

*Laws of Her Majesty's Province of United Canada*, passed in the year 1851. Quebec: Stewart Derbshire and George Desbarts, 1852.

16 Victoria – Chapter 153

**An Act to extend the Elective Franchise, and better to define the qualifications of Voters in certain Electoral Divisions, by providing a system for the Registration of Voters. Assented to 14th June, 1853.**

Whereas it is right to extend the Elective Franchise to certain classes of persons who are now excluded from voting at Elections of Members of the Legislative Assembly of this Province, and to provide for the Registration of persons entitled to vote at such Elections in certain Electoral Divisions, and for that purpose to amend the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to repeal certain Acts therein mentioned, and to amend, consolidate and reduce into one Act the several Statutory provisions now in force for the regulation of Elections of Members to represent the People of this Province in the Legislative Assembly thereof*: 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, That the following persons, being of the full age of twenty-one years, and subjects of Her Majesty by birth or naturalization, and not being disqualified as the holder of any office or otherwise by Law prevented from voting, shall be entitled to vote at Elections of Members to serve in the Legislative Assembly of this Province, that is to say:

Every male person entered on the then last Assessment Roll, revised, corrected and in force in any City or Town entitled to send a Member or Members to the Legislative Assembly of this Province, as the owner or as the tenant or occupant of real property therein or in the liberties thereof, as bounded for Municipal purposes, of the assessed yearly value of seven pounds and ten shillings or upwards, or who is entered on such last corrected Assessment Roll of any Township, Parish or place as the owner, tenant or occupant of any real property which is within the limits of any City or Town for the purposes of Representation, but not for municipal purposes, of the assessed value of fifty pounds at least, or the yearly value of five pounds or upwards, shall be entitled to vote at any Election of a Member to represent such City or Town as aforesaid.

Every male person entered on the then last Assessment Roll, revised, corrected and in force in any Parish, Township, Town, Village or place not being within any City or Town entitled to send a Member or Members to the Legislative Assembly of this Province, as the owner, tenant or occupant of real property of the assessed actual value of fifty pounds or upwards, or the yearly assessed value of five pounds or upwards, shall be entitled to vote at any Election of a Member to represent the Electoral Division in which such Parish, Township, Town, Village or place is included: subject always to the provisions hereinafter made.

II. And be it enacted, That whenever two or more persons shall, whether as being partners in business, joint tenants or tenants in common, or *par indivis*, be entered on such Assessment Roll as aforesaid, as the owners of any real property, or as tenants or occupants thereof, each of such persons shall be entitled to vote and to be entered on the list of Voters (if any be made for the place in which such property lies) in respect of such property, if the value of his part or share be sufficient to have entitled him to vote at any Election for Members to represent in the Provincial Parliament the Electoral Division within which such property is situate, if such property had been assessed in his individual name; except that if the property be held by any body corporate, no one of the members thereof shall be thereby entitled to vote or be entered on the list of Voters in respect of such property.

III. Provided always, and be it enacted, That in Lower Canada all persons who without this Act would under the Act cited in the Preamble to this Act, be qualified to vote at any Election of a Member of the Legislative Assembly, in respect of property lying elsewhere than in the City of Quebec or the City of Montreal as bounded for municipal purposes, shall be entitled to vote at such Election, notwithstanding any thing in this Act, but subject to the provisions hereinafter made.

IV. And be it enacted, That no person shall, either under the provisions of this Act, or those of the Act cited in the Preamble to this Act, be held qualified to vote at any such election as aforesaid, as the owner or as the occupant or tenant of any real property, on which any instalment of purchase money or any rent or other sum of money which he may have undertaken to pay to the Crown therefor, (except seigniorial rents or dues,) shall be over due and unpaid, or as the owner or occupant of any real property belonging to the Crown and which he shall hold or occupy without authority from the Crown, whatever be the value of such property; and it shall be the duty of the Commissioner of Crown Lands in the month of January in each year, to transmit to the Chamberlain of each City and to the County-Treasurer of each County in Upper Canada, and to the Clerk or Secretary-Treasurer of each City or County Municipality in Lower Canada, a list of all the Lands within the said County, City or County Municipality, granted or leased, or in respect of which a License of Occupation has issued, during the preceding year, and of all ungranted lands of which no person has received permission to take possession, and also of all lands on which any instalment of purchase money or rent or any other sum of money as aforesaid, shall be over due and unpaid; a copy of which list every County-Treasurer and City Chamberlain in Upper Canada, and the Secretary-Treasurer of each County Municipality in Lower Canada, is hereby required to furnish to the Clerk of each Municipality in the County, and to the Clerk of the City, as far as regards lands in his Municipality; and in places where lists of voters are made under this Act, any person disqualified under this section in respect of any property, at the time of the final revision and correction of such list, shall remain disqualified in respect of such property so long as such list shall be in force.

