

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1845. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1845.

8 Victoria – Chapter 44 (1843)

An Act to improve the Law relating to the Election of Representatives to serve in the General Assembly. Passed 11th April 1843.

Whereas it would tend to promote the purity of Election and the diminution of expense if the Poll at all contested elections for Members of Assembly were taken in one day;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That when any new Assembly shall at any time hereafter be summoned in this Province, as also in case of any vacancy during this present Assembly, there shall be forty days between the Teste and Return of the Writs or Summonses, and that the Clerk of the Crown in Chancery shall issue out the Writs for the election of Members to serve in the same Assembly, with as much expedition as the same may be done, and that as well upon summoning of any new Assembly as also in the case of any vacancy during the present or any future Assembly, the several Writs shall be delivered to the respective Sheriffs; and that every such Sheriff shall upon the back thereof endorse the day he received the same, and within six days after he has received the same Writ, and at least ten days previous to the day appointed for the opening of the respective Polls, shall cause public notice, in writing or by printed handbills, of such Election, to be posted up in three or more of the most public places within each Parish and Ward in his Bailiwick or County, which notice shall contain the time at which such Election shall be opened and declared at the Shire Town or City, as also the day and places at which the Polls are to be opened within the said County or City, and the Districts, Towns, Parishes or Wards, for which such Polls shall be so opened, in case a Poll shall be demanded, as hereinafter mentioned, which day so to be appointed for holding the said Poll in the different Districts, Towns and Parishes within the said County, and Wards in such City, shall not be less than three days nor more than six days after the first day of holding his Court for the said Election, and the said Sheriff shall also give the like notice to two or more of the Constables of each Town or Parish within the County.

II. And be it enacted, That the Sheriffs of the respective Counties shall each be entitled to have and receive for every Election within their respective Counties, for providing the temporary Booths, or other polling places required by this Act, and discharging the duties required of them respectively by this or any other law or custom now in force, the sum of ten pounds for each and every Election; and for each of his Deputies or presiding Officers, appointed under the provisions of this Act to open and hold the Poll at the respective places for that purpose appointed within the County, the sum of twenty five shillings for such Deputy, Under Sheriff, or presiding Officer, for his services in opening and holding such Poll, and six pence per mile for each mile in travelling to and from the same, till the final closing of the Poll by the Sheriff of the County, and also for returning the Poll Book to such Sheriff; and for each Poll Clerk to be by such Sheriff appointed for taking such Polls in the manner hereinafter directed, at the respective places at which the Poll is by this Act directed to be opened and held, the sum of twenty shillings: and in case of a scrutiny to be

granted, as hereinafter mentioned, such Sheriff shall be entitled to have and receive, in addition to the above mentioned allowance, the sum of fifteen shillings per day, for each day the said scrutiny shall continue; which allowance to the said Sheriffs respectively, and to the said Deputies and Poll Clerks for holding the Poll, shall be paid out of the Province Treasury, upon the account thereof being submitted to, and audited by the Assembly at their next Session, but the allowance for holding the Scrutiny shall be paid by the party or parties loosing his or their Election upon such scrutiny, and shall be recovered by such Sheriff by action of debt in any Court of Record in this Province having jurisdiction thereof.

III. And be it enacted, That hereafter at every election of a Member or Members to represent any County or City in the General Assembly of this Province, at which a Poll shall have been duly demanded and granted according to Law, a separate Poll shall be opened and held for every District, Parish, Town or Ward as the case may be, into which such County, City or Town may be divided, and the polling shall commence in all the Districts, Towns, Parishes or Wards of such County or City respectively at eight o'clock in the forenoon of the day fixed for taking the Polls for such Election, and such Poll shall be kept open till four o'clock in the afternoon, when it shall finally close.

IV. And be it enacted, That whenever any Town or City in the Province is divided into Wards for Municipal purposes, the Poll for every such Election for such Town or City shall be held at the place in every such Ward which the Sheriff or returning Officer for the time being shall appoint, such place always being the most central, public and convenient place in such Ward.

V. And be it enacted, That there shall be a certain number of convenient places in each County for taking the Poll at all contested Elections hereafter to be held for Members to serve in General Assembly in this Province, at which places respectively within the said County the Poll shall be opened on the same day and between the hours as hereinbefore directed and appointed; and that the following places in the respective Counties shall be and the same are hereby declared to be the places at which the Poll in the respective Counties at any future Election shall be opened, and at which votes shall be taken; that is to say :—

In the County of York:

- For the Parish of Fredericton, at the Court House.
- For the Parish of Saint Mary's, at or near Brown's, on the Nashwaak.
- For the Parish of Douglas, at or near the Mouth of Keswick.
- For the Parish of Kingsclear, at or near the Lower Village.
- For the Parish of Prince William, at or near Marshall's.
- For the Parish of Queensbury, at or near Lewis Heustis'.
- For the Parish of Dumfries, at or near Asa Dow's.
- For the Parish of Southampton, at or near Lenentine's.

In the County of Kings:

For the Parish of Kingston, at the Court House.
For the Parish of Sussex, at or near Sheck's.
For the Parish of Studholm, at or near J. Ryan's.
For the Parish of Springfield, at or near Will's.
For the Parish of Upham, at or near J. Wanamaker's.
For the Parish of Hampton, at or near W. Ketchum's.
For the Parish of Norton, at or near J. Have's.
For the Parish of Greenwich, at or near Oak Point.
For the Parish of Westfield, at or near Jacob Waters'.

