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1st Session, 4th Parliament, 16 Victoria, 1852.

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## **BILL.**

**For the better securing the freedom of  
Elections by the use of the Ballott in  
Lower Canada.**

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Received and read a first time, Thursday, 30th  
September, 1852.

Second reading, Thursday, 7th October, 1852.

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**HON. MR. PAPINEAU.**

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**QUEBEC:**

**PRINTED BY JOHN LOVELL, MOUNTAIN STREET.**

## B I L L .

An Act for the better securing the freedom of Elections  
by the use of the ballot in Lower Canada.

**W**HEREAS the present method of taking and inscribing the votes at elections of Members of the Legislative Assembly of this Province is defective, and the better to secure the liberty of voters at such elections, it is expedient to establish a different method of voting; Be it therefore enacted, &c.,

Preamble.

That whenever an election of a Member or Members to serve in the Legislative Assembly of this Province is to be holden for any County, City or Town within the same, the writ of election shall be addressed and directed to the Mayor of such County, City or Town respectively, who shall be the Returning-Officer at the said election.

Mayor to be  
Returning  
Officer.

II. Within eight days next after the day of the receipt of the writ of election, the Returning Officer shall make oath before a Justice of the Peace, that he will faithfully and truly fulfil the duties imposed upon him, by virtue of this Act, (in the form A to this Act annexed) and shall by Proclamation under his hand issued in the English and French languages fix, 1st, The day and places on and at which the respective Polls will be opened to receive the votes of the electors; 2dly, The hour at which the said Polls will be opened; 3dly, The duration of the election. The said Proclamation shall be posted up at least eight clear days before the day which by such Proclamation he shall have fixed for the opening of the said Polls, at the door of the principal church or chapel, or in some other public place in each Parish or Township of the County, or in at least three public places in each City or Town, or in each ward of said City or Town, if such City or Town be divided into wards. The said Proclamation shall, moreover, be published twice in at least one newspaper, if there be one published in such county, city or town: the said Proclamation shall fix a polling-place in each Parish and Township in the County, or in each City or Town, and if such City or Town be divided into wards, then in each ward: three Polls shall nevertheless be appointed to be holden in each of the following wards, to wit:—St. Anne's, St. Anthony's, St. Lawrence's, St. Louis's, St. Jacques' and St. Marie's, in the City of Montreal; and St. Roch's and St. John's, in the City of Quebec. Every tract of land which is reputed to form a Parish shall, for the purposes of this Act, be understood to be a Parish, whether it have or have not been legally erected into a Parish. When only part of any Parish or Township, or when any tract of land lying without the limits of any Parish or Township shall lie within a County, no polling place shall be opened within such part or tract unless there be therein at least one hundred electors; and when in any County there shall be an extra parochial place, or a tract of land not entitled to have a polling place, pursuant to the provisions above made, every elector qualified to vote at the election upon property lying within the limits of such extra

His oath.  
Proclamation.

Polling places.

Towns and Cities electing members are detached from Counties.

parochial place or tract of land, may vote at one of the polling places near adjacent in the said County. Every Town or City not entitled of itself to elect a member, and being included within the limits of a County, shall be understood, for the purposes of said election, to be a Parish belonging to such County. The Towns or Cities entitled to elect a Member of themselves, shall not be understood, for the purposes of this Act, to form part of the County in which they are situated.

Polling days to be two, and consecutive and the same in all places.

III. The polling days fixed by the said Proclamation shall be two consecutive days, unless a Sunday or a *fête d'Obligation* intervene, in which case the first day after the said Sunday or the said *fête d'Obligation* shall be the second of the said polling days. Such two polling days shall be the same for all the Polls opened in the same County, or in the same Town or City. The said Polls shall be opened to receive the tickets of the voters from nine o'clock in the forenoon to five o'clock in the afternoon of each of the two days aforesaid.

Municipal Council to appoint Committees of Scrutiny for the different polls.

