

The Provincial Statutes of Lower-Canada, Being the second session of the eleventh Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1822.

2 George IV – Chapter 4

An Act to amend certain parts of an Act, passed in the forty-seventh year of the Reign of His late Majesty, intituled, “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,” and more effectually to prevent illegal practices in the Election of Members to serve in the said Assembly, and for further securing the freedom of such Elections. (18th February, 1822.)

Whereas the provisions of an Act passed in the forty-seventh year of the Reign of His Majesty George the Third, intituled, “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,” have not been found sufficient to prevent illegal and corrupt practices in the Election of Members to serve in the Assembly of this Province, and to secure the freedom of such Elections; for remedy therefore, of so great an evil, and to the end that all Elections of Members to serve in the said Assembly may hereafter be freely and indifferently made, Be it 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 any person having, or claiming to have a right to vote, at any Election of a Member or Members, to serve in the House of Assembly for this Province, shall, before he is admitted to vote at such Election, take one or more of the Oaths mentioned in the Schedule hereunto annexed, (or being one of the people called Quakers, shall solemnly affirm) in case the same shall be demanded, by any or either of the Candidates or person representing a Candidate, that is to say, if such person shall have or claim a right to vote at any Election of a Member or Members to serve for a County, he shall take the oaths numbered in the said Schedule, one, two and three, if such person shall have or claim a right to vote, as a proprietor, at any Election of a Member or Members, to serve for a City or Borough, he shall take the oaths numbered in the said Schedule one, three and four; and if such person shall have or claim a right to vote as a tenant in a City or Borough, at any Election of a Member or Members to serve for such City or Borough, he shall take the oaths numbered in the said Schedule one, three and five, which oaths and affirmations the Returning Officer is hereby empowered and required to administer gratis, under the penalty, in case of refusal so to do, of the sum of Ten pounds, current money of this Province, to be recovered by any person who shall sue for the same, with full costs of suit, by action of debt, bill, plaint or information, in any of His Majesty's Courts of competent jurisdiction, and no person shall be admitted to vote until he has taken the said oath or oaths, in a public manner, in case the same shall have been demanded as aforesaid, before the Returning Officer; and the said Officer it hereby required to enter or cause to be entered in the Poll Book of such Election, the name or names of every person so sworn, with his addition, profession or trade, the place of his abode, and the specification of his property or

other qualification in the same words made use of in the oath, and also, the nature of the oath or oaths administered, which entry the said Officer shall certify, under his hand, in the said Poll Book, opposite the name of the person so sworn.

II. And be it further enacted by the authority aforesaid, that it shall be the duty of such Returning Officer, immediately after the Return of such Election made in Chancery, to deposit the said Poll Book in the office of the Court of King's Bench for the District, and for the Counties of Buckinghamshire and Saint Maurice, the said deposit shall be made at the Office of the Prothonotary of the said Court for the District of Three-Rivers [Trois-Rivières], and for the County of Hampshire, at the Office of the Prothonotary of the said Court, for the District of Quebec, and for the County, of Gaspé, at the Office of the Clerk of the Provincial Court of the Inferior District of Gaspé, to the end that the said Book be proof in all prosecutions which may take place under this Act. Provided always, that in the case of any contested Election, it shall be the duty of the Prothonotary or Clerk, who shall be charged with the same, to cause the said Poll Book to be conveyed to the Clerk of the House of Assembly, when he shall be thereunto required.

III. And be it further enacted by the authority aforesaid, that when an Elector shall not understand either the English or the French language, it shall be lawful for the Returning Officer to swear an interpreter, to translate the oath which shall be required of the said Elector, also the questions which shall be put to him, and his answers; which Interpreter shall take the oath following: "I swear that I will translate faithfully such oaths, declarations, affirmations, questions and answers, as the Returning Officer shall direct me to translate."

IV. And be it further enacted by the authority aforesaid, that if any Returning Officer shall admit any person to vote without taking such oath or oaths, or affirmation or affirmations, or the description of the property or other qualification on which such person claims to vote, if demanded, as aforesaid, such Returning Officer shall forfeit, for each offence, the sum of Ten pounds, current money of this Province, to be recovered in manner aforesaid, and if any person shall vote at such Election without having first taken the oath or oaths, or if a quaker, the affirmation or affirmations, or refuse to give the description as aforesaid, if demanded, such person or persons shall incur the same penalty which the Returning Officer is subject to for the offence above-mentioned.