In the County of Charlotte:

For the Parish of Saint James, at or near the Kirk on the Scotch Ridge.
For the Parish of Saint Stephen, at Salt Water, near the head of Tide Waters.
For the Parish of Saint David, at the head of Oak Bay.
For the Parish of Saint Andrew, at the County Court House.
For the Parish of Saint Patrick, at Digdeguash Mills, and at the Rolling Dam.
For the Parish of Saint George, at the Lower Falls.
For the Parish of Pennfield, at the School House, near the Episcopal Church.
West Isles and Campo Bello, at Indian Island: Grand Manan, at Grand Harbour.

In the County of Northumberland:

For the Parish of Newcastle, at the Court House in the Shire Town.
For the Parish of Nelson, at or near M'Gee's Tavern, in said Parish.
For the Parish of Alnwick, at Lower Neguac.
For the Parish of Glenelg, at Willock's Farm, Mouth of Bay du Vin River.
For the Parish of Chatham, at the Town of Chatham.
For the Parish of Northesk, at or near Cuppage's residence.
For the Parish of Blackville, at or near Bartholomew's Mills.
For the Parish of Blissfield, at or near John Decantlin's, in said Parish.
For the Parish of Ludlow, at or near John Wilson's, in the said Parish.

In the County of Restigouche:

For the District comprising the Parishes of Colborne and Dalhousie, at the Court House in Dalhousie.
For the Parish of Durham, at Robert Hannay's.
For the District comprising the Parishes of Addington and Eldon, at Campbelltown.

In the County of Sunbury:

For the District comprising the Parishes of Burton and Lincoln, at the Court House.
For the Parish of Maugerville, at or near M'Lean's.

For the Parish of Sheffield, at or near Tilley's.
For the Parish of Blissville, at or near Ezekiel Seeley's.

In the County of Kent:

For the Parish of Richibucto, at the Court House.
For the District comprising Oak Point and the West Branch of Saint Nicholas River, in the Parish of Weldford.
For the Parish of Wellington, on the Great Road between the two Rivers.
For the Parish of Dundas, near the Bridge over Cocagne River.
For the Parish of Carleton at Kouchibouguac Bridge.
And such places as the Sheriff may name on the day of nomination of the Candidates for Huskisson and Harcourt

In the County of Carleton:

District number one to comprise the Freeholders of the front tier of Lots in the Parish of Woodstock, and the whole Parish of Northampton, and who shall assemble at the Court House in the Shire Town.

District number two to comprise the remaining part of the Parish of Woodstock, and the Freeholders shall assemble at the place commonly called Richmond Corner.

District number three to comprise the Parish of Wakefield, and that part of the Parish of Brighton lying to the southward of the Becaguimic [Becaguimec] Stream, and the Freeholders thereof shall assemble at the place commonly called Victoria Corner.

District number four to comprise the Parish of Simonds, and the remaining part of the Parish of Brighton lying to the northward of said Becaguimic, and the Freeholders thereof shall assemble at or near Big Presqu' Isle [Presque'Isle] River.

District number five to comprise the Parishes of Wicklow and Kent, and the Freeholders thereof shall assemble at or near Kerr's, opposite the Monquat.

District number six to comprise the Parishes of Andover and Perth, and the Freeholders thereof shall assemble at or near Curry's, opposite the Tobique.

For the Parish of Madawaska, at or near Green River.

In the County of Queen's:

For the Parish of Gagetown, at the Court House.
For the Parish of Petersville, at or near Government House.
For the Parish of Hampstead, at or near Roberts'.

For the Parish of Wickham, at or near Robert Golding's.
For the Parish of Johnston, at or near Isaac Worden's.
For the Parish of Waterborough, at or near John Travis'.
For the Parish of Canning, at or near Joshua Calkin's.
For the Parish of Brunswick, at or near Andrew M'Donald's.
For the Parish of New Canaan, at or near John Humphrey's.

In the County of Westmorland:

The Sheriff to name the place of Polling in each Parish, to be as central as may be convenient, and notice to be given thereof at the same time and in the same manner that public notice is given of the Election under the provisions of the first section of this Act: Provided always, that in the Parish of Dorchester, the Court House shall be the place of Polling.

In the County of Gloucester:

District number one, from the Restigouche County Line to Green Point, at or near John Chambers'.

District number two, from Green Point to the Parish Line of Bathurst, at or near the Church in Little Roche.

District number three, from the Beresford Parish Line to the Big Nepisiquit River, at the Court House.

District number four, from Big Nepisiquit River to Teague's Brook, at or near lot number twelve, at Salmon Beach.

District number five, from Teague's Brook to the South Branch of Caraquet River, at or near the Church at Grand Aunce [Grand Anse].

District number six, from the South Branch of Caraquet River to Saint Simon's Inlet, and up the North Branch to the Pokemouche Lower Portage, at or near the Church at Caraquet.

District number seven, all the remaining territory to the Eastward of Pokemouche River and the Lower Portage of Caraquet, at or near the Church at Shippagan [Shippagan].

Number eight, the rest of the County, at or near William Louiser's, in Tracadie [Tracadie].

In the County of Saint John:

District number one, to comprise that part of the City of Saint John lying on the East side of the Harbour, and the Freeholders thereof shall assemble at the Court House in the said City.

District number two, to comprise that part of the City of Saint John lying on the West side of the Harbour, and the Freeholders thereof shall assemble at or near the Market House in Carleton.

For the Parish of Portland, at or near the National School House.

For the Parish of Lancaster, at Musquash.

For the Parish of Saint Martin's, at Quaco.

For the Parish of Simonds, the Sheriff to divide the Parish into three Districts, Loch Lomond number one; Black River number two; Red Head number three; the different boundaries to be defined by the Sheriff, and to give notice in the manner prescribed in the first and tenth sections of this Act.