IV. It shall be the duty of the Municipal Council in each County, and in each Town or City, before the first day of January, in every year, to appoint a number of Committees of Scrutiny equal to the number of Polls to be holden at elections, in each such County, Town or City; each of such Committees of Scrutiny shall consist, 1st, of one of the Municipal Councillors of the County, 2ndly, of two electors of the Parish or Township in which the Poll is to be holden; or, 1st, of one of the City Councillors, 2dly of two of the electors of the Town or City, and if the Town or City is divided into wards, then 2dly, of two of the electors of each ward. In case there are no City Councillors, or Municipal Councillors such Committees of Scrutiny shall consist of three electors. Whenever any one of the said Municipal Councils, or City Councils shall have failed to appoint such Committees of Scrutiny, or whenever there shall be no Municipal Councils or City Councils, it shall be the duty of the Returning Officer as soon as he shall have received the Writ of Election to appoint the said Committees of Scrutiny; likewise in the event of the death, sickness, absence or inability to act of one or several of the members of any such Committees of Scrutiny, it shall be the duty of the Returning Officer, immediately after the receipt of the Writ of Election to appoint another in his place. Whenever the place of a member of the Committee of Scrutiny who is sick, absent or unable to act, shall not have been filled by the appointment of another, the two remaining members of the Committee may suffice to perform all the duties of such Committee.

Or in their default Returning Officer may appoint such Committees or fill up vacancies.

Meeting and election of Chairman. Appointment of Poll Clerk. Oaths.

V. The Mayor shall transmit a certified copy of his Proclamation in reference to the said election to one of the members of each of the said Committees, which member shall convene a meeting of the members of his Committee to elect one of their number as chairman who shall appoint a Poll-clerk. The said chairman shall administer the oath (according to the form A. to this Act annexed) to the other members of the Committee, and shall himself take the oath before one of the said other members.

Envelopes and a ticket box to be provided.

VI. The Municipal Council of each County, and the Council of each City or Town shall provide and deliver to each Committee of scrutiny respectively 1st, the number of envelopes alike in pattern and form, which

shall be necessary in order to give one to each elector who shall come forward to vote at the Poll over which the said Committee shall exercise its scrutiny; 2dly, a box suitable for the reception of the tickets of the voters, the said box to have in its lid a small slit or opening, to admit  
 5 the tickets. The said box shall be securely fastened with three locks of various construction, and each member of the Committee of  
 Scrutiny shall hold in his possession a key of one of the said locks during the election; and whenever the duties of the Committee of Scrutiny shall be exercised by no more than two members of such Committee, the  
 10 third key of the ticket box shall, during the two Polling days be kept by the Poll-clerk.

Its Construction.

VII. Each Committee of Scrutiny shall cause its ticket-box to be safely put in the place fixed upon for a Polling-place, and shall open the Poll on the day and at the hour appointed by the Returning  
 15 Officer.

Custody of Box and opening of Poll.

VIII. Each elector presenting himself at such Poll, for the purpose of voting, shall give his name and surname, designation and place of abode, which shall be entered by the Poll-clerk in a book which he shall keep for the purpose, under the direction of the Committee of Scrutiny.  
 20 he shall then deposit his ticket in the box, in such manner, however, that the members of the Committee of Scrutiny or one of them may be certain that he deposits no more than one ticket. The surname and name of the candidate or candidates for whom said elector designs to vote shall be written or printed upon the said ticket, which  
 25 shall be enclosed in an envelope previously given to the said elector by the Committee of Scrutiny. After such elector shall have deposited his ticket, the Poll-clerk shall mark the figure 1 opposite to his name in the Poll-book.

Manner of depositing, Ticket and recording Vote.

IX. Before the depositing of the ticket, any elector of the County, City  
 30 or Town where such election is holden, shall be entitled to require the person claiming a right to vote, to make oath that he is qualified to vote at such election. In such case it shall be the duty of one of the members of the Committee of Scrutiny to administer to such elector the oath (or affirmation as it may be) of qualification required by law; and the ad-  
 35 ministering of such oath (or affirmation) shall be recorded in the Poll-book; and if such elector shall have refused to take the said oath, his refusal shall likewise be recorded in the Poll-book, and he shall not be allowed to deposit his ticket at any time during the said election. The number of the oath (or affirmation) of the elector sworn shall be re-  
 40 corded in the Poll-book, together with the description of the property upon which he shall have qualified.

Oath of Electors.

By whom administered.

Refusal to take it.

Oath and Qualification recorded in Poll-book.