V. And be it further enacted by the authority aforesaid, that if any Elector or person taking the oath or oaths, affirmation or affirmations, herein-before mentioned, shall be guilty of wilful and corrupt perjury, or of falsely affirming, and be thereof convicted in due course of Law, such Elector or person shall incur and suffer the pains and penalties which by Law are imposed or inflicted in cases of wilful and corrupt perjury.

VI. And be it declared and further enacted by the authority aforesaid, that no person shall be admitted to vote at any such Election for any County in this Province, without having an Estate in freehold, Fief or Roture, or derived from Certificate of the Governor and Council of the Province of Quebec, in the County for which he votes, of the clear yearly value of forty shillings, sterling, that is to say: forty-four shillings and five pence one farthing, currency; over and above all rents and charges payable out of or in respect of the same, and without having been in the actual possession, or in receipt of the rents

and profits thereof for his own use, above six calendar months immediately preceding such Election, unless the same came to him within the time aforesaid, by descent, marriage, marriage settlement or by devise, or shall vote in respect of or in right of any Estate which was made or granted to him fraudulently, on purpose to qualify him to give his vote, or shall vote more than once at the same Election; and if any person shall vote in any such Election contrary to the true intent and meaning hereof, or without being legally qualified, and knowing such to be the case, he shall forfeit to the person who shall sue for the same, the penalty of Ten pounds, current money of this Province, for every such offence, to be recovered in manner aforesaid, by such person or his executors or administrators, together with full costs of suit, in any of His Majesty's Courts of competent jurisdiction.

VII. And be it further enacted by the authority aforesaid, that no person having, or who hereafter shall have or claim to have a right to vote as a freeholder, in any of the following places, that is to say: in the Upper Town of the City of Quebec, in the Lower Town of the said City, in the East-Ward of the City of Montreal, in the West Ward of the said City of Montreal, in the Town of Three-Rivers, or in the Borough of William Henry, shall be admitted to vote at any Election for any of the said places unless such person, at the time of such Election, be really and bona fide a proprietor and possessor for his own proper use, benefit and behoof, in virtue of a legal title, of a lot of ground and dwelling house thereupon, within the limits of the place for which the Election is held, of the yearly value of at least five pounds, sterling, over and above all annual rents, be the same ground rents or rentes constituées, with which the said lot of ground is annually chargeable and affected.

VIII. And be it further enacted by the authority aforesaid, that no person who hath or hereafter shall have or shall claim a right to vote, as an Elector at any Election as aforesaid, either in the Upper Town of Quebec or in the Lower Town of Quebec, or in the East Ward of the City of Montreal, or in the West Ward of the said City, or in the Town of Three-Rivers, or in the Borough of William Henry [Sorel-Tracy], as tenant of any house or part of a house, separately, within the limits of the places aforesaid, shall be admitted to vote, unless he have actually resided as a tenant, in the part of the said Towns, Cities or Boroughs in which such Election shall be holden, during the space of twelve calendar months next, before the date of the Writ of Summons for such Election, and do actually reside in the part of such Towns, Cities or Boroughs for which the Election is holden, and unless he have actually paid one year's rent, at the rate, at the least, of Ten pounds, sterling, equal to Eleven pounds, two shillings and two pence, currency, a year for the house or houses, or part of a house which he shall so have occupied separately. Provided always, and it is hereby declared, that any person who shall only have within the limits of any of the places aforesaid, a Counting House or Office, or other place used as such, and who shall not actually reside there, shall not be entitled to vote at such Election.

IX. And be it further enacted by the authority aforesaid, that no person convicted of wilful and corrupt perjury, or subornation of perjury, shall after such conviction, be capable of voting at any Election, or of being elected or of sitting or voting in the House of Assembly.

X. And be it further enacted by the authority aforesaid, that if any person who hath or claimeth to have, or hereafter shall have or claim to have any right to vote at any such Election, shall by himself, or by any other person whomsoever on his behalf or account, give or promise or engage to give, directly or indirectly, any sum or sums of money or other valuable consideration, with the intent of aiding or

procuring any person whomsoever to be defied or returned at any such Election; or if any person whomsoever, by himself or by any other person employed by him, doth or shall by any gift or reward, or by any promise, agreement or security for any gift or reward, (whether as a compensation for loss of time or for expenses in going to vote, for soliciting votes, or on any other pretence whatsoever) corrupt, or procure any person or persons to give his or their vote or votes, or forbear to give his or their vote or votes at any such Election, such person so offending in any of the cases aforesaid, shall for every such offence forfeit the sum of Ten pounds, current money of this Province, to be recovered as before directed, with full costs of suit; and be incapable of being elected and of sitting or voting in the House of Assembly, during the Parliament for which such Election is held; and every person offending again, in any of the cases aforesaid, from and after the judgment obtained against him in any such action, or being otherwise lawfully convicted thereof, shall for every such offence, forfeit the sum of Twenty pounds, current money of this Province, and be again disqualified and incapable of being elected and of sitting or voting in the House of Assembly, during the Parliament for which such Election is held.