VI. And be it enacted, That at every such Election the resident Electors of such County or City voting at such Election, shall poll their votes for such Election at the Poll which shall be opened for the District, Town, Parish or Ward in which they reside, and at no other, under a penalty of five pounds currency, to be recovered before any Court of competent jurisdiction, with costs of suit, at the suit of the party or parties aggrieved: Provided always, that in cases where the boundary lines between different Parishes or between different Counties are doubtful, the Parish in which the Elector is reputed to reside, or has been accustomed to pay Parish rates, and performing Statute Labour on the Highways, shall be taken and deemed to be the Parish in which such Elector resides, for all the purposes of this Act, any thing contained in this Act to the contrary notwithstanding.

VII. And be it enacted, That it shall be the duty of the Sheriffs of the respective Counties, and they are hereby respectively authorized and required, immediately before the commencement of any Election, to appoint by Warrant under Seal, a sufficient number of Deputies to preside at the several places appointed for taking the Poll in their respective Counties, and also a sufficient number of Clerks to take the Poll at the Shire Town, and at the several places appointed for taking the Poll in such County, and shall by Precept under his Hand and Seal require each of such Deputies to take the Poll of such Election for the District, Town, Parish, or Ward, as the case may be, for which he has been so appointed according to law, and to return the same to him under his Hand and Seal, by the day to which such Sheriff or presiding Officer shall have adjourned the further proceeding in the said Election; and the Poll Clerks employed at these several places shall, at the close of the Poll, enclose and seal their several Books, and shall publicly deliver them so enclosed and sealed to the presiding Officer at such Poll, who shall give a receipt for the same, and forthwith deliver or transmit the same so enclosed and sealed to the Sheriff of the County, who shall receive and keep all such Poll Books unopened, until the re-assembling of the Court at the County Court House in each County, on the day to which such Court and the proceedings in the said Election shall have been adjourned, and then he shall openly break the seals thereon, and cast up the number of votes as they appear on the said several Books, and shall there openly declare the state of the Poll, and shall forthwith make proclamation of the Members chosen, not later than three in the afternoon of the said day, and shall forthwith make Return of such person or persons as have a majority of votes, unless a scrutiny be demanded by any Candidate at such

Election, or by five or more Freeholders of the County, in which case it shall and may be lawful for such Sheriff, and he is hereby required to grant the same, and to proceed thereupon within three days after the day of such proclamation, causing the same to be kept open during the continuance of such scrutiny, six hours at the least in each day, between the hours of eight a.m. and four p.m., unless prevented by unavoidable accident, but so as that in all cases of an Election of any new Assembly, or to fill any vacancy in the present or any future Assembly, every Sheriff having the return of a Writ shall close such scrutiny, and make his return upon such Writ, on or before the day on which such Writ is returnable.

VIII. And be it enacted, That whenever a scrutiny shall be granted, as aforesaid, and there shall be more parties than one objecting to votes on such scrutiny, the Sheriff shall decide alternately, or by turns, on the votes given for the different Candidates who shall be parties to such scrutiny, or against whom the same shall be carried on, beginning with the votes objected to by the party first demanding the scrutiny.

IX. And be it enacted, That upon every election of any Member or Members to serve in this or any future Assembly, it shall and may be lawful for the Sheriff or Under Sheriff presiding at such scrutiny, if he see cause, and he is in such case authorized during the continuance of any scrutiny which shall be granted, as aforesaid, to administer an oath to any person whatsoever consenting to take the same, touching the right of any person having voted at such Election, or touching any other matter or thing material or necessary towards carrying on such scrutiny.

X. And be it enacted, That at the commencement of every election of any Member or Members to serve in this or any future Assembly, the Sheriff of the County or City in which such Election shall be made, either in person or by his sufficient Under Sheriff, shall in the first instance open and hold his Court for such Election at the Court House in the Shire Town of the said County, or in such City, between the hours of ten a.m. and twelve of the clock, at noon, on the day appointed and notified for that purpose, agreeably to the provisions of this Act, and shall continue the same open till the hour of two p.m. on that day, when and where the names of all the Candidates that shall then offer, or be handed in by two or more substantial Freeholders of such County or City, to such Sheriff or Under Sheriff presiding at such Election, shall under the direction of such Sheriff or presiding Officer, be entered and recorded by the Poll Clerk to be appointed at such Election, in the Poll Book to be provided for that purpose, and in case no Poll shall be then and there demanded, it shall and may be lawful for the said Sheriff or presiding Officer at such Election, and he is hereby required then and there to proceed to such Election by a shew of hands, and to declare the Member or Members so chosen, and to finally close the said Election, and to make his return accordingly; and in the event of a Poll being demanded, it shall be the duty of the Sheriff or presiding Officer, and he is hereby required to grant the same, and forthwith by public Proclamation, give notice of the time and places at which the Poll of such Election shall be taken in the several Districts, Towns, Parishes or Wards of such County or City as hereinbefore provided, and shall thereupon adjourn the Court there holden, and the further proceedings in such Election, to some day within four days after the day fixed for taking such Poll in the several Districts, Towns, Parishes or Wards, as aforesaid.

XI. And be it enacted, That it shall not be lawful for the Sheriff, Under Sheriff, or presiding Officer or Officers, at the respective Polling places, in any of the Counties in this Province, or for any of the Poll Clerks at such places, to receive or record the name of any person as a Candidate at such Election, or to receive or Poll any vote or votes at such Election, for any person whatever, unless the name of such Candidate shall have been previously entered and recorded in the Sheriff's Poll Book, at the Court House in the Shire Town or City, according to the hereinbefore mentioned provisions of this Act.