X. After the close of the Poll, on the first day of the election, the Chairman of the Committee and the Poll-clerk shall sign the Poll-book and deposit it in the Ticket-box, and it shall be the duty of the Com-  
 45 mittee of Scrutiny to place the said box in the custody of one of the members of the said Committee, there to remain until the opening of the Poll on the second day.

Custody of Poll-book and Ticket-box.

XI. At the opening of the Poll on the second day, the Committee of Scrutiny shall remove the Poll-book out of the ticket-box, and shall pro-

Scrutiny of Tickets. proceed to receive the tickets of voters as on the first day. Immediately after the close of the Poll on the second day, the Committee of Scrutiny shall proceed to count the number of tickets which shall be in the box. If the number exceeds that of the voters recorded in the Poll-book, all the tickets shall be replaced in the box, and one of the members of the Committee shall take therefrom without opening them a number of tickets equal to the excess in number of said tickets over the number of votes recorded; the tickets so removed from the box shall be forthwith destroyed; the Committee shall then proceed to open the remaining tickets. 5

Excess of Tickets.

How disposed of.

If there be in the same envelope several tickets inscribed with the same name they shall be all destroyed save one. 10

Names of Candidates must be at full length-

If the names and surnames of the candidates are not written or printed upon the tickets at full length, such tickets shall be null and void, and shall not be counted. 20

Excess of names on Tickets,

If there be tickets inscribed with more names than there are members to be elected, the Committee of Scrutiny shall count as many names only as there are members to be elected, beginning with the first names inscribed thereon. 15

Certifying and delivery of Poll-book to Returning-Officer,

After the complete emptying of the ticket-box, the Chairman of the Committee and the Poll-clerk, the other members of the Committee being present, shall certify at the foot of the Poll-book the number of votes given for each candidate, and it shall be the duty of one of the members of the Committee, within four days, to deliver to the Returning-Officer the Poll-book so certified. 20

Scrutiny adjourned.

If the Committee of Scrutiny be unable to empty the ticket-box immediately after the close of the Poll on the second day, they may adjourn to the following day, or to the next ensuing day which shall not be a *fête d'obligation*, nor a Sunday, and the emptying thereof shall then proceed as aforesaid. 25

Custody of Poll-book and Box continued.

In case of adjournment the Poll book shall be placed in the ticket-box, and the whole shall be guarded, as it was after the close of the Poll on the first day. 30

Returning Officer to sum up Votes and make his return.

XII. As soon as the Returning Officer shall have received the Poll-books from the several Committees of Scrutiny, he shall add together into one sum or number the number of votes given in favor of each candidate respectively, as the same shall be certified at the foot of the Poll books; he shall forthwith draw up his return declaring the candidate (or candidates when several members are to be elected) who has (or have) obtained the greatest number of votes to be duly elected. 35

Returning Officer to have a Casting vote.

Whenever there shall be the same number of votes given in favour of two or more candidates, the Returning Officer shall have a casting vote, and shall record his vote at the foot of one of the Poll books. 40

Return to be transmitted to Clerk of the Crown in Chancery.

The return of the Returning Officer shall be annexed to the writ of election, and shall be transmitted without delay to the Clerk of the Crown in Chancery. 45

A duplicate of the said return shall be recorded at the foot of one of the Poll books, and delivered to the City or Town Clerk of such City or Town, or to the Secretary-Treasurer of such County, to be kept, together with the Poll books, among the archives of such City, Town or County.

Duplicate thereof recorded in Poll-book and to remain with archives of County City &c.

- 5 XIII. Whenever, by accident or otherwise, all the tickets, or a part of the tickets received at any polling place, or whenever the Poll books, or a part of them shall have been destroyed or lost during or after the said election, and before the return of the Committee of Scrutiny, or the return of the Returning Officer shall have been made, it shall be the duty of the
- 10 Committee to examine the remaining tickets, (if any) and to ascertain the number of votes, as provided in the eleventh section of this Act, and to transmit to the Returning Officer a special return under certificate with affidavits explanatory of the circumstances which shall have caused or attended the loss or destruction of the said tickets or Poll-books in whole
- 15 or in part.

Poll-books or Tickets destroyed or lost.

In such case, the Returning Officer shall make a special return, which he shall transmit to the Clerk of the Crown in Chancery, together with the affidavits which he shall have received.