XI. And be it further enacted by the authority aforesaid, that the Poll at every such Election, shall be kept open eight hours at least, in each day subsequently to the first day of Election, between eight of the clock in the morning and five of the clock in the afternoon, unless otherwise determined by the unanimous consent of the candidates or their representatives, or by the final close of the Poll.

XII. And be it further enacted by the authority aforesaid, that the time of four days now allowed by Law, for the holding of the Poll, at the first place of Election, when two Polls are required to be held for the same County, shall be extended to six days Polling, in the whole, at such first place of Election, any law, usage or custom to the contrary notwithstanding.

XIII. And be it declared and further enacted by the authority aforesaid, that the Returning Officer, at any such Election, shall have power and authority to maintain and enforce order, and keep the peace thereat, and to command and employ for that purpose, any officer or officers of Militia, or Peace Officers, and all other Her Majesty's subjects of the County, who are hereby required and commanded to be aiding and assisting such Returning Officer, and to arrest and confine, or commit to prison on view, or by an order in writing, directed to any Peace Officer of the County or place for which such Election is held, granted on the oath of one credible witness, which oath the said Returning Officer is hereby empowered to administer, any person threatening or committing violence, or engaged in any affray or riot or going armed with clubs, staves or other offensive weapons, and interrupting the Poll or wilfully preventing the approach of the Electors to the place of polling, provided the time of such detention shall not exceed twenty-four hours. Provided always, that no arrest, detention or imprisonment, by such Returning Officer, shall, in any manner exempt the person or persons so arrested, detained or imprisoned, from any of the pains, penalties or disabilities to which such person or persons may have been liable, by reason of any thing done contrary to the true intent and meaning of this Act.

XIV. And be it further enacted by the authority aforesaid, that in case of the death or severe illness of the Returning Officer, during the continuance of the Poll, it shall and may be lawful for the Poll Clerk, who shall have been sworn by him for this purpose before the commencement of the Poll, and he is

hereby required under the penalty of forfeiting one hundred pounds to any person suing for the same, to proceed in the Poll and to act in every respect for all the purposes of the Election, as if he had been originally Returning Officer, and take the oath as directed by Law for the Returning Officer at the commencement of the Poll, which any one Justice of the Peace is hereby authorised to administer, and proceed in the Poll, and to act in every respect as Returning Officer, for all the purposes of such Election, as if he had been originally Returning Officer, and shall make a special return of the facts, as the case may be, unless his authority shall be previously superseded by the recovery of the Returning Officer, or the legal appointment of a new one, as the case may be.

XV. And be it further enacted by the authority aforesaid, that it shall and may be sufficient for the Plaintiff in any action given by this Act, to set in the Declaration, that the Defendant is indebted to him, in the sum of _____ money thereby demanded, and to alledge the particular offence for which the action or suit is brought; and that the Defendant hath acted contrary to this Act without mentioning the Writ of Summons to Parliament, or the return thereof, and it shall be sufficient in any Indictment or information for any offence committed contrary to this Act, to alledge the particular offence charged upon the Defendant, and that the defendant is guilty thereof, without mentioning the Writ of Summons to Parliament, or the return thereof; and upon trial on any such action, suit, indictment or information, the plaintiff, prosecutor or informer, shall not be obliged to prove the Writ of Summons to Parliament or the return thereof, or the authority of the Returning Officer, grounded upon any such Writ of Summons.

XVI. Provided always, and be it further enacted by the authority aforesaid, that every action, suit or information given by this Act, shall be commenced within the space of nine calendar months next after the fact, upon which the same is grounded, shall have been committed.

XVII. And be it further enacted by the authority aforesaid, that it shall be the duty of the Senior Officer of Militia in each and every Parish or Township in this Province, to cause the fourth, fifth, sixth, eighth, ninth and tenth sections of this Act to be publicly read at the Church Door of their respective Parishes or Townships, immediately after divine service, on some Sunday or holiday, not more than three weeks, nor less than eight days, before any Election of a representative, within the County, Town, place or Borough for which such Election is to take place, and it shall be the duty of every Returning Officer, immediately previously to proceeding to any such Election, to read, or cause the aforesaid sections of this Act, to be publicly read to the Electors assembled, for the purpose of voting thereat.

