

C H A P. III.

AN ACT to Repeal the Several Statutes of this Province respecting the Election of Members of the House of Assembly, and the Qualification of Voters and Candidates at such Elections, and to Reduce the Provisions thereof, with some Amendments, into One Act, and also to Provide against Fraud in obtaining Qualifications to Vote at Elections.

[PASSED JAN. 19th, 1824.]

WHEREAS it is expedient to Repeal the several Statutes of this Province respecting the Election of Members to serve in the House of Assembly, and the qualification of Voters and Candidates at such Elections, and to reduce the provisions thereof, with some amendments, into One Act, and also to provide against fraud in obtaining qualifications to vote at Elections :—

Acts regulating the electing Members to serve in the House of Assembly, and the qualification of voters and candidates at such elections, hereby repealed, viz.

PREAMBLE.

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 Upper-Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to Repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled, '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 by the authority of the same,—

That an Act passed in the thirty-fifth year of His Late Majesty's Reign, entitled, "An Act to ascertain the eligibility of persons to be returned to the House of Assembly ;"—an Act passed in the for-

25 Geo. III. ch. 2.

40 Geo. III. ch. 3.

tieth year of His Late Majesty's Reign, entitled 'An Act for the More Equal Representation of the Commons of this Province in Parliament, and for the better defining the Qualification of Electors ;'—an Act passed in the forty-eighth year of His Late Majesty's Reign, entitled, 'An Act for the Better Representation of the Commons of this Province in Parliament,' and to Repeal part of an Act passed in the fortieth year of His Majesty's Reign, entitled, 'An Act for the more Equal Representation of the Commons of this Province, and for the better Defining the Qualification of Electors ;'—an Act passed in the fifty-fourth year of His Late Majesty's Reign, entitled, 'An Act to Repeal and Amend part of an Act passed in the thirty-fifth year of His Majesty's Reign, entitled, 'An Act to ascertain the Eligibility of Persons to be Returned to the House of Assembly ;'—an Act passed in the fifty-eighth year of His Late Majesty's Reign, entitled, 'An Act to Repeal an Act passed in the thirty-fifth year of His Majesty's Reign, entitled, 'An Act to ascertain the Eligibility of persons to be Returned to the House of Assembly ;' and also to Repeal an Act passed in the fifty-fourth year of His Majesty's Reign, entitled, 'An Act to Repeal and Amend part of an Act passed in the thirty-fifth year of His Majesty's Reign, entitled, 'An Act to ascertain the Eligibility of persons to be Returned to the House of Assembly ;' and to make further and more effectual provision for securing the Freedom and Constitution of the Parliament of this Province ;'—and an Act passed in the second year of His present Majesty, entitled, 'An Act to render Ineligible to a seat in the Commons' House of Assembly of this Province, certain descriptions of Persons therein mentioned,'—be, and the same are hereby Repealed.

48 Geo. III. ch. 11.

54 Geo. III. ch. 4.

58 Geo. III. ch. 9.

2 Geo. IV. ch. 4.

II. *And be it further Enacted by the authority aforesaid, That from and after the passing of this Act, no person or persons, of what condition soever, having been a bona fide resident in any coun-*

Persons having resided in a foreign country, or taken the oath of allegiance to a foreign state, shall not be eligible unless they

have resided in this Province seven years next before the election at which they shall be chosen.

try, not being under His Majesty's Government, or who shall have taken the oath of allegiance to any other state or power, shall be eligible to be proposed, chosen, or elected as a Representative or Representatives, of any City, County, Riding, or Borough, or other place of any description, now or hereafter sending a Representative or Representatives to the House of Assembly of this Province, until such person or persons shall have resided in this Province for and during the space of Seven Years next before the Election at which any such person or persons shall be proposed, elected, or chosen as a Representative or Representatives as aforesaid.

Penalty on such persons offering themselves as Candidates unless they shall have resided seven years.

III. *And be it further Enacted by the authority aforesaid,* That if any person or persons, as aforesaid, not having resided in this Province for seven years. as aforesaid, shall propose or offer himself, or themselves as a Candidate or Candidates to become a Representative or Representatives of any County, City, Riding, or Borough, or other place, now or hereafter sending a Representative or Representatives, and shall be thereof convicted by the oath of one credible witness, he or they shall forfeit and pay the sum of Two Hundred Pounds.

Penalty on persons so disqualified if being elected they shall presume to sit.

IV. *And be it further Enacted by the authority aforesaid,* That if any person or persons, as aforesaid, not having resided in this Province for Seven Years, as aforesaid, whether such person or persons shall have proposed or offered him or themselves as a Candidate or Candidates or not, for any County, City, Riding or Borough, or other place of any description, now or hereafter sending a Representative, or Representatives, to the House of Assembly of this Province, as aforesaid, shall presume, upon such choice or election, to obtrude or present himself, or themselves, into the said House, as a Representative, or Representatives, as aforesaid, he or they shall forfeit and pay the sum of Forty Pounds, over and besides the fore-

going penalty, if such person or persons shall have incurred the same, for every day that he shall so obtrude or present himself or themselves.