Special Return.

- 20 If the Returning Officer shall not, within eight days after the close of the Polls have received the Returns of all the Committees of Scrutiny, he shall nevertheless in like manner, make a special Return, stating the number of votes given in favour of each Candidate and the number of polling places from which he has received no Return, and shall thereafter, whenever and as soon as he shall receive the Returns of the said Committees
- 25 of Scrutiny, make a supplementary Return thereof.

Provisional Return when whole of Poll-books have not been received.

Every such Return shall be made, with such formalities as are provided by the twelfth section of this Act.

- 30 XIV. The Poll-books shall be held to be authentic records, and all copies or extracts therefrom certified by the Secretary Treasurer or the City Clerk, (as the case may be,) shall be received as evidence in all Courts of Law in this Province.

Poll-books to be authentic Records:

- 35 XV. The declaration mentioned in the 28th Section of the Act of the United Kingdom of Great Britain and Ireland, intituled, "*An Act to reunite the Provinces of Upper and Lower Canada, and for the Government of Canada*" may be made at any time, before or during the said election until the close of the Poll on the second day. The said declaration may be made and acknowledged before the Returning Officer, before one of the members of any one of the Committees of Scrutiny for the said election or before any Justice of the Peace.

Declaration made by the Candidate.

- 40 The said declaration may be produced and exhibited by the Candidate or his agent to the Returning Officer at any time from the Proclamation of the notice of election till the fourth day thereafter inclusive, after the close of the Poll, on the second day of the Election, or to the Committee of Scrutiny at one of the Polling places while the Poll is open, and in
- 45 the case last mentioned the Committee of Scrutiny shall transmit the said declaration to the Returning Officer with the other documents concerning the said Election.

When and how it may be made.

Powers of Returning Officer and Members of Committee to keep the Peace.

XVI. As soon as the Returning Officer, or the members of the Committee of Scrutiny, shall have taken the oath of office required by the provisions of this Act, and until the day next after the closing of the Poll on the second day of the election, the said Returning Officer, and the members of the Committee of Scrutiny, shall be invested, for the pre- 5  
servation of the peace, for the arrest, committal to gaol, detention, and holding to bail, trial, and conviction of all persons who shall violate order, or disturb the public peace, with the same powers with which Justices of the Peace are invested in this Province.

Special Constables.

It shall be lawful for every Returning Officer, and for every member 10  
of a Committee of Scrutiny, to swear in special constables for the maintenance of good order during the two days of the Poll; and on the requisition, in writing, of two electors, such Returning Officer, or a member of the Committee of Scrutiny, shall be bound to swear in a sufficient number of special constables to keep the public peace during the Polling 15  
days.

Offensive weapons.

XVII. During the two days on which the Poll remains open at any such election, the Returning Officer, or a member of any of the Committees of Scrutiny, shall have authority to demand and receive from any person whatsoever, who shall be or reside within ten arpents of any 20  
Polling-place, all kinds of offensive weapons which may be in his possession.

Refusal to surrender them.  
Penalty.

Any person whatsoever who shall refuse to deliver to the Returning Officer, or to a member of the Committee of Scrutiny, any offensive weapon which he shall have in his possession as aforesaid, shall be liable 25  
to a penalty of not more than five pounds (£5) currency.

In default of Mayor, who shall be Returning Officer.

XVIII. Whenever the Mayor of any County, Town or City in which such Election is to be holden, shall be absent therefrom, or, either by reason of sickness or other cause, shall be unable to act as Returning Officer, all the duties imposed upon him by this Act shall be performed 30  
by the senior Municipal Councillor, who shall be qualified to fulfil the same; and if there be neither Mayor, nor City nor Municipal Councillor of such Town, City or County, the Writ of election shall be directed to the senior Justice of the Peace resident in such Town, City or County for and in respect of which the said election is to be holden, and such 35  
senior Justice of the Peace shall do and perform all the duties imposed on the Returning Officer by this Act.

Penalty for neglect of duty by Returning Officer.

XIX. Every Mayor, Justice of the Peace, City or Municipal Councillors, City Clerk, Secretary Treasurer, or other person employed by them, who shall have neglected to perform any of the duties required of 40  
him under the provisions of this Act, shall be subject to a penalty of not less than five pounds (£5) currency, nor more than fifty pounds (£50) currency.

