

*Laws of His Majesty's Province of Upper Canada*, passed in the year 1838. York: Robert Stanton, 1838.

7 William IV – Chapter 114

**An Act better to secure the independence of the Commons House of Assembly of this Province, and for other purposes therein-mentioned. Royal Assent promulgated by Proclamation, 20th April, 1838.**

Whereas it is expedient that the seats of Members of the House of Assembly should be declared to be vacated in certain cases: 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 if any Member of the House of Assembly now or hereafter to be elected, shall at any time hereafter accept or take any or either of the following Offices under His Majesty's Government of this Province, viz:— Judge of the Court of King's Bench; Judge of the District Court, or of any Court of Record hereafter to be established; the Receiver General; Surveyor General; Inspector General; Member of the Executive Council; Collector of the Customs; Attorney or Solicitor General, or Sheriff, his seat in the said House of Assembly shall be and is hereby declared to be thereby vacated, and thereupon it shall be lawful for the Speaker to issue his warrant in the usual form for the Election of a new Member, in the room of the Member whose seat shall be so vacated: Provided always nevertheless, that any such appointment as aforesaid shall be no bar or obstruction to the re-election into the House of Assembly of the person so accepting or holding the same.

II. Provided always, and be it further enacted by the authority aforesaid, That nothing in this Act contained shall extend, or be construed to extend, to authorise the Election of any Judge of the Court of King's Bench as a Member of the Assembly of this Province.

III. And be it further enacted by the authority aforesaid, That any Member duly elected to represent any town, county or place, in this Province, who shall, after such election, remove from the Province, and make some other Country his permanent residence, whereby the constituency whom he was elected to represent may be unrepresented, the seat of every Member so removing shall be declared vacant, and the Speaker shall order a writ to issue for the election of another person to serve in the room and place of the Member so vacating his seat: Provided always, that no writ shall issue for a new election to fill any vacancy so occurring, until the House of Assembly shall be satisfied of its necessity, either by petition of the Freeholders of the county, town or place, to which it relates, praying that a writ may issue, or by the Member about to vacate his seat according to the provisions of this Act, stating that fact to the House of Assembly, by a communication to the Speaker.