XII. And be it enacted, That in all cases where from any one or more of the Precepts for taking the Polls in the several Districts, Towns, Parishes or Wards in such City or County not having been returned to the said Sheriff, by the Return day therein named, the said Sheriff shall not be prepared on the day to which he had adjourned the Court, and further proceedings in the said Election, to proceed to sum up, ascertain and declare the state of the General Poll of such Election, such Sheriff instead of proceeding to examine such of the Returns as shall have been already made, shall further adjourn the Court and proceedings in such Election to the following day, and so on from day to day until the said Precepts shall have been all returned: Provided always, that in proclaiming every such adjournment, he shall publicly declare the reason thereof; And provided also, he shall in no case continue such adjournment to so late a day as shall interfere with his being able to return the Writ of Election by the return therein named; And provided also, that he shall in no case adjourn such Court and proceeding in such Election to Sunday, Christmas Day, or Good Friday, but in all cases when such adjournment shall be necessary, adjourn over every such Sunday, Christmas Day, or Good Friday.

XIII. And be it enacted, That the names of all the Candidates, in the order of their nomination and entry on the Poll Book, shall be posted up in large letters in some conspicuous place on the Polling Booth or other place where such Election is holden, during the day of such Election, at the Shire Town, and in the other Districts, Towns, Parishes or Wards into which the County or City is divided, and also the Districts, Towns, Parishes or Wards, or the limits thereof, in case of Districts or Wards for which such Poll is held, at each and every Polling place in such City or County, into which for the purposes of such Election such City or County shall be divided, and it shall be the duty of the Sheriff and the several Deputies he shall appoint, to hold the Polls in the several Districts, Towns, Parishes or Wards of such County or City, to carry into effect the provisions of this section.

XIV. And be it enacted, That in case any Sheriff or Deputy appointed to hold any Election or take a Poll, after commencing the same, shall, before the final termination of the same, die or become incapacitated by accident or sickness, it shall and may be lawful for his Poll Clerk to act in his stead, who shall be authorized to appoint his Poll Clerk and finish the Election, and make the return in the same way and manner as though he, the said Poll Clerk, had been appointed originally the Sheriff or Deputy: Provided always, that such Poll Clerk, before entering upon his duties as Sheriff or Deputy, shall appoint his Poll Clerk, and who with the said new or acting Sheriff or Deputy, previous to entering upon their duties respectively shall take and subscribe the oaths prescribed, by Law for Sheriff, Deputies or Poll Clerks.

XV. And be it enacted, That no Poll shall be opened or held on Sunday, Christmas Day or Good Friday.

XVI. And be it enacted, That the Members to be chosen to serve in such Assembly shall be chosen in every County which hath right to choose, by male persons of the full age of twenty one years, not subject to any legal incapacity, every one of whom shall have a Freehold in such County, of the value of twenty five pounds, in case such persons reside in such County, and in case such persons do not reside in such County, shall have a Freehold in such County of the value of fifty pounds, and shall have respectively possessed the same and have had their titles registered six months before the teste of the said Writ, and such Candidates qualified as by Law is required, as have the greatest number of votes of Electors qualified as aforesaid, shall be returned by the Sheriffs, Members to serve in such Assembly, by Indentures between the said Sheriff and the said Electors: Provided always, that any person who may have mortgaged his Lands and remain in possession of the same shall not be debarred from voting.

XVII. And be it enacted, That every Sheriff shall at the commencement of every Election, immediately after reading the Writ or Precept for the election of such Member or Members, take and subscribe the following oath:—

“I, A. B. do swear, that I have not directly or indirectly received any sum or sums of money, office, place or employment, gratuity or reward, or any Bond, Bill or Note, or any promise of gratuity whatsoever either by myself or any other person to my use, benefit or advantage, for making any return at the present election of Members to serve in Assembly, and that I will return such person or persons as shall to the best of my judgment appear to me to have a majority of legal votes.”

And each of the Under Sheriffs or other Officers that shall be appointed by the said Sheriff to preside at or hold a Court for Polling or receiving Votes for the election of any Member or Members to serve in the General Assembly of this Province, and also each and every of the Clerks appointed to take the Poll at the Shire Town, and also at the several places appointed for taking the Poll, shall at the opening of the Poll at the commencement of such Election, and before such Under Sheriff or other Officer or Clerk shall receive any Votes, take and subscribe the following oath:—

“I, A. B. do solemnly swear, that I have not directly or indirectly received any sum or sums of money, office, place or employment, gratuity or reward, or any Bond, Bill or Note, or any promise of gratuity whatsoever, either by myself or any other person to my use, benefit or advantage, for making any return at the present election of a Member or Members to serve in the General Assembly, and that I will well and faithfully discharge my duty at the present Election to the best of my knowledge and judgment,* and I will return to the Sheriff a true and faithful account of the votes polled at the present Court at which I am appointed and authorized to preside;” and the Poll Clerk, instead of the words after the asterisk, shall swear, “and I will faithfully enter and record the votes received at the Polling place I have been appointed to act as Poll Clerk” which oaths respectively any Justice of the Peace for the County where such Election shall be made, or in his

absence, any two of the Electors are hereby authorized and required to administer, and such oath so taken and subscribed shall be prefixed at the time to the Poll Book and form part thereof.