Unqualified Voter  
Penalty.

XX. Every person who shall vote at such election knowing that he is not entitled so to vote, and every person who shall vote more than once 45  
at the same election shall be liable to a penalty of ten pounds (£10) currency.



XXI. Every person who shall use corrupt means, either directly or indirectly to influence any elector to vote for a Candidate, either by giving or promising him any reward, or by threatening him with the loss of any office, salary, or emolument shall be liable to a penalty of ten 5 pounds (£10) currency. Corrupt influence. Penalty.

XXII. Every person who, during the two days Poll shall, with the design and for the purpose of favouring and procuring the election of any candidate, treat at his cost and charges any body of electors, or who shall pay or disburse, or promise to pay, or disburse money for and with such 10 intent, shall be liable to a penalty not exceeding ten pounds (£10) currency. Treating. Penalty.

XXIII. Every vote obtained by corrupt means shall be null and void. Corrupt vote null.

XXIV. Every person, who during the two days Poll shall carry any flag, set of colours, ribbon, label or other like favour as a badge or distinctive ensign of a party, shall be liable to a penalty not exceeding ten 15 pounds (£10) currency. Colours and badges. Penalty.

XXV. Every person who shall maliciously steal, receive, knowing to be stolen or destroy the Poll-books or tickets, or any part thereof, or who shall aid others in stealing, receiving when stolen, or destroying the said 20 Poll-books or tickets, or who shall counsel others to steal, receive when stolen, or destroy the said Poll-books or tickets, shall be guilty of a misdemeanor, and on conviction thereof shall be imprisoned in the Penitentiary for a term not less than three years, nor more than seven years. Stealing or destroying. Poll-books or Tickets, punished with imprisonment.

XXVI. All penalties imposed for offences under this Act shall be 25 recoverable in any of Her Majesty's Courts having competent jurisdiction. Every person who shall have been condemned to pay any fine, shall in default of payment, be imprisoned in the Common Gaol of the district for any term not exceeding three months at the discretion of the Court. Penalties how recoverable.

XXVII. The fees hereinafter mentioned shall be allowed to the several 30 officers hereinafter mentioned, or to their respective deputies:—

To the Returning Officer,

To each Member of the Committees of Scrutiny,

To each Poll-clerk,

To two Special Constables for keeping the polling place,

35 Which several fees shall be paid to the Returning Officer, by warrant of the Governor, directed to the Receiver General, out of the Consolidated Revenue Fund, and distributed by the Returning Officer to the other officers and persons entitled to the same under the provisions of this Act. Fees.

XXVIII. The second, fourth, fifth, sixth, seventh, eighth, tenth, 40 eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, fortieth, forty-fourth, forty-fifth, forty-eighth, forty-ninth, fiftieth, fifty-first, fifty-second, fifty-third, fifty-fourth, fifty-fifth, fifty- 45 sixth, fifty-seventh, fifty-eighth, fifty-ninth, sixtieth, sixty-first, sixty-second, sixty-third, sixty-fourth, sixty-fifth, and sixty-sixth clauses or sections of the Act passed in the twelfth year of the reign of Her Majesty Queen Victoria, and intituled, "*An Act to repeal certain Acts therein*

Sections of Act XII Vict. C. 27, repealed.

"mentioned, and to amend, consolidate and reduce into one Act, the several statutory provisions now in force for the regulation of elections or members to represent the people of this Province in the Legislative Assembly thereof," in as far as they relate to Elections in Lower Canada are hereby repealed. 5

Substitution in 41 Section of said Act.

XXIX. The words "Deputy Returning Officer," in the 41st clause of the Act last cited, shall, for the purposes of this Act, be understood to be represented and supplied by the words "Committee of Scrutiny," or by "one of the Members of the Committee of Scrutiny."

Copies of Acts concerning Elections to be transmitted to Returning Officers.

XXX. A copy of the present Act, together with a copy of that part of the Act 12 Victoria, cap. 27, which is not hereby repealed, and copies of the said present Act, and of the said part of an Act for the use of the Committees of Scrutiny in each County, City or Town, shall be transmitted to each Returning Officer at the same time when the Writ of Election is so transmitted. 10 15

Applies to Lower Canada only.

