

The Provincial Statutes of Lower-Canada, Being the third session of the fourth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1807.

47 George III – Chapter 16

An Act to provide Returning Officers for the Election of Knights, Citizens and Burgesses to serve in the House of Assembly, and to regulate Elections to be held for that purpose. (16th April, 1807.)

Whereas an Act was passed in the fortieth year of His Majesty's Reign, intituled, "An Act to provide Returning Officers for Knights, Citizens and Burgesses to serve in Assembly, and regulating Elections to be held for that purpose;" and another Act was passed in the forty third year of His Majesty's Reign, intituled, "An Act to continue for a limited time, and amend an Act passed in the fortieth year of His Majesty's Reign, intituled, 'An Act to provide Returning Officers for Knights, Citizens and Burgesses to serve in Assembly, and regulating Elections to be held for that purpose,'" which said Acts will both expire at the end of the present Session of the Provincial Parliament; and Whereas it is expedient and necessary to make further and more ample provision respecting Returning Officers, and for 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 the 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 no Returning Officer so nominated and appointed, shall be obliged to act and officiate as Returning Officer at more than one Election. Provided always, that no Member, of the Legislative or Executive Council or of the House of Assembly, or of any Religious Order, or Justice of the Court of King's Bench or Provincial Judge or Physician, Surgeon, Miller or Maitre de Poste, nor any person being sixty years of age or upwards, shall be named or appointed Returning Officer, and that no person having served as a Member of the House of Assembly during the Provincial Parliament immediately preceding shall be nominated or appointed a Returning Officer at the General Election next thereafter. Provided also, that no person having heretofore served as a Returning Officer shall be again obliged to act or officiate as such.

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 resident in 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 henceforth each and every Returning Officer shall be allowed for his fees for attending at each Election, the sum of Three Pounds current money, and for drawing up notification, indentures and other necessary writings Five Shillings each, and shall moreover be allowed One Shilling per league for sending to fix up such notifications in each Parish, both going and returning, and when the Poll shall last more than one day, he shall have a further allowance for every other day the Poll shall be so held of Twenty Shillings like money; and whenever there shall be a Poll he shall also be allowed the sum of Ten Shillings, like money, for each and every day the Poll shall be so held for a clerk; and when the Returning Officer does not reside in the place where the Poll shall be so held, he shall be allowed the Poll charges of the journey, except when he shall be obliged to travel by water; and when the Returning Officer shall be under the necessity of travelling by water, a reasonable allowance for his expences shall also be made. Provided always, that the expence of erecting Hustings, when the Poll is demanded, shall be borne by the Candidates who shall have demanded or caused the said Hustings to be built.

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 required to administer to such person the oath No. 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 fifteen days then next following, cause public notice to be given of the day and hour or the days and hours at which such Election will be held at such place or places, (as the case may be) 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 Divine 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 Chapel, 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 such offence, forfeit the sum of Thirty 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 Counties, 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, and afterwards in the Parish of Trois Pistoles. The Election for the County of Devon, in the Parish of l'Îlet. The Election for the County of Hertford in the Parish of Saint Vallier. The Election for the County of Dorchester in the Parish of Point Levy, and afterwards in the Parish of Saint Joseph, Nouvelle Beauce. The Election for the County of Buckinghamshire in the Parish of Lotbinière, and afterwards in the Parish of Nicolet. The Election for the County of Richelieu the Parish of Saint Ours, and afterwards in the Parish of Saint Hyacinthe. The Election for the County of Bedford in the Seignory [Seigneurie] of Saint Armand, and afterwards in the Parish of Point Olivier. The Election for the County of Surrey in the Parish of Verchères. The Election for the County of Kent, in the Parish of Longueuil. The Election for the County of Huntingdon in the Parish of Saint Philip, and afterwards in the Parish of Châteauguay. The Election for the County of York in the Parish of Vaudreuil, and afterwards in the Parish of Saint Eustache, on the River du Chêne. The Election for the County of Montreal in the Parish of Saint Laurent. The Election for the County of Effingham in the Parish of Saint Rose. The Election for the County of Leinster in the Parish of Saint Pierre, commonly called l'Assomption. The Election for the County of Warwick in the Parish of Berthier. 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 Deschambault, and afterwards in the Parish of Pointe aux Trembles. The Election for the County of Quebec, in the Parish of Charlesbourg. The Election for the County of Northumberland in the Parish of Saint Anne, and afterwards in the Parish of Saint Peter [Saint Pierre] in Saint Paul's Bay, And the Election