XVIII. And be it enacted, That every Sheriff, Under Sheriff, Deputy or Officer appointed to preside at such Election, or at any of the Polling places within the City or County for which such Election is held, is hereby required to read the Writ or Precept for such Election, or at any of the places appointed for Polling out of the Shire Town, a true copy thereof, certified under the hand of the Sheriff or Officer presiding at such Election at the Shire Town, who is hereby required, prior to the opening of the Poll at such Polling places, to furnish each of the Deputies appointed to preside at the respective Polling places with such copy, together with a list of the Candidates whose names shall have been entered in the General Poll Book by such Sheriff at the Shire Town, agreeably to the provisions of this Act, for the purpose of being so publicly read; and the said Sheriff or Officer so presiding at such Shire Town is hereby required, immediately after the reading of such Writ or Precept, or a copy thereof as aforesaid, and taking and subscribing the oaths respectively as aforesaid, to read or cause to be read openly before the Electors then assembled this Act; and the said Deputies or persons so presiding at such Polling places are hereby required and directed respectively to enter and record in their respective Poll Books the names of such Candidates as shall be so furnished as aforesaid to such Deputies, or presiding Officers respectively, as directed by this section of this Act, and to state the names of such Candidates to any Elector requiring the same, or who is coming forward to vote.

XIX. And be it enacted, That for the more due and orderly proceeding in the said Poll, the said Sheriff or his Under Sheriff, or person presiding at the Poll at the Shire Town, shall appoint for each Candidate such one person as shall be nominated to him, by or on behalf of such Candidate, to be Inspectors of any Clerk who shall be appointed for taking the Poll; and every Elector at the time of Polling shall distinctly name the Candidate or Candidates for whom he votes, and before he be admitted to poll at the same Election, shall, if required by the Candidates, or any one of them, or in his absence by the substitute for or on behalf of such Candidate, first take the oaths hereinafter mentioned, or any or either of them, viz:—

“I do swear that I am a British Subject, and qualified by Law to vote at this Election, and that I have not before polled at this Election, and the place of my abode is at _____.—So HELP ME GOD.”

And also the following oath:—

“I swear that I have not received, or had by myself or any other person whatsoever in trust for me, or for my 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, or employment or gift, in order to give my vote at this Election.—So HELP ME GOD:”

or being one of the People called Quakers, shall, if required as aforesaid, solemnly affirm to the effect of each and every of the said oaths which shall be required as aforesaid, and which said oaths or affirmations the Sheriff, or his Deputy, Under Sheriff, or such sworn Clerk by him

appointed for taking of the said Poll or Polls, as aforesaid, are hereby respectively authorized to administer; and if any Elector, being thereunto required, as aforesaid, shall refuse or neglect to take the said oaths hereinbefore appointed to be taken, or either of them, or to affirm the effect thereof, as aforesaid, that then the poll or vote of such person so neglecting and refusing shall not be taken, and the same is hereby declared to be null and void, and as such, shall be rejected and disallowed; and if any Sheriff, Deputy, Under Sheriff, or Poll Clerk, shall neglect or refuse, when thereunto requested, as aforesaid, to administer the said oaths and affirmations, or shall otherwise offend in the premises contrary to the true intent and meaning of this Act, every such Sheriff, Deputy, Under Sheriff, Sheriff or Poll Clerk shall for every such offence forfeit the sum of fifty pounds, together with full costs of suit, to be recovered by action of debt, bill, plaint or information, in any of Her Majesty's Courts of Record in this Province, at the suit of the party or parties aggrieved: Provided always, that nothing herein contained shall alter or affect the oath now required by this Act to be taken by Freemen of the City of Saint John voting at Elections for that City, but that Freeholders voting on their Freeholds at such City Elections, shall be required to take the above oaths, and that such Freeman shall, if required so to do, take in addition to any oath or oaths required by this Act, the oath secondly herein prescribed.

XX. And be it enacted, That if any person or persons shall wilfully, falsely and corruptly take any of the oaths or affirmations appointed and required by any of the provisions of this Act, and be thereof lawfully convicted by indictment or information, or if any person or persons shall corruptly procure or suborn any other person or persons to take the said oaths or affirmations, or either of them, and the person so procuring or suborning shall be thereof convicted by indictment or information, every person so offending shall for every such offence incur and suffer such penalties, forfeitures and disabilities as persons convicted of wilful and corrupt perjury are liable to.

XXI. And be it enacted, That no Elector at any Election shall be required to take the oaths commonly called the oaths of allegiance, abjuration and supremacy, nor any oath or oaths required to be taken by any Act of the General Assembly in lieu thereof, any Law or Statute to the contrary notwithstanding.

XXII. And be it enacted, That if any person or persons who hath or claimeth to have, or hereafter shall have or claim to have any right to vote at such Election, shall take any money or other reward by way of gift, loan or other device, or contract or agree for any money, gift, office, employment or other reward, to give, or forbear to give his vote at any such Election, or if any person by himself, or any person employed by him, doth or shall by any gift or reward, or by any promise or agreement, or security for any gift or reward, corrupt or procure any person or persons to give his or their vote or votes, or to forbear to give his or their vote or votes, or shall by any threats, force or violence, intimidate or compel any person or persons to give his or their vote or votes, or to 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 twenty pounds, to be recovered as before directed in the nineteenth section of this Act, with full costs of suit, and every person offending in the cases aforesaid, in this clause mentioned, from and after judgment obtained against him, in any such action of debt, bill, plaint or information, or being in any otherwise

lawfully convicted, shall forever be disabled to vote for any Member or Members of the Assembly of this Province.

XXIII. And be it enacted, That if any person shall cause himself or themselves to be polled more than once at the same Election in the same County, or if any person who is not duly qualified to vote and be polled according to the provisions of this Act, shall wilfully vote and cause himself to be polled at any Election for any Candidate, such person so offending in either case aforementioned, shall for every such offence forfeit the sum of fifteen pounds, to be recovered before directed in the nineteenth section of this Act, with full costs of suit.

XXIV. And be it enacted, That if the qualification of any Candidate at any Election to be hereafter holden, be openly questioned at any time during the Election, the said Candidate, whose qualification is so questioned, shall within six hours after such public questioning, make or cause to be made a declaration in writing of his qualification, in the manner hereinafter prescribed, and in default thereof, the Sheriff or returning Officer shall strike his name from the Poll Book.