V. *And be it further Enacted by the authority aforesaid, That from and after the passing of this Act, no person or persons now resident within this Province, or who shall or may at any time hereafter, come into this Province to reside, who shall or may have taken the oath of abjuration against His Majesty's Government, or who shall have been a member of the Senate or House of Representatives of the United States of America, or any one of the said United States respectively, or who may have held any office in any of the Executive Departments of State in the said United States or State respectively, or who shall be, or may have been, convicted in any foreign country of Felony, or of any offence, which, if committed in this Province, would subject the offender to infamous punishment, shall be capable of being elected to serve as a Member in the House of Assembly of this Province, any thing in this Act, or any other law, usage, or custom, to the contrary notwithstanding.*

Persons having abjured allegiance to His Majesty, or having held certain offices in the United States of America, or being convicted of offences in a foreign country, subjecting them to infamous punishment, shall be disqualified to sit in the House of Assembly of this Province.

VI. *And be it further Enacted by the authority aforesaid, That from and after the passing of this Act, no person or persons shall be eligible to be proposed, chosen, or elected as a Representative or Representatives of any County, City, Riding, Borough, or other place of any description, now or hereafter sending a Representative or Representatives to the House of Assembly of this Province, unless he shall be possessed of an Unincumbered Freehold in lands or tenements in this Province, to the assessed value of Eighty Pounds lawful money of this Province.*

Qualification with respect to estate required for a Member to serve in the Assembly.

VII. *Provided always, And be it further Enacted by the authority aforesaid, That every person who, from and after the passing of*

Oath which any candidate may be required to take.

this Act, shall appear as a Candidate, or shall, by himself or any others, be proposed to be elected to serve as a Member for any County, City, Riding, Borough, or any part or place now or hereafter sending a Member to the House of Assembly of this Province, shall, and he is hereby enjoined and required, upon reasonable request to him, to be made at the time of such Election, or before the day prefixed in the writ of summons for the meeting of Parliament, by any other person who shall stand a Candidate at such Election, or by any two or more persons having a right to vote at such Election, take a Corporal Oath, in the following form, or to the following effect:—

“I, A. B. do swear, that I truly and *bona fide* have such a Freehold Estate, [here describe the estate,] over and above all incumbrances that may affect the same; and am otherwise qualified according to the provisions of Law, to be elected and returned to serve as a Member in the Commons’ House of Assembly, according to the tenor and true meaning of the Act of Parliament in that behalf; and that I have not obtained the same fraudulently for the purpose of enabling me to be returned Member to the Commons’ House of Assembly of this Province.—So Help me God.”

Oath as to residence
required in certain
cases.

VIII. *And be it further Enacted by the authority aforesaid, That* if any Candidate, as aforesaid, shall have resided in the United States of America, he shall, if required, in addition to the foregoing Oath, take the following:—

“I, A. B., do sincerely and solemnly swear, that during my
“residence in the United States of America, I have not taken or
“subscribed any Oath of Abjuration of Allegiance to the Crown
“of Great Britain; and further, that during my said residence,
“I have not held the office or appointment of Senator, or Mem-
“ber of the House of Representatives of the said United States,
“or of either of the said United States respectively, or held or

“enjoyed any office in any of the Executive Departments of
 “State in the said United States, or State respectively.—So Help
 “me God.”

IX. *And be it further Enacted by the authority aforesaid, That* the Oaths required by this Act shall and may be administered by the Sheriff for any such County, as aforesaid, or by the Mayor, Bailiff, or other officer or officers for any County, City, Borough, Riding, place or places, as aforesaid; to whom it shall appertain to take the poll, or make the return at such Election for the same County, City, Riding, Borough, place or places respectively, or by any two or more Justices of the Peace within this Province; and the said Sheriff, Mayor, or Bailiff, or other officers, and the said Justices of the Peace respectively, who shall administer the said Oaths, are hereby required to certify the taking thereof into His Majesty's Court of King's Bench within Three Months after the same, under the penalty of forfeiting the sum of Two Hundred Pounds; and if any of the said Candidates, or persons proposed to be elected as aforesaid; shall wilfully refuse, upon reasonable request to be made at the time of Election, or at any time before the day upon which such Parliament, by the writ of summons, is to meet to take the Oath or Oaths hereby required, then the Election and Return of such Candidate shall be void.

By whom such oaths are to be administered;

And certified;

The electing any candidate who shall refuse to take such oaths shall be void.