V. And as regards Upper Canada only, Be it enacted —

1. That in any Alphabetical list of parties and property assessed, which by the Assessment Laws in force in Upper Canada, the Clerk of every Municipality may be required to prepare and post up, he

shall write *Disqualified* opposite to any parcel of land which may appear from the return of the Commissioner of Crown Lands to be the property of the Crown, on which any payment may be over due, or of which no person has received permission to take possession, and he shall give notice of such disqualification to the party assessed for such Land; and any complaint that any person is disqualified to vote in respect of any Land for the reasons above mentioned, or that any person has been wrongfully returned as so disqualified, shall be decided by the Court of Revision established by Law for the determination of disputed questions of Assessment, and the notices required to be given of such complaints, and the appeal provided to the Judge of the County Court, and all other provisions which may be in force relative to complaints and appeals in disputed questions of Assessment, shall equally apply to complaints and appeals respecting the qualification of Electors for purposes of representation in the Provincial Parliament; Provided always, that it shall at any time before the final revision and correction of such list, be competent to any person upon whose Land any payment was returned by the Commissioner of Crown Lands to be over due, to prove before the Court of Revision or the Judge of the County Court, by a subsequent receipt, that the same has been paid.

2. That the Clerk of each Municipality in Upper Canada shall, after the final revision and correction of the Assessment Rolls, forthwith make a correct Alphabetical List of all persons entitled to vote at the Election of a Member of the Provincial Parliament within such Municipality, according to the provisions of this Act, together with the number of the Lot or part of Lot or other description of the real property, in respect of which they are so qualified; and in Cities and Towns the Clerks shall make out a separate List for each Ward, of the names with a description of the property of all parties on the Assessment Rolls, who may be entitled to vote in respect of real property situate within such Ward; and if any Municipality shall be partly in one Electoral Division, and partly in another for the purpose of such Election, he shall make out one such Alphabetical List for each such Electoral Division, containing the names with such description of property of all the parties on the Assessment Rolls, who may be entitled to vote in respect of real property situate in each such Electoral Division respectively; and the Clerk shall certify by oath or affirmation before the Judge of the County Court or before two Justices of the Peace, to the correctness of the List or Lists so by him made out, and he shall keep such certified Lists amongst the records of the Municipality, and shall deliver a duplicate thereof certified as aforesaid to the Register of the County within which the said Municipality shall lie, and all such Lists shall be completed and delivered as aforesaid, on or before the First day of September in each year, and no person shall be admitted to vote at any Election of a Member to serve in the Provincial Parliament, unless his name shall appear upon the List then last made and certified, and no question of qualification shall be raised at any such Election except to ascertain whether the party tendering his vote, is the same party intended to be designated in the Alphabetical List aforesaid.

3. That it shall be the duty of every Returning Officer in Upper Canada, upon receiving a Writ to hold any Election for a Member to serve in the Provincial Parliament, to ascertain that every Deputy Returning Officer is in possession of a certified copy of the then last revised and certified List of Voters within the Municipality or Ward for which he shall be Deputy Returning Officer; and if the Clerk of the Municipality is not the Deputy Returning Officer, or if the copy in the possession of the Clerk has been lost or destroyed, the Returning Officer shall procure from the Registrar of

the County a copy certified by him to be correct, of the then last List of Voters for such Municipality or Ward filed in his office, and shall cause the same to be delivered to the Deputy Returning Officer; and the Returning Officer shall be authorized to include any charge for obtaining such certified copies in the account of the general expenses of holding such election furnished by him to the Government.

VI. And as regards Lower Canada only, Be it enacted —

1. That it shall be the duty of each and every Assessor in Lower Canada to ascertain by the best means in his power, both the owner and the occupant of all real property entered by him in his Assessment Roll, and to enter the names of such owner and occupant, therein, distinguishing them respectively as the owner or occupant, as the case may be; but this provision shall not be construed in any way to alter the law as regards the liability of either the owner or the occupant to pay the assessments on such real property.