XXV. And be it enacted, That the Sheriffs of the respective Counties are hereby authorized and required immediately prior to any Election, to erect or to cause to be erected temporary Booths at such of the respective polling places within their respective Counties, or of the Shire Town, or to procure any house or houses, or other building or buildings, at the respective places appointed for taking the Poll, as such Sheriffs respectively may and shall from time to time deem necessary and proper.

XXVI. And be it enacted, That every Sheriff who hath the execution and return of any such Writ for electing Members to serve in General Assembly, which shall be issued for the future, shall on or before the day that any future Assembly shall be called to meet, and with all convenient expedition after any Election made by virtue of any new Writ, either in person or by his Deputy, make return of the same to the Clerk of the Crown in Chancery, to be by him filed in the Crown Office, and every Sheriff having execution and return of any such Writ as aforesaid, who shall not make the Returns according to the true intent and meaning of this Act or of the Acts now in force to which this Act is an amendment, shall forfeit for every such offence one hundred pounds, one moiety of which shall go to Her Majesty, and the other moiety to him or them that shall sue for the same, to be recovered by action of debt, bill, plaint or information, in any of Her Majesty's Courts of Record in this Province.

XXVII. And be it enacted, That in taking any Poll which shall be required as aforesaid, the Sheriff and Clerks, under Sheriffs, Deputies or presiding Officers respectively, or any of them, shall enter in the Poll Book not only the place of the Elector's Freehold, but also the place of his abode as he shall declare the same at the time of giving his vote, and shall also make or enter "Jurat" against the name of every such voter who shall take the oath or oaths herein required to be taken by Electors; and that the said Sheriff or returning Officer shall within the space of twenty days next after such Election, faithfully deliver over upon oath, (which oath any one of the Justices of the Peace of the County in which such Election is held, is hereby authorized and required to administer,) unto the Clerk of the Peace of the same County, all the Poll Books of such respective

Elections, without any embezzlement or alteration, to be carefully kept and preserved among the Records of the Sessions of the Peace of and for the said County.

XXVIII. And be it enacted, That all false returns which shall be wilfully made of any Member to serve in the Assembly of this Province are against Law, and hereby prohibited; and in case any person or persons shall return any Member to serve in the Assembly of this Province for any County, City or place contrary to the rights of Elections established in and by the provisions of this Act or of any of the Acts now in force in this Province relating to Elections, such return so made shall and is hereby adjudged to be a false return, and the party aggrieved, to-wit, every person that shall be elected to serve in such Assembly for any County, City or place by such false return may sue the Sheriff or returning Officer, and persons wilfully making and procuring such false return, and every or any of them at his election, in the Supreme Court of this Province, and shall recover the damages he shall sustain by reason thereof, together with his full costs of suit, and if any Sheriff or returning Officer shall wilfully, falsely and maliciously return more persons than are required to be chosen by the Writ or Precept on which any choice is made, the like remedy may be had against him or them, and the party or parties that shall willingly and knowingly procure the same, and every or any of them, by the party aggrieved at his election.

XXIX. And be it enacted, That the Sheriff, Deputy, Under Sheriff, or person presiding at the respective Polling places at every such Election after such Sheriffs, Deputies, Under Sheriffs, or persons presiding as aforesaid shall have taken and subscribed the oath required by this Act to be taken by such Sheriffs, Deputies, Under Sheriffs, or persons presiding, shall be during the day and days on which the Election may be held, and they are hereby declared to be Conservators of the Peace, and severally vested with the same powers for the preservation of the Peace and apprehension and committal for trial, or holding to bail, or trying and convicting violators of the Law and good order as are vested in the Justices of the Peace of the Province; and that for the purpose of keeping the Peace and preserving good order at any Election, it shall and may be lawful for any such Sheriff, Deputy, Under Sheriff or person presiding as aforesaid, to require the assistance of all Justices of the Peace, Constables, and other persons present at such Elections, to aid and assist him in doing so; and it shall and may be lawful for any such Sheriff, Deputy, Under Sheriff or person presiding as aforesaid, to commit any person for a breach of the Peace, molesting or threatening any Elector at coming to or returning from the said Election, or for any other violation of good order, to the custody and charge of any Constable or Constables, person or persons, on view, for such time as he in his discretion shall or may deem expedient, or by a writing under his hand to commit to prison for the like offence for any period not extending beyond the close of the Poll, and the day of holding the same; and when thereunto required all Justices of the Peace, Constables and others at the said Election are enjoined to aid and assist such person presiding, and Justice and Justices of the Peace in discharging such duties under pain of being deemed guilty of a misdemeanor and liable to punishment therefor; and all Justices of the Peace residing in the City, Town or Parish wherein the Election is held, shall, upon being notified in writing by such person presiding, attend at such Election for the purpose of aiding in preserving peace and order thereat; and such Justice or Justices or person presiding shall and may when they consider it necessary appoint and swear in any number of special Constables to act as Peace Officers, and assist in maintaining peace and order at such Election: Provided always, that upon

the written application of any Candidate or the Agent of any Candidate, or of any two or more Electors, any Sheriff or Deputy shall and he is hereby required to swear in such special Constables. XXX. And be it enacted, That from and after the passing of this Act, it shall and maybe lawful for any Member of the Assembly of this Province, legally elected, or who shall hereafter be so, who shall wish to abstain from the performance of the duties imposed on him by his Election, to vacate his seat in the manner hereinafter provided.