XXXI. This Act shall apply only to Lower Canada, and it may be amended or repealed during the present Session.

SCHEDULE.

1. Proclamation to be made by the Returning Officer, required by the second Clause of this Act.

PROCLAMATION.

County (Town or City) of

Notice is hereby Given, to the Electors of the County (Town or City) of that, in obedience to Her Majesty's Writ to me directed, and bearing date the day of the month of an Election will be held on (name the days) the (dates) for the purpose of electing a fit person (or persons) to represent them in the Legislative Assembly of this Province.

Polls will be opened to receive the votes of the Electors at the following places, that is to say, (here mention each of the Parishes, Townships, Wards, &c., where the Polls are to be held) and the said Polls will be kept open from nine of the clock in the forenoon till five of the clock in the afternoon of each of the said two days.

Given under my hand at this day of the month of in the year (Signature,) A. B., Returning Officer.

FORM A.

2. Oath mentioned in the 2nd and 5th Clauses of this Act.

I, A. B. Returning Officer for the County of (or one of the Members of the Committee of Scrutiny for the Parish or Township of in the County of or one of the members of the Committee of Scrutiny for the Town or City of or for

Ward in the Town or City of (as the case may be)  
 or Poll-Clerk for the Parish or Township of or for the  
 Town or City of or for Ward in the Town  
 or City of ) Swear that I will faithfully and impartially  
 discharge the duties by Law required of me as such Returning Officer  
 (member of the Committee of Scrutiny, or Poll-Clerk as the case may be.)

(Signature,) A. B.,  
 Returning Officer,  
 or Member of the Committee of Scrutiny.  
 or Poll-Clerk.

I certify that the said A. B., has this day taken before me the Oath here  
 above written.

Given under my Hand, at this  
 185 (Signature,) C. D.,  
 Chairman of the Committee of Scrutiny,  
 or one of the members of the Com-  
 mittee of Scrutiny.

3. Appointment of a Member of the Committee of Scrutiny.

I, the undersigned Returning Officer for the County (Town or City  
 of ) appoint you to be a Member of the Committee of Scrutiny  
 for the Parish (Township) of in the County  
 of (or for the Town or City of  
 or for Ward, or for Section No. of  
 Ward in the Town or City of ) to act as  
 such Member of the said Committee together with C. D., and E. F.

Given under my Hand, at this  
 185 (Signature,) A. B.,  
 Returning Officer.

4. Appointment of a Poll Clerk.

I, the undersigned, Chairman of the Committee of Scrutiny for the  
 Parish or Township of in the County of  
 (or for the Town or City of  
 or for Ward or Section No. of  
 Ward in the Town or City of ); appoint E. F. to be  
 Poll-clerk for the said Parish (or Township, Town or City, Ward or  
 Section of Ward in the said Town or City).

Given under my Hand, at this  
 185 (Signature,) A. B.,  
 Chairman of the Committee of Scrutiny of

5.—FORM OF A POLL-BOOK.

Number of the Voters.	Names of the Voters.	Their legal ad- dition.	Their place of Residence.	Proprietors.	Tenants.	Description of Lots and Range, or Concession, or otherwise as the case may be.	Objections.	Oaths No.	Voters refusing to take the Oaths.

## 6. Return of the Returning Officer.

I, the undersigned, Returning Officer for the County of (Town or City of, as the case may be) certify that, after having made Proclamation as required by law, that an Election of a person (or of persons, as the case may be) to be a Member (or Members) of the Legislative Assembly of the Province of Canada, would be holden in the said County (Town or City, as the case may be) on the and days of 185 , the said Election was so holden, according to law, on the days fixed in the said Proclamation, and that the votes of the Electors were given as follows: that is to say, in favour of

A. B., of	votes.
C. D., of	"
E. F., of	"

and the said A. B. having received a greater number of votes in his favour than any other person at the said Election, I hereby declare him to be duly elected to represent the County (Town or City) of

as a Member of the Legislative Assembly of the Province of Canada, during the continuance of the next (or present) Parliament.

Given under my Hand, at this  
day of 185

(Signature,) A. B.,  
Returning Officer.