Officer for the County (Town or Borough) of _____ do solemnly swear, (or being one of the People, called Quakers do solemnly affirm) that I have not directly nor indirectly received any sum or sums of money, Office, place or employment, gift, gratuity or reward, or any bond, bill or note, or any promise of gratuity whatsoever, either by myself or any person to my use or benefit or advantage, for favouring the Election of any particular person or persons, or making or endeavouring to make the Return of any particular person or persons, at the present Election of a Member or Members to serve in the Assembly of Lower Canada, and that will proceed in taking the votes of the Electors, and will make return of such person and persons, as shall appear to me to have the majority of

legal votes, and this I solemnly swear, (or affirm) to do, without partiality, fear, favor, ill will or affection.

SO HELP ME GOD,

N° 2.

Oath to be taken by Poll Clerks or Assistants in taking the Votes of Electors on any Election.

I, A. B. do solemnly swear (or being a Quaker do solemnly affirm) that I will at this ensuing Election of a Member or Members to serve in Assembly, for the County, (Town or Borough) of _____ truly and indifferently take the Poll, and set down the name of each Voter, his addition, profession or trade and the place where his qualification lies, and for whom he shall Poll and give his Vote; and that I will not enter on the Poll Books the name or vote of any person, contrary to a Statute made by the Parliament of Great Britain in the thirty first year of his Majesty's Reign, Chapter thirty one, nor contrary to an Act made in the fortieth year of His said Majesty's Reign, by the Provincial Parliament of this Province, to regulate Elections, but that I will truly enter all and every Vote upon the Poll Books, without partiality, fear, favor or affection.

SO HELP ME GOD.

N° 3.

Form of the Notice to be given by a Returning Officer prior to His holding any Election.

(County, City or Borough.)

Public notice is hereby given to the Electors in the (County, City or Borough) of _____ qualified to elect and constitute a Member (or Members,) to serve in the Assembly of this Province, that in pursuance of His Majesty's Writ to me directed, bearing date the _____ day of _____ I do require the attendance of the Electors of the said (County, City, or Borough) at _____ in the Parish of _____ on _____ the _____ day of _____ at _____ o'clock in the forenoon, for the purpose of electing a person or persons to represent them in the ensuing (or present) assembly of this Province. And I do give further notice, that I shall continue the said Election, in such manner as is by Law directed, of which all persons will take notice and govern themselves accordingly.

The _____ day of _____ 18
A. B. Returning Officer.

N° 4.
 Form of Proclamation

Oyez, Oyez, Oyez

All manner of persons are strictly commanded and charged to keep silence, while His Majesty's Writ of Summons is publickly read, for the Election of a Member or Members to serve in Assembly, for the (County, City, Town or Borough.) of _____ under the pains and penalties resulting therefrom.

N° 5.
 Form of Poll Book.

Name of Electors	Addition, trade or Profession	Qualification, where situated	NAMES OF CANDIDATES				if objected to
			A	B	C	D	

N° 6.
 Form of an Indenture.

This Indenture made the _____ day _____ of _____ in the Year of our Lord one thousand eight hundred, and in the _____ Year of the Reign of our Sovereign Lord George the Third, KING, of Great Britain, France and Ireland Defender of the Faith, &c. Between _____ Returning Officer of the County, City or Borough of _____ in the Province of Lower Canada, on the one part, and A. B. C. D. of the other part, Witnesseth, that agreeable to his Majesty's Writ bearing date the _____ day of (the past or current Month) after Proclamation thereof being made according to Law. We, the said A. B. C. D, &c. Electors of the said County, City or Borough _____ (in such place) _____ in the said County, City or Borough, in full assembly have chosen F. G. as a Member or Members to serve for the said County, City or Borough, in the assembly of this Province to be held the _____ day of _____ next at Quebec, And by these presents and we have and do give to the said F. G. ample and sufficient power for us, and the Commons of the said County, City or Borough, distinct from us, to make and consent to such matters as in the said Assembly by the Common Council of the said Province, shall be by the favour of God ordained. In Witness whereof each of the said parties, have interchangeably set their hands and seals to these presents, the day and year above written.

N° 7.
 Form of Electors Oath for a County.

I A. B. do declare and testify in the presence of Almighty God, (or if a Quaker do solemnly affirm and declare) that I am to the best of my knowledge and belief, of the full age of twenty one years, and that I have not voted before at this Election. I do further testify and

declare, that I am to the best of my knowledge and belief, possessed for my own use and benefit of _____ lands and tenements in this County, of the yearly value of forty shillings sterling, over and above all rents payable out of, or in respect of the same.

N° 8.

Form of Elector's Oath for a City or Borough.

I A. B. do declare and testify in the presence of Almighty God, (or if a Quaker do solemnly affirm and declare), that I am to the bell of my knowledge and belief, of the full age of twenty one Years, and that I have not voted at this Election. I do further testify and declare, that I am to the best of my knowledge and belief, possessed for my own use and benefit of a dwelling House and lot of ground in this City or Borough, of the yearly value of five Pounds Sterling (or that I have been resident within this City or Borough for the space of twelve Calendar months, next before the date of the Writ of summons for this Election, and have, bona fide, paid for one Years Rent for the dwelling House in which I have resided at the Rate of ten Pounds Sterling.