

CAP. VIII.

An Act further to provide for the Freedom of Elections.

[Assented to 18th December, 1854.]

Preamble.

WHEREAS at certain Elections of Members of the Legislative Assembly, various frauds and acts of violence have been committed, to the injury and prejudice of the Electors, whose real choice could not be ascertained; and it is necessary to provide against the recurrence of the said evils, and further to secure the freedom of Elections: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same as follows:

To what Elections this Act shall apply.

I. At any Election which may be held during the continuance of this Act, and in all proceedings for completing any such Election though commenced before the passing of this Act, its provisions shall apply in addition to all laws then in force, or in lieu of such provisions thereof as are altered or repealed by this Act.

Oaths to be taken by usufructuaries, &c., voting under 12 V. c. 27.

II. When any person shall tender a vote under a written promise of sale possessed during twelve months, or as usufructuary, or in any other capacity, to which the precise words of the oaths prescribed by law do not apply, such person shall not thereby be dispensed from taking any oath or oaths according to the true meaning and spirit of the law, but the Deputy Returning Officer when administering such oaths, shall change the terms thereof, in order that they may apply to the special case, of which special oaths, mention shall be made in the Poll Book; and the penalties established for perjury shall apply to any such oath in the same manner as to other oaths under the Election Laws.

Returning Officers and Deputies to swear in Special Constables.

III. It shall be the duty of the Returning Officer and of each Deputy Returning Officer to appoint and swear any number of constables which may be necessary for the maintaining of the peace and the protection of candidates and their representatives, and for securing free access to the poll; and it shall also be the duty of each said Deputy Returning Officer to certify at the head of each page under his signature, the poll-book used by him, indicating the order of each page; and he shall at the closing of each day's polling, certify on the said book and in full words the true state of the votes at such closing, of which state of the votes he shall give certified copies to any person demanding the same; and it shall be his duty to deliver the said poll-book personally to the Returning Officer; and in case he is unable so to do by sickness or otherwise, he shall mention on such poll-book the

Poll-Books to be specially certified, &c.; copies to be given.

How to be transmitted.

the name of the party to whom it has been delivered to be so transmitted, and shall take a proper receipt therefor ; and any Deputy Returning Officer failing in any of the said obligations or formalities, and any person having taken charge of the poll-book and failing to deliver the same in due time and manner, shall be guilty of a misdemeanor, and shall incur a penalty of one hundred pounds currency, or be imprisoned for a term of not less than six months and not more than one year, or be punished by imprisonment and fine together.

Penalties for
contravention
of this Act.

IV. Whenever any Deputy Returning Officer has reason to know and believe that frauds and violence are being practised in violation of the rights of electors, by which undue votes are tendered, or that any voter is not qualified, or has already voted at the said election, or tenders his vote under a false name or designation, it shall be the duty of such Deputy Returning Officer, under penalty of fifty pounds currency, to administer any one or more of the oaths authorized by law, to such voter, whether he be required so to do or not by any party ; of which mention shall be made in the poll-book ; and any person taking any of the said oaths and being found guilty of perjury, shall be subject to the penalties imposed for perjury.

Deputy Re-
turning Offi-
cer must
tender oath to
voters in cer-
tain cases.

V. When the Returning Officer, having received any Poll-Book or any document connected with the Election, has reason to believe that the same has been altered, injured or obliterated, or that additions have been made improperly thereto, it shall be his duty to adjourn proceedings and to establish the true facts in the manner provided in case of the loss of any Poll-Book ; and any person unlawfully making additions to any such Poll-Book, by connecting therewith any other writing or document, or otherwise, shall be punished by confinement at hard labor in the Provincial Penitentiary, or otherwise in the manner already provided for the stealing and destroying of the same.

Duty of Re-
turning Offi-
cer where
Poll-Book,
&c., has been
tampered
with.

Penalty for
tampering
with Poll-
Book, &c.

VI. The penalty of ten pounds currency now established against persons voting without qualification, and the penalty of twenty-five pounds currency against persons voting under fraudulent conveyance, are hereby repealed during the continuance of this Act only, and the said offences respectively shall hereafter constitute a misdemeanor, and be punishable by imprisonment for a term not less than three months nor more than six months or a fine not less than twenty-five pounds nor more than fifty pounds currency, or by imprisonment and fine together ; and the same penalties shall also apply to persons wilfully voting under a false or assumed name or designation ; and the penalty of ten pounds currency, for voting more than once at any election is also hereby repealed during the continuance of this Act only, and the said offence shall hereafter constitute a misdemeanor and be punishable by imprisonment for a term not less than six months nor more than one year, for every additional vote so given, whether such person has voted under the same name or otherwise.

Punishment
for voting
without quali-
fication or on
fraudulent
conveyance,
increased.

No polling place to be opened in Lower Canada in parishes, &c., having less than 100 voters.

VII. In Lower Canada that provision of the election laws which directs that when only part of any Parish, Township or place shall lie within a County, no polling place shall be opened within such part, unless there be therein at least one hundred proprietors qualified to vote, shall be understood and taken to dispense with the necessity of opening a poll in a whole Parish or Township or other place when there may not be therein at least one hundred proprietors of lands or tenements qualified to vote; and electors qualified to vote in any such place where no polling place may be opened, may vote at such election at the polling place which shall to them appear most convenient.

Recovery of penalties.

VIII. The penalties imposed by this Act shall be recoverable before or applied by any of Her Majesty's Courts in this Province having competent jurisdiction, in the manner already provided by law for other penalties of a like nature established concerning offences against the laws of elections.

Duration of Act, &c.

IX. This Act shall be in force until the first day of January, in the year one thousand eight hundred and fifty-six, and no longer; but the same may be varied, amended or repealed during the present session.

C A P . I X .

An Act to enable the Superior Courts of Law and Equity to issue process to compel the attendance of Witnesses out of their jurisdiction, and to give effect to the service of such process in any part of Canada.

[Assented to 18th December, 1854.]

Preamble.

WHEREAS great inconvenience arises in the administration of justice from the want of a power in the Superior Courts of Law and Equity to compel the attendance of witnesses resident in one jurisdiction of Canada at a trial or *enquête* in another jurisdiction, and the examination of such witnesses by commission is not in all cases a sufficient remedy for such inconvenience: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows:

Witnesses may be summoned from any part of Canada to attend the Superior Courts in

I. If in any action or suit now or at any time hereafter depending in any of Her Majesty's Superior Courts of Law or Equity in Canada, it shall appear to the Court in which such action is pending, or if such Court is not sitting to any Judge of any such Courts, that it is proper to compel the personal attendance at any trial or *enquête* or examination of witnesses,

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