

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1846. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1846.

9 Victoria – Chapter 108 (1845)

An Act relating to the Election of Representatives to serve in the General Assembly. Passed 14th April 1845.

Whereas the provisions of an Act made and passed in the sixth year of the Reign of Her Majesty Queen Victoria, intituled *An Act to improve the Law relating to the Election of Representatives in the General Assembly*, require amendment;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the fifth section of an Act made and passed in the sixth year of the Reign of Her present Majesty, intituled *An Act to improve the Law relating to the Election of Representatives to serve in General Assembly*, which appoints the places for holding the Polls at all contested Elections hereafter holden for Members to serve in the General Assembly for any County in this Province, be amended in the following respects :—

In the County of Northumberland:

Instead of at the Town of Chatham, the polling place for the Parish of Chatham shall be at or near the Town of Chatham.

In the County of Kent:

Instead of for the District comprising Oak Point and the West Branch of Saint Nicholas River, in the Parish of Weldford, the polling place for the Parish of Weldford shall be held at such place in the said Parish as the Sheriff shall appoint, and notice of such place so by him appointed shall be given in the manner and at the time provided by the first section of the said recited Act.

That the Freeholders comprised in the Lots fronting on the Aldoune River and Bay in the Parish of Carleton, shall assemble with the Freeholders of Richibucto, and poll their votes at the Court House in the said Parish of Richibucto.

In the County of Carleton:

Instead of the polling place at or near Green River, for the Parish of Madawaska, there shall be two polling places for the said Parish of Madawaska, and for which purpose the said Parish of Madawaska shall be divided into two Districts:

The first District to be known as District number seven, to comprise all that part of the Parish of Madawaska lying below the upper line of Lot number twenty five, granted to Joseph Daigle, Junior, and the Freeholders thereof shall assemble at or near Grand River.

The second District to be known as District number eight, to comprise all that part of the said Parish of Madawaska not comprised in District number seven, and the Freeholders thereof shall assemble at or near the Mouth of the Little Madawaska River.

In the County of Queen's:

Instead of the polling place appointed for the Parish of Waterborough, the polling place for the said Parish of Waterborough shall be at or near John Farris'.

Instead of the polling place appointed for the Parish of Chipman, the polling place for the said Parish of Chipman shall be at or near Andrew M'Donald's.

Instead of the polling place appointed for the Parish of Brunswick, the polling place for the said Parish of Brunswick shall be at or near the late John Humphreys', in the New Canaan Settlement.

In the County of Gloucester:

Instead of the polling places established by the said recited Act, the following are hereby declared to be places for holding the Poll at any future Election to be holden for the County of Gloucester:—

District number one, from the Restigouche Line to the Bathurst Line, comprehending the Parish of Beresford, at the Church at Little Roche.

District number two, from the Beresford Parish Line to the Big Nepisiquet [Nepisiguit] River, at the Court House.

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

District number four, from Teague's Brook round Misonette, up the South Branch of Caraquet River, at the Church in Grand Aunce [Anse].

District number five, from the South Branch of Caraquet River to the Black-hall Portage, at the Church in Caraquet.

District number six, from the Blackhall Portage, eastward, round by Saint Simon's Inlet, to the Wough Bridge, at or near John Gionet's.

District number seven, all the remaining territory to the eastward of Pokemouche River and Saint Simon's Inlet, at the Church at Shippagan [Shippagan].

District number eight, Pokemouche Settlement, (so called) at Valentine Gibbs' and Pokemouche.

District number nine, the rest of the County, at or near William Lousier's, in Tracaday.

In the County of Saint John:

Instead of District number one to comprise that part of the City of Saint John lying on the east side of the Harbour, the Electors who reside in that part of the City of Saint John lying on the east side of the Harbour, shall assemble in the different Wards in which they reside, and poll their votes at such place in each Ward as the Sheriff or Returning Officer for the time being shall appoint; and notice of such place so by him appointed shall be given in manner and at the time provided by the first section of the said recited Act; and in the other Districts for the said County in the said Act mentioned, the term "Freeholders," shall extend and be applied to all persons entitled to vote within the said Districts.

II. And be it enacted, That the time for questioning the qualification of any Candidate at any Election hereafter holden for any City or County in this Province, under the provisions of the twenty fourth section of the said recited Act, shall be limited to the time appointed by the tenth section of the said recited Act for the offering of Candidates; and it shall be the duty of the Sheriff or Returning Officer, forthwith to give the Candidate, his agent, or person nominating him, whose qualification is so questioned, notice of such questioning; and in default of the declaration provided by the said recited Act being filed with the Sheriff or Returning Officer, by the time mentioned in the said Act, the said Sheriff or Returning Officer shall strike the name of the Candidate whose qualification is so questioned, from the Poll Book.

III. And be it enacted, That so much of the thirty fourth section of the said recited Act as provides for filling up any vacancy in the Assembly during the recess of the General Assembly, occasioned in any manner except by death, resignation, or appointment to the Legislative Council, be and the same is hereby repealed, but in all other respects the said section shall remain in full force and effect.

IV. And be it enacted, That in the event of the division of any Parish or Parishes in this Province, from and after the passing of this Act, without providing anew for the polling of the votes of the resident Electors of such Parish or Parishes, the resident Electors of such Parish or Parishes shall poll their votes at the same place in all respects as if no such division had taken place, unless otherwise provided by the Law dividing such Parish or Parishes.

V. And be it enacted, That if any Sheriff, Returning Officer, Deputy, Under Sheriff, Poll Clerk, or other person whatsoever, appointed and acting under the authority of the said recited Act, or this Act, for any Election for any County or City in this Province, shall wilfully contravene or disobey the provisions of the said recited Act, or this Act, or any of them, with respect to any matter or thing which such Sheriff, Returning Officer, Deputy, Poll Clerk, or other person whatsoever, is by the said recited Act or this Act required to do, and for which default or offence no specific penalty is provided in the said recited Act, he shall for such his offence be liable to be sued in an action of debt in the Supreme Court of this Province for the penal sum of fifty pounds; and the Jury before whom such action shall be tried, may find their verdict for the full sum of fifty pounds, or for any less sum which the said Jury shall think it just that he should pay for such his offence; and the defendant in such action being convicted, shall pay such penal sum so awarded, with full costs of

suit, to the party who may sue for the same: provided always, that no such action shall be brought except by a person being an Elector, or claiming to be an Elector, or a Candidate, or a Member actually returned, or other party aggrieved, within four months after the commission of the offence for which such action is brought; provided also, that the remedy hereby given against the Sheriff or Returning Officer shall not be construed to supersede any remedy or action against him according to the Law now in force.

VI. And be it enacted, That in the construction of the said recited Act, and of this Act, except there be something in the subject or context inconsistent with or repugnant to such construction, every word importing the singular number only, shall extend and be applied to several persons or things as well as one person or thing, and every word importing the plural number, shall extend and be applied to one person or thing, as well as several persons or things, and the words Returning Officer shall apply to every person or persons to whom by virtue of his or their office, under any Law or Statute, the execution of any Writ or Precept doth or shall belong, for the election of a Member or Members to serve in the General Assembly of this Province, by whatever name or names such person or persons may be called; and that no misnomer or inaccurate description of any person, place or thing named or described in any notice required by the said recited Act, or this Act, shall in any wise prevent or abridge the operation of the said recited Act, or this Act, with respect to such person, place or thing; provided that such person, place or thing shall be so denominated in such notice so as to be commonly understood.

VII. 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 Order of Her Majesty in Council, dated 8th August, 1845, and published and declared in the Province the 17th day of September, 1845.]