XXXI. And be it enacted, That such Member in his place in the Assembly may give notice in writing of his intention of resigning his seat, and immediately after such notice shall have been entered by the Clerk of the Assembly in the Journal, it shall be lawful for the Speaker, and he is hereby required to issue his Warrant to the Clerk of the Crown in Chancery, to cause a Writ to be issued for the election of a Member in the room of the Member who shall have so resigned, and that the said Clerk of the Crown shall, upon the receipt of such Warrant, issue out a Writ for that purpose, with as much expedition as the same may be done: Provided always, that the Member so tendering his resignation shall be, and be held and considered as being, to all intents and purposes, the Representative for the place for which he was elected, until the return of the election of such new Member to serve in his room shall have been duly made.

XXXII. And be it enacted, That if any Member shall wish so to resign in the interval between two Sessions of the General Assembly, it shall be lawful for him so to do, by addressing and causing to be delivered to the Speaker a declaration to that effect made under his hand and seal, before two witnesses, an entry of which declaration shall be made in the Journal of the proceeding on the first day of the Session of the General Assembly then next ensuing, and that it shall be lawful for the Speaker upon receiving such declaration, forthwith to issue his Warrant in like manner for the election of a Member in the room of the Member so tendering his resignation.

XXXIII. And be it enacted, That no Member shall ask for leave to vacate his seat in the first Session of any Assembly before the expiration of the first fifteen days of said Session, and that no Member whose election shall be contested shall so vacate his seat until after such contest shall have been decided.

XXXIV. And be it enacted, That in the event of any vacancy by death, resignation or appointment to the Legislative Council, or otherwise, in the present or any future Assembly, during any recess of the General Assembly, it shall be the duty of the Speaker, within ten days after the same shall be certified to him in writing by at least two Members, one of whom to be a Member of the County or City in which the vacancy may happen, or in case such vacancy shall occur in a County only represented by one Member, then in the most adjoining County, to send his Warrant to the Clerk of the Crown in Chancery to cause a Writ to be issued for the election of a Member to fill such vacancy, and that the said Clerk of the Crown shall, upon the receipt of such Warrant, issue out a Writ for that purpose with as much expedition as the same may be done; and in case such vacancy shall be occasioned by the death or resignation of the Speaker, or by his appointment to a seat in the Legislative Council, or otherwise, or during the time there is no Speaker to the Assembly during any recess as aforesaid, any four Members, one of whom to be a Member of the County or City for which such Speaker shall have been elected, may send their Warrant to the said Clerk of the

Crown to cause a Writ to be issued for the election of a Member to fill the vacancy so made; and that the said Clerk of the Crown shall upon the receipt of such Warrant issue out a Writ for that purpose with as much expedition as the same may be done: Provided always, That if the Speaker shall be a Member for a County represented by only one Member, then the Warrant to the Clerk of the Crown may be made by any four Members.

XXXV. And be it enacted, That the respective Sheriffs for the different Counties shall return the following Members to serve in Assembly, to wit: For the County of York, four; for the County of Saint John, four; the County of Westmorland, four; the County of Charlotte, four; the County of Northumberland, two; King's County, two; Queen's County, two; the County of Sunbury, two; the County of Restigouche, two; the County of Gloucester, two; the County of Kent, two; the County of Carleton, two; and for the City of Saint John, two.

XXXVI. And be it enacted, That the Writ of the Election of the said two Members for the said City shall be directed to the Sheriff of the City and County of Saint John, who shall execute the same and make return thereof in the same manner and under the like regulations, restrictions, penalties and forfeitures except as is otherwise in this Act prescribed, as Sheriffs holding Elections in Counties are made subject and liable to.

XXXVII. And be it enacted, That the Members for the City of Saint John shall be chosen by the Freeholders of the said City qualified in the manner prescribed by this Act, and the Freemen being inhabitants who have actually dwelt therein, and been duly registered in the list of Freemen, six months before the teste of the Writ of Election, and possessed of personal Estate of the value of twenty five pounds at the time of such Election; which said Freemen so to give their votes, shall be subject to the like regulations, restrictions, forfeitures, penalties and disabilities as Freeholders by this Act are made subject to, except that instead of the oath required to be taken by Freeholders, such Freemen shall take (or being Quakers affirm the effect of) the following oath:—

“ I do swear that I am a British Subject, a Freeman of the City of Saint John, and am duly qualified to vote at this Election, and have not before polled at this Election.—So HELP ME GOD.”

XXXVIII. And be, it enacted, That every person coming to vote at any Election hereafter holden for the City of Saint John, shall distinctly declare whether he claims to vote as a Freeman or Freeholder; and it shall be particularly specified on the Poll Book whether his vote was given as a Freeman or Freeholder, and every Freeholder shall, if required by any Candidate, specify the Ward in which his Freehold is situate, which shall also be noted on the Poll Book.

XXXIX. And be it enacted, That every Sheriff shall forthwith deliver to such person or persons as shall desire the same, a copy of the Poll taken at such Election, paying only a reasonable charge for writing the same; and every Sheriff for every wilful offence contrary to this Act, not provided for by particular penalties in and by this Act inflicted, shall forfeit to every party so aggrieved the sum of thirty pounds, to be recovered in manner in the nineteenth section of this Act prescribed.

XL. And be it enacted, That no person or persons hereafter to be elected to serve in Assembly for any County, City or Place within this Province, after the teste, or issuing out, or ordering of any Writ of Summons for a new Assembly hereafter to be called, or alter any such place becomes vacant hereafter, in the time of this present or any other Assembly in this Province, shall or do hereafter by himself or themselves, or by any other ways or means on his or their behalf, at his or their charges, before his or their election to serve in Assembly for any such County, City or Place, directly or indirectly, give, present or allow to any person or persons having voice or vote in such Election, any money, meat, drink, entertainment, or provision, or make any present, gift, reward, or entertainment, or shall at any time hereafter make any promise, agreement, obligation, or engagement to give or allow any money, meat, drink, provision, present, reward, or entertainment, to or for any such person or persons in particular, or to any such County, City, or Place in general, or to or for the use, advantage, benefit, employment, profit, or preferment of any such person or persons, place or places, in order to be elected, or for being elected to serve in Assembly for such County, City or Place.