2. That it shall be the duty of the Clerks of the cities of Quebec and Montreal respectively, and of the Secretary-Treasurer of each other Municipality in which any such Assessment Roll shall be made in Lower Canada, forthwith after receiving the same from the Assessor, to make out an Alphabetical List of the persons who shall appear by the Assessment Roll to be qualified, under this Act, to vote at Elections of Members of the Legislative Assembly, in respect of property mentioned in such Assessment Roll, distinguishing such persons as appear qualified as owners from those qualified as tenants or occupants, but omitting those who are disqualified under the provision of the fourth section of this Act: and a copy of such list shall be kept publicly posted up in the office of the said Clerk, for the information of all parties concerned, such copy being corrected by the said Secretary-Treasurer or Clerk by the original when finally revised as hereinafter provided, and again posted up as aforesaid.

3. That, the List of Voters made in the manner prescribed by the next preceding Section, for any Municipality in Lower Canada except the cities of Quebec and Montreal, shall be subject to revision and correction by the same Court or authority by which the Assessment Roll may by law be revised and corrected, and application may be made by parties desirous of having the same corrected in the same manner and during the same period of time as are provided by law for making applications for corrections in the Assessment Roll; and in the Cities of Quebec and Montreal respectively such members of the City Council as shall be designated by any By-law to be passed for that purpose, shall be a Court for revising the List of Voters, and application may be made by parties desirous of having the same corrected in the manner hereinafter mentioned during such time as shall be prescribed by such By-law; and if any person shall deem himself aggrieved either by the insertion or omission of his name in such List, he shall, either by himself or his agent, give notice thereof in writing to the Clerk of the City within the period aforesaid, stating generally in what manner, and for what reasons he holds himself aggrieved; and the complaint shall be tried and determined by the said Court or authority at such time and place as it shall appoint, of which reasonable notice shall be given to the complainant and to the Assessor or Assessors who made the Roll; and if any person being himself a Voter whose name is on the List, shall think that the name of any other person also entered thereon ought not to be so entered

because such other person is not duly qualified as a Voter under the provisions of this Act, he may file a complaint to that effect with the Clerk of the City within the period aforesaid, stating his complaint and the grounds thereof, and the complaint shall be tried and determined by the Court or authority aforesaid at such time and place as it shall appoint, of which reasonable notice shall be given to the complainant, and to the Assessor or Assessors who made the Assessment Roll, and to the person the entry of whose name on the List is objected to, if he resides within the limits of the Municipality, and, if not, such notice shall be openly posted up in the office of the said Clerk for the information of all concerned: and at the time and place so appointed as aforesaid, or any other time and place to which the hearing may be adjourned, the said Court or authority shall, after hearing such of the parties notified as aforesaid as shall then and there appear, or without hearing any of them who shall fail so to appear, finally determine the complaint and affirm or amend the said List as they shall after such hearing think right: and the said Court or authority shall have full power to hear and determine any such complaint as aforesaid, and to correct the List of Voters according to such determination, and to adjourn the hearing in any case at pleasure, and to examine any party or any witness adduced by any party, or any documents or writings offered as evidence, and to administer or cause any one of their number to administer an oath or affirmation to any party or to any witness adduced before them, or to summon any person resident in the Municipality to attend as a witness before them; and if any person being so summoned shall fail to attend at the time and place mentioned in the summons (being tendered compensation for his time at the rate of two shillings and six pence a day,) he shall thereby incur a penalty of Five Pounds to be recovered with costs to the use of the City in any way in which penalties under By-laws can be recovered: Provided always, that all the proceedings under this section shall be summary, and the Court or authority hearing any such complaint as aforesaid (whether in either of the said Cities or in any other Municipality) shall not be bound by any technical rules of proceeding or evidence, but shall proceed upon and determine such complaint to the best of their ability in such manner as they shall deem most conducive to equity and the substantial merits of the case: And provided also, that the said Court or authority (whether in either of the said Cities or any other Municipality) shall restore to the List of Voters the name of any person who having been at the time of the making of the List disqualified under the fourth section of this Act, shall before the revision of the List shall be completed, prove by a receipt or certificate from the Commissioner of Crown Lands that he has ceased to be so disqualified, and shall strike out the name of any person who being entered on such List in the first instance shall be proved as aforesaid to be disqualified under the said Section.