X. *And be it further Enacted by the authority aforesaid, That* no fee or reward shall be taken for administering any such Oath, or making, receiving, or filing the certificate thereof, except Two Shillings and Sixpence for administering the Oath, and Five Shillings for making the Certificate, and Five Shillings for receiving and filing the same, under the penalty of One Hundred Pounds.

Fee for administering the oath, and giving certificate.

XI. *And be it further Enacted by the authority aforesaid, That*

How fines imposed by this Act are to be collected and applied, and accounted for.

the fines and penalties imposed by this Act may be recovered in His Majesty's Court of King's Bench in this Province by action of debt, bill, plaint, or information, wherein no essoigne, privilege, protection, or wager of law, shall be allowed, and only one imparlame, and one moiety thereof shall be immediately paid into the hands of the Receiver General, for the use of His Majesty, His Heirs and Successors, towards the support of the Civil Government of this Province, 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 please to direct, and the other moiety to the person who shall sue for the same.

Voters having taken the oath of allegiance to a foreign state, or were resident in the same, must reside seven years in the Province and take the oath of allegiance to His Majesty, before their vote can be received.

XII. *And be it further Enacted by the authority aforesaid, That no person shall be qualified to vote at any Election of a Member, or Members of the House of Assembly, who shall have sworn allegiance to any Foreign State, or have been a stated resident in the dominions of the same, unless such person or persons shall have been previously and bona fide resident in this Province, or in some other of the dominions of His Majesty, for and during the term of Seven Years next preceding such Election, and shall have taken the Oath of Allegiance to His Majesty.*

Voters required (except in certain cases) to have been in possession of the estate in right of which they tender their votes, above 12 months before the election.

XIII. *And be it further Enacted by the authority aforesaid, That no person shall be qualified to vote as aforesaid, in respect of any estate sufficient to qualify him by Law, not having come to him by Grant from the Crown, descent, devise, or marriage, unless the deed of conveyance, under which he claims to hold such estate, shall have been registered Three Calendar Months before the holding of such Election, or unless he shall have been in actual possession, or in the receipt of the rents and profits thereof, for his own use, above Twelve Calendar Months next before such Election.*

XIV. *And be it further Enacted by the authority aforesaid,* That no Returning Officer, or Officers, shall continue any Election more than Six Successive Days, (Sunday, Christmas Day, and Good Friday, excepted.)

Election not to continue beyond 6 days.

XV. *And be it further Enacted by the authority aforesaid,* That before any Elector shall vote at any Election of a Member or Members of the House of Assembly of this Province, he shall, if required by the Returning Officer, or any Candidate at such Election, in addition to the Oath required by the Act of the Parliament of Great Britain passed in the thirty-first year of His Late Majesty's Reign, entitled, "An Act to Repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled, '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,'" take an Oath in the form following:—That is to say,

"I, A. B., do swear, That the Estate in right of which I vote
 "at this Election, is—[here describe the Estate, as the case may
 "be,]—which I hold by Grant from the Crown, descent, devise,
 "marriage, or conveyance, [as the case may be,] and, [in case
 "such Estate shall have been derived otherwise than by grant
 "from the Crown, descent, marriage, or devise,] that I have been
 "in actual possession, or in the receipt of the rents and profits
 "thereof, to my own use, above Twelve Calendar Months, or, [as
 "the case may be] that the conveyance to me of the same has
 "been registered Three Calendar Months."

Oath which voters may be required to take.

XVI. *And be it further Enacted by the authority aforesaid,* That if any person or persons shall be guilty of False Swearing in any Oath required by this Act, or by an Act of the Parliament of Great Britain, passed in the thirty-first year of His Late Majesty's Reign,

Swearing falsely in any oath required by this Act, or by 31 Geo. III. ch. 21. to be deemed wilful & corrupt perjury.

entitled, “An Act to Repeal certain parts of an Act passed in the fourteenth year of His Majesty’s Reign, entitled, ‘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;’” he shall, on conviction thereof, suffer the like pains and penalties to which any other person convicted of wilful and corrupt Perjury is liable by the Laws and Statutes of this Province.



C H A P. IV.

AN ACT to Repeal an Act passed in the Forty-Fifth Year of His Late Majesty’s Reign, entitled, “An Act to Regulate the Trial of Controverted Elections, or Returns of Members to Serve in the House of Assembly,” and to make more Effectual Provision for such Trials.

[PASSED JAN. 19th, 1824.]

PREAMBLE.

WHEREAS the present mode of decision upon Petitions complaining of Undue Elections or Returns of Members to serve in Parliament, frequently obstructs public business, occasions much expense, trouble, and delay to the parties, and is attended with many other inconveniences:—For remedy whereof

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 Upper-Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain, entitled, “An