XLI. And be it enacted, That every person or persons so giving, presenting or allowing, making, promising or engaging, doing, acting or proceeding, shall be and are hereby declared and enacted disabled and incapacitated upon such Election to serve in the House of Assembly for such County, City or Place, and that such person or persons shall not act, sit or have any vote or place in the House of Assembly, but shall be and are hereby declared and enacted to be to all intents, constructions and purposes as if they , had never been returned or elected Members for the Assembly.

XLII. And be it enacted, That no person shall be capable of being elected a Member of the Assembly of this Province who shall not be of the age of twenty one years, and who shall not be legally seized as of freehold for his own use and benefit of Lands or Tenements within this Province of the value of three hundred pounds currency, over and above all Rents, Mortgages, Judgments, Executions or Extents charged upon or due and payable out of or affecting the same, and shall have been seized of such Lands or Tenements six months previous to the Teste of the Writ of such Election, and that every Candidate at any Election of Representatives in the General Assembly, before he shall be capable of being elected, shall, if required by any other Candidate, or any Elector, or by the Sheriff or Officer holding such Election, make before the said Sheriff or other Officer the following declaration:—

“I, A. B. do declare and testify, that I am of the age of twenty one years, and that I am duly seized as of Freehold for my own use and benefit of Lands or Tenements in the Province of New Brunswick, of the value of three hundred pounds currency, over and above all Rents, Mortgages, Judgments, Executions and Extents, charged upon or due and payable out of or affecting the Same, and that I have been seized of such Lands or Tenements for the period of six months previous to the Teste of the Writ for this Election.”

XLIII. And be it enacted, That it shall and may be lawful for any Candidate at any Election hereafter holden to make and subscribe the declaration mentioned in the forty second section of this Act, in the presence of one of Her Majesty's Justices of the Peace, or of a credible witness, and transmit

the said declaration to the Sheriff of the County or City for the representation thereof such person so making the declaration is a Candidate, or such declaration may be made on behalf of and for such Candidate, by any reputable Freeholder, in the presence of the Sheriff or Officer presiding at such Election, and in either Case shall have the like force and effect, and subject the person making it to all the pains and penalties as if made in the manner prescribed by the said forty second section of this Act.

XLIV. And be it enacted, That if any person shall knowingly and willingly make a false declaration respecting his qualification as a Candidate at any Election as aforesaid, such person shall be deemed to be guilty of a misdemeanor, and being thereof lawfully convicted, shall suffer the like pains and penalties as by Law are incurred by persons guilty of wilful and corrupt perjury in the County in which such false declaration shall have been made.

XLV. And be it enacted, That every General Assembly of this Province hereafter to be summoned and chosen, shall, notwithstanding any demise of the Crown, continue for four years from the day of the return of the Writs for choosing the same, and no longer, subject nevertheless to be sooner prorogued or dissolved by the Lieutenant Governor or person administering the Government of the Province.

XLVI. And be it enacted, That all the Laws and Statutes now in force respecting the election of Members to serve in the General Assembly of this Province, shall be and remain and are hereby declared to be and remain in full force, virtue and effect, except so far as any of the said Laws or Statutes are repealed or altered by this Act, or are inconsistent with the provisions hereof.

XLVII. And be it enacted, That all Writs and Warrants to be issued for the election of any Members to serve in all future Assemblies in this Province, and all mandates, precepts, instruments, proceedings and notices consequent upon such Writs, shall be and the same are hereby authorized to be formed and expressed in such manner and form as may be necessary for the carrying the provisions of this Act into effect.

XLVIII. And be it enacted, That no action shall be brought or prosecuted for the recovery of the fines, and penalties imposed in and by any, of the provisions of this Act, unless commenced within six calendar months after the forfeiture or offence for which such fine or penalty is imposed shall have occurred.

XLIX. And be it enacted, That an Act made and passed in the thirty first year of the Reign of His late Majesty King George the Third, intituled *An Act for regulating Elections of Representatives in General Assembly, and for limiting the duration of Assemblies in this Province*, and also another Act passed in the fiftieth year of the Reign of His said late Majesty, intituled *An Act in addition to an Act, intituled 'An Act for regulating Elections of Representatives in General Assembly, and for limiting the duration of Assemblies in this Province,'* and also an Act made and passed in the ninth year of the Reign of His late Majesty King George the Fourth, intituled *An Act further to amend the Act for regulating Elections of Representatives in General Assembly*, and also an Act passed in the seventh year of the Reign of His late Majesty King William the Fourth, intituled *An Act in addition*

to and in amendment of the Laws now in force for regulating Elections of Representatives to serve in General Assembly in this Province, and also an Act passed in the seventh year of the Reign of His late Majesty King William the Fourth, intituled An Act for continuing the General Assembly in this Province in case of the demise of the Crown, and also an Act passed in the fifth year of the Reign of Her present Majesty, intituled An Act to limit the duration of the Assembly, and for other purposes therein mentioned, be and the same are hereby repealed.

L. And be it enacted, That this Act shall not come into operation or be in force until Her Majesty's Royal approbation be thereunto had and declared.

[This Act was specially confirmed, ratified and finally enacted by an Order of Her Majesty in Council, dated the 19th day of June, 1844, and published and declared in the Province on the 24th day of July, 1844.]