XVIII. And be it further enacted by the authority aforesaid, that a sufficient number of Copies of this 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.

XIX. And be it further enacted by the authority aforesaid, that the fines, forfeitures and penalties by this act imposed, except those which are granted to informers, shall be paid into the hands of His Majesty's Receiver-General, for the public uses of the Province, and the support of the Government thereof, and shall be accounted for to His Majesty, his heirs and successors, through the Lords

Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, his heirs and successors shall direct.

XX. And be it further enacted by the authority aforesaid, that the fifteenth and sixteenth Sessions of the Act of the forty-seventh George the Third, chapter sixteenth, intituled, "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," shall be, and the same are hereby suspended, during the continuance of this Act.

XXI. And be it further enacted by the authority aforesaid, that this Act shall remain in force until the first day of May, one thousand eight hundred and twenty-five, and no longer.

SCHEDULE No. 1.

"You swear (or being one of the people called Quakers, you solemnly affirm) that your name is _____ (specify the addition, profession or trade of such person) that the place of your abode is at _____ in the County of _____ (and if it is in a Town, specify what street or part of the Town) and that you are of the full age of twenty-one years, and that you have not voted before at this Election," so help you God.

No. 2.

"You swear (or being one of the people called Quakers, you solemnly affirm,) that your name is _____ (specify the addition, profession or trade of such person,) that the place of your abode is at _____ in the County of _____ (and if it is in a Town, specify what street or part of the Town) that you are possessed, for your own use and benefit of lands or tenement, lying and being at _____ in the County of _____ adjoining on one side to lands or tenement, occupied by _____ and _____ on the other to _____ which lands or tenement so belonging to you are of the clear yearly value of forty shillings, sterling, (that is to say; forty-four shillings and five pence one farthing, currency,) over and above all rents and charges, payable out of or in respect of the same, and that you have been in the actual possession or receipt of the rents and profits thereof for your own use, for six calendar months, or that the same came to you within the time aforesaid, by descent, marriage, marriage settlement, or by devise, and that such lands or tenements have not been granted or made over to you fraudulently, on purpose to qualify you to vote, and that you have not voted before at this Election." So help you God.

No. 3.

"You swear, (or being one of the people called Quakers, you solemnly affirm) that your name is _____ (Specify the addition, profession or trade of such person,) that the place of your abode is _____ in the County of _____ (and if it is in a Town, specify what street or part of the Town,) that you have not received or had, by yourself or any person whatsoever in trust for you, or for your own use and benefit, directly or indirectly, any sum or sums of money, office, place or employment, gift or

reward, or any promise or security, for any money, office, employment, gift or reward, in order to give your vote at this Election, and that you have not voted before at this Election.” So help you God.

No. 4.

“You swear (or being one of the people called Quakers, you solemnly affirm) that your name is _____ (specify the addition, profession or trade of such person) that the place of your abode is at _____ in the County of _____ and if it is in a Town, specify what street or part of the Town) and that you are really and bona fide proprietor and possessed for your own proper use, benefit and behoof, in virtue of a legal title of a lot of ground and dwelling house thereupon, within the limits of this _____ (specify Upper or Lower Town of the City of Quebec, East or West Ward of the City of Montreal, Town of Three-Rivers or Borough of William Henry, as the case may be) adjoining on one side to the house or lot occupied by _____ and on the other side to _____ which lot of ground and dwelling house so belonging to you are of the yearly value of Five pounds, sterling, or more, over and above all rents and charges payable out of, or in respect of the same, and that you have been in the actual possession or receipts of the rents and profits thereof for your own use for Six calendar months, or that the same came to you within the time aforesaid by descent, marriage, marriage settlement or by devise, and that such lot of ground and dwelling house have not been granted or made over to you fraudulently on purpose to qualify you to vote, and that you have not voted before at this Election.” So help you God.

No. 5.

“You swear (or being one of the people called Quakers, you solemnly affirm) that you have resided as a tenant within the limits of this _____ (specify Upper or Lower Town of the City of Quebec, East or West Ward of the City of Montreal, Town of Three-Rivers or Borough of William Henry, as the case may be) during the space of Twelve calendar months next before the date of the Writ of Summons for the present Election, and that you have actually paid for the said year, a rent not less than ten pounds, sterling, equal to Eleven pounds, two shillings and two pence one farthing, currency, and that you have not voted before at this Election.” So help you God.