4. Provided always, That any person who shall have filed any complaint to the Court or authority for revising the lists of voters in any part of Lower Canada, or concerning whom a complaint shall have been filed, and who shall deem himself aggrieved by the decision of such Court or authority touching such complaint, may within eight days after such decision shall have been given, appeal therefrom to the Circuit Court at its place of sitting in the Municipality or nearest thereto, by a petition setting forth briefly the grounds of appeal, and shall serve a copy of such Petition on the Clerk or Secretary-Treasurer of the City or other Municipality, who shall give reasonable notice thereof to the Assessor and other parties concerned: and any Judge of the Circuit Court shall have full power and authority to hear and determine such appeal in a summary manner either in term or vacation, at such time and in such way as he shall think best for ensuring justice to all parties,

and may direct that any further notice be given to any party, if he shall think proper, and shall have the powers for summoning before him and examining on oath or affirmation, any party or witness and compelling the production of any document, paper or thing, and generally all other powers which are vested in the Circuit Court in relation to any matter pending before it, but shall not be bound to observe any form of proceeding, except such only as he shall deem necessary for doing substantial justice to all parties; and the decision of such Circuit Judge shall be final and conclusive, and the Clerk or Secretary-Treasurer having custody of the list of voters to which it relates, shall correct the same, if any correction be ordered by such decision, immediately on receiving a copy thereof certified by the Clerk of the Circuit Court at the place where it shall be given: and the costs of any such appeal shall be in the discretion of the Judge and shall be taxed by him at such sum and for and against such parties respectively as he may think right, and any party in whose favor any such costs may be taxed, may recover them from the party against whom they shall be taxed by execution in the manner in which costs awarded by any judgment of the Circuit Court may be recovered: Provided that no evidence shall be received by the Circuit Judge on any such appeal, except such as he shall see reasonable cause to think was adduced before the Court or authority to whom the complaint appealed from was made: And provided further that the pendency of any such appeal shall not affect the validity of those parts of the list of voters from which no appeal shall be made, but the same shall for all the purposes of this Act be deemed finally revised and corrected so soon as the delay allowed for appealing shall have expired: and no proceeding on such appeal shall be void for want of form.

5. That after any such List shall have been revised and finally corrected, it shall be restored to the Secretary-Treasurer or Clerk, who shall forthwith correct by it the copy posted up in his Office, and until another shall in a future year be made, revised and corrected in its stead, those persons, and in so far as regards property within the City of Quebec or of Montreal as bounded for Municipal purposes those persons only, whose names are entered upon such List as finally revised and corrected, shall be entitled to vote at any Election of a Member of the Legislative Assembly for the Municipality for which it was made, or the Electoral Division of which such Municipality forms part.

6. That it shall be the duty of the Secretary-Treasurer, or Clerk of any Municipality as aforesaid, to furnish to the Deputy Returning Officer for such Municipality or for any Ward or Division thereof, a true copy certified by such Secretary-Treasurer or Clerk of the List of Voters then last revised and corrected as aforesaid, or of so much thereof as shall relate to the locality for which such Deputy-Returning Officer is to act, and such Deputy Returning Officer shall not receive the vote of any person as being a voter qualified by reason of his being entered on any Assessment Roll within the provisions of this Act, unless the name of such person shall be found upon the copy of the said List furnished to him: And it shall also be the duty of the Secretary-Treasurer of each County Municipality to furnish to each such Deputy-Returning-Officer a copy certified by such Secretary-Treasurer, of the then last list received by him from the Commissioner of Crown Lands under the fourth Section of this Act, and such Deputy-Returning Officer shall not receive the vote of any person as a voter qualified under the Act cited in the Preamble to this Act, in respect of any property in respect of which such person shall appear by such list to have been disqualified under the fourth Section of this Act when such list was made: and it shall be the duty of the Returning Officer to see that each of his Deputy-Returning Officers is provided with such copy before the first

Polling day at such election, and to pay for the same and charge the cost to the Government as part of the general expenses of the Election; and any copy of any such List of Voters or of any part thereof, or of such List from the Commissioner of Crown Lands, certified as aforesaid, shall be deemed authentic and *primâ facie* evidence of the facts therein stated.