for the County of Orleans in the Parish of Saint John [Saint Jean]. 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 within three days, and not in less than thirty six hours After the close of the first Poll, Provided also, that where two Polls are authorised to be opened and held within the same County, that the Election shall commence at each of said places alternately.

X. And be it further enacted by the authority aforesaid, that every Returning Officer shall, at the time and place fixed for holding any Election, make Proclamation in the presence of the Electors then and there present, conformably to the form No. 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 shew of hands, that the laid 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 No. 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 shall 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, together with three Electors then and there present. Provided always, that if so required by any Candidate or the representative of any Candidate at such Election, it shall be the duty of the Returning Officer to enter on the Poll Book such description of the house or land on which the right of voting is claimed, as may effectually serve to identify the same.

XI. And be it further enacted by the authority aforesaid, that nothing in this Act contained, shall extend or be construed 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 present at the first Poll or 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 preceding. 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 present at the close of the first Poll, to require of the Returning Officer to adjourn the Poll to the second place fixed for holding such Election, of 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 person claiming a right to vote as an Elector, unless all the Candidates and person or persons representing any Candidate or Candidates, 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 Remaining Officer or the person by him authorised to aid and assist as a Clerk, shall enter in the Poll Book opposite to the Elector's name, the words "objected to," and by whom.

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 persons elected, in the presence of three Electors at the least, agreeable to the form No. 6. in the Schedule annexed; one part of which Act of Indenture shall be immediately delivered to each of the persons elected or his representative, 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 one or other of the Oaths No. 7. in the Schedule annexed, as the case may require, 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 such Oath whereby such person shall become guilty of perjury, every such person upon conviction thereof, under a charge of voluntary and corrupt perjury or subornation thereof, shall respectively incur the pains and penalties inflicted by the Law 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, or who shall, at any time within one month prior to any Election or during the same, either by himself or by any other person by him employed, or by any ways and means whatsoever, directly or indirectly, make a present of or allow to any person having a right to vote at any such Election, of any sum of money or promise of money or other reward, or who shall, 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 held, every such person so offending (the same being proved to the satisfaction of the House of Assembly) shall be adjudged and declared to be disqualified to sit or vote in the said House of Assembly upon such Election, and thereupon a new Writ of Election shall issue, and every such person so disqualified shall be and hereby is declared incapable of being re-elected at such new Election, or at any other Election during the continuance of the then Provincial Parliament.

XVIII. 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 favouring 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.

XIX. 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 such 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.

XX. And be it further enacted by the authority aforesaid, that all estates and conveyances whatsoever made to any person or persons in a fraudulent or collusive manner, on purpose to qualify him or them to give his or their vote or votes at any Election of a Member or Members to serve in the House of Assembly (notwithstanding any condition or agreement to defeat or determine such estate or to reconvey the same) shall be deemed and taken against those persons who executed the same as free and absolute, and be holden and enjoyed by all and every such person or persons to whom such conveyance shall be made as aforesaid, freely and absolutely exonerated and discharged of and from all manner of

conditions whatsoever between or with the said parties or any other person or persons in trust for them or any of them, and that all covenants or agreements between the said parties or others in trust for them or any of them for the redeeming, restoring or reconveying such Estates, or any part thereof, to any person or persons who made or executed such conveyance, or to any other person or persons in trust for them or any of them, shall be null and void to all intents and purposes whatsoever and that every person who shall make or execute such conveyance or conveyances as aforesaid, or being privy to such purpose shall devise and prepare the same, and every person who by colour thereof shall vote at any such Election, shall, for every such conveyance so made or vote so created or given, forfeit and pay the sum of forty pounds, Current money of this Province.