VII. And be it enacted, That the Deputy-Returning Officer at any Election of a Member of the Legislative Assembly in any part of this Province, shall receive the vote of any person whose name he shall find on the proper List of Voters furnished to him as aforesaid, provided such person shall, if required by any Candidate, or the Agent of any Candidate, or by the Deputy-Returning Officer himself, take the following oath or affirmation, which such Deputy-Returning Officer is hereby empowered to administer:

“You swear (or solemnly affirm), that you are (name of Voter, as entered on the List,) whose name is entered upon the List of Voters now shown to you, (showing the List to the Voter,) that you are a subject of Her Majesty by birth (or naturalization), that you are of the full age of twenty-one years, that you have not before voted at this Election, either at this or any other polling place, and that you have not received any thing, nor has any thing been promised to you, either directly or indirectly, in order to induce you to vote at this Election. So help you God.”

And no other oath or affirmation shall be required of any person whose name is entered on any such List of Voters as aforesaid.

VIII. And be it enacted, That it shall also be the duty of the Register of any County and the Secretary-Treasurer or Clerk of any Municipality having the custody of the List of Voters of any Municipality or part of Municipality or place, to furnish a certified copy of such Lists then last revised and corrected, to any person who shall require such copy, on being paid for the same by such person at the rate of One Penny for every ten Voters whose names are on such List.

IX. And be it enacted, That if the Clerk or Secretary-Treasurer of any Municipality shall, in making out any certified List of persons entitled to vote at an Election of a Member to serve in the Provincial Parliament, wilfully insert or omit any name which ought not to have been inserted or omitted, or otherwise alter or falsify the same so that it shall not be a correct List of all persons entitled to vote according to the Assessment Rolls, or to the proper List of voters (as the case may be) as finally revised and corrected, and if any Clerk, Secretary-Treasurer, Returning Officer, Deputy-Returning Officer, Registrar, or any other person whose duty it is to deliver copies or have the custody of any certified List of Voters as aforesaid, shall wilfully make any alteration, omission or insertion, or in any way falsify any such certified List or copy, every such person shall be guilty of a misdemeanor, and shall on conviction thereof, be liable to a fine not exceeding Fifty Pounds, or to be imprisoned for a period not exceeding six months, or both, at the discretion of the Court before which he shall be convicted.

X. And be it enacted, That upon, from and after the first day of January, one thousand eight hundred and fifty-four, so much of the Act cited in the Preamble to this Act as would require that any other oath than that hereinbefore prescribed, should be taken by any Voter at any Election in

Upper Canada, or in the City of Quebec or in the City of Montreal by persons claiming to vote in respect of property lying within either of the said Cities as bounded for Municipal purposes, or by any Voter claiming the right of voting at any Election in any other part of Lower Canada as being entered on any List of Voters as aforesaid, or that the property on which any such Voter claims the right of voting should be of the required value over and above all rents and charges payable out of or affecting the same, or should have been held by such Voters during any certain time previous to the Election, or that any rent should have been paid by such Voter, or that he should have resided in any place during a certain time previous to the Election, or that he be resident in any place at the time of the Election, shall be repealed, together with so much of any other part of the said Act as would qualify as a Voter any person hereby disqualified, or disqualify any person hereby qualified, or as may be in any way inconsistent with this Act, and so much of the Schedule to the said Act as contains or prescribes the forms of: oaths to be taken by Voters at any election in Upper Canada, or by persons claiming to vote in respect of property lying within the Cities of Quebec or Montreal bounded as aforesaid; or by any person claiming to vote as being entered on any List of Voters as aforesaid: but Voters claiming to vote in respect of property lying in any other place in Lower Canada and not claiming the right of voting as being entered on any List of Voters as aforesaid, shall require to be qualified in the manner provided by the said Act, and may be required to take any of the oaths of qualification therein prescribed.

XI. And be it enacted, That all sums of money mentioned in this Act shall be understood to be current money of this Province; and any Assessment Roll or List of Voters shall be understood to be finally revised and corrected, when it shall have been so revised and corrected by the Judge of County Court or Circuit Court or other authority to whom the last appeal may be made, or when the time during which such appeal may be made shall have elapsed, and not before; and the Treasurer of a County when mentioned in this Act with reference to Upper Canada shall be held to include the Chamberlain of a City.

XII. And be it enacted, That this Act shall come into force and effect upon, from and after the first, day of January, one thousand eight hundred and fifty-four, as regards the duties imposed by it on Assessors and other Municipal Officers, and the making, revising and correcting of the Lists of Voters, and all things thereunto relating; but its provisions as to the use and effect of the Lists of Voters, shall not apply to any Election for which the first polling-day shall be before the First day of January, one thousand eight hundred and fifty-five.