XXI. And be it further enacted by the authority aforesaid, that each and every person who shall, at any Election of a Member or Members of Assembly hereafter so be held, wear or carry any flag, ribbon or cockade, or other badge or mark whatsoever to distinguish him or them as supporting any particular Candidate or Candidates at any such Election, or who shall by violence, menace or malicious practice in any manner or way whatsoever, impede or disturb, or endeavour thereby impede or disturb any Election, or thereby to prevent any Elector or Electors from freely giving his or their vote at the same according to his or their wish or desire, that each and every person so offending shall, on conviction thereof, for every such offence forfeit and pay the sum of Ten Pounds current money of this Province.

XXII. 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 His Majesty's Court of King's Bench, or Provincial Courts 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 Commissioners 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.

XXIII. And be it further enacted by the authority aforesaid, that a sufficient number of copies of the present Act shall be printed separately, and one copy thereof shall be forwarded to every Returning Officer who shall hereafter be named for any ensuing General or Special Election, together with the Writ of Election that shall be addressed to him.

Schedule. No. 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 am a resident in and duly qualified as an Elector of this County, Town or Borough, and that I have not directly or

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 or 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 I 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 do solemnly swear, (or affirm) to do, without partiality, fear, favour, ill-will or affection.

“SO HELP ME GOD.”

No. 2.

Oath to be taken by Poll Clerks.

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) _____ truly and indifferently take the Poll, and set down the name of each voter, his addition, profession or trade and the place where his qualifications lies, and for whom he shall Poll and give his Vote; and that I will truly enter all and every Vote upon the Poll Books, without partiality, fear, favour or affection.

“SO HELP ME GOD.”

No. 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.

No. 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 publicly read, for the Election of a Member (or Members) to serve in Assembly, for the County, City, Town or Borough & .&c. of _____ under the pains and penalties resulting therefrom.

No. 5.
 Form of a Poll Book.

Voter's Name	Addition, Trade, or Profession.	Qualification, and where situated.	Name of the occupier if not in voters possession, &c.	If objected to and by whom.	A. B. Candidate.	C. D. Ditto.	E. F. Ditto.

No. 6.
 Form of an Indenture.

This Indenture made the _____ day of _____ in the year of our Lord one thousand eight hundred and _____ and in the _____ year of the Reign of our Sovereign Lord George the Third, of the United Kingdom of Great Britain and Ireland King, 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 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.

No. 7.
 Form of an Elector's Oath for a County.

I, A. B, do solemnly swear 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 already voted at this Election. I do further swear and testify 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, or more, over and above all rents payable out of or in respect of the same, and that my title to the said lands and tenements are not nominal or fictitious, created or reserved in me in order to

enable me to vote at this Election, but that the same is a true and real estate in me, for my use and benefit, and for the use of no other person whatsoever.

“SO HELP ME GOD.”

No. 7.

Form of an Electors Oath king a Proprietor for a City or Borough.

I, A. B. do solemnly swear (or being a Quaker, do solemnly affirm) in the presence of Almighty God, that I am, to the best of my knowledge and belief, of the full age of twenty-one years, and that I have not already voted at this Election. I do further swear and testify that I am, to the best of my knowledge and belief, proprietor and 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 more, and that my title to the said house and lot of ground is not nominal or fictitious, created or reserved in me in order to enable me to vote at this Election, but that the same is a true and real estate in me for my use and benefit, and for the use and benefit of no other person whatsoever.

“SO HELP ME GOD.”

No. 7.

Form of a Tenant's Oath for a City or Borough

I, A. B. do solemnly swear, (or being a Quaker, do solemnly affirm,) in the presence of Almighty God, that I am, to the best of my knowledge and belief, of the full age of twenty-one years, and that I have not already voted at this Election. I do further swear and testify that I have been resident within this City, (or Borough,) for the last twelve Calendar months next before the date of the Writ of summons for this Election, and have bona fide paid one year's rent for the dwelling house in which I have so resided, at the rate of ten Pounds sterling, or upwards.

“SO HELP ME GOD.”