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No. 12.

BILL.

An Act to authorise the People of the
several Counties of Upper Canada to
elect certain of their local Officers.

Received and read first time, Monday, 18th
September, 1854.

Second Reading, Monday, 9th October, 1854.

M. FOLEY.

QUEBEC:

PRINTED BY JOHN LOVELL, MOUNTAIN STREET.

(12)

An Act to authorize the people of the several Counties of Upper Canada to elect certain of their local Officers.

BE it enacted, &c., as follows: The qualified Municipal Electors of the respective Wards, Townships, Villages, Towns, and Cities of Upper Canada, shall, in the year of our Lord, one thousand eight hundred and fifty-six, and in every third year thereafter, at the times and places fixed by Law for the Election of Township, Village, Town and City Councillors, elect for each of the several Counties and unions of Counties of Upper Canada aforesaid, a Sheriff, a Clerk of the Peace, and a Registrar of Deeds, Wills, and other Instruments requiring to be recorded; and such Elections shall be held and conducted in the mode and manner and by the same officers and persons as the Election of Township, Village, Town and City Councillors is or hereafter may be lawfully held and conducted.

Municipal Electors of Upper Canada shall elect the Sheriffs, Clerks of the Peace and Registrars, and how and when.

II. The officers and other persons holding and conducting such Elections in the said Counties and Unions of Counties respectively, shall immediately after the close thereof, make true returns of such Elections and forthwith transmit the same with the poll books kept by them, verified on oath or affirmation, to be taken before any Justice of the Peace in the said Counties and Unions of Counties respectively, and such Justices are hereby empowered to administer such oath or affirmation to the Clerks of the said Counties and unions of Counties respectively in which such Elections shall have been held, and within three days after the receipt of the said respective returns and poll books; it shall be the duty of the said several County Clerks, and they are hereby respectively required to give notice in writing to the Wardens and Treasurers of the said Counties and Unions of Counties respectively, of the receipt by them, the said Clerks, of the said respective returns and poll books.

Returns of such Elections to be made to the County Clerks.

Notice by such Clerks to Wardens and Treasurers.

III On the sixth day after the receipt of the said respective returns and poll books by the said County Clerks, it shall be the duty of the said Wardens, Treasurers, and County Clerks, and they are hereby required to meet at the County Towns of the said several Counties and Unions of Counties respectively, for the purpose of examining the said returns and poll books, and after due and impartial examination of the same, to sum up and ascertain by the same for whom respectively of the Candidates at the said Elections, the largest number of legal votes shall have been cast in the said Wards, Townships, Villages, Towns, and Cities respectively, as shall appear by the poll books of the same, and to declare the persons duly elected to the said Offices respectively, who shall by the said poll books appear to have the majority of the votes cast in the said Counties and unions of Counties respectively, and the persons so declared to have been duly elected, shall thereupon on the eleventh day after the said Election, assume, have, take, hold, and enjoy all the rights, powers, and emoluments appertaining to the said Offices respectively, and be subject to all the duties, penalties, and forfeitures thereto attaching; and the said County Clerks shall, and

Examination of Poll Books, &c.

Declaration of persons elected.

Transmission of Poll Books, &c., to Registrars's office.

they are hereby required, forthwith to transmit the said returns and poll-books with the certificates in writing endorsed thereon or thereto attached of the said Wardens, Treasurers and Clerks respectively, that they have duly examined, and correctly and impartially summed up the said Returns, to the offices of the Registrars of the said Counties and Unions of Counties respectively, there to remain of record for the inspection and examination of such of the inhabitants of the said Counties and Unions of Counties, respectively, as shall demand or require to inspect or examine them; and the said Registrars are hereby required to receive, keep and exhibit the same in their said offices in the same manner as other instruments are received, kept, and exhibited by them.

Appeal to the County Judge allowed, and on what conditions, &c.

IV. The said returns and poll-books shall be subject to the enquiry, determination and judgment of the Judges of the County Courts respectively, in the Counties and Unions of Counties in which such elections shall have been respectively held on the complaint of ten or more legally qualified electors of the said Counties or Unions of Counties respectively of an undue election or false return or summing up, five of which said electors shall before being permitted to proceed with the said complaint take or subscribe an oath or affidavit (which oath or affirmation any Justice of the Peace or Commissioner for taking affidavits in either of the Superior Courts of Law for Upper Canada in or for the said Counties and union of Counties in which such election shall have been held, is hereby authorised to administer) setting forth that the facts contained in such complaint are true to the best of their knowledge and belief; and the said Judges respectively, shall within one calendar month after the filing of the said complaint with them, proceed upon the merits thereof, giving first, or causing to be given, to all the parties interested, at least six clear days notice of the time and place of the hearing of the said complaint, and causing the party complaining to furnish the party complained against with true copies of the affidavits and other papers filed, at least three days before such hearing; and within ten days after such hearing, the said Judges respectively shall finally, determine concerning the said complaint according to good conscience and as justice and right shall require, and certify to the County Clerk of the County or Union of Counties in which such election shall have been held, the Judgment of the said Judges and in whose favor such contested election shall have terminated, and the Judge shall thereupon issue his writ to the Sheriff of the County (or to one of the Coroners of the County when the Sheriff is a party interested) directing that the party in whose behalf the said judgment shall have been given, be admitted to the office to which he has been elected; and that the party failing in the matter of such complaint shall pay to the opposite party all the costs and expenses of the said contested election, which costs and expenses shall be in the discretion of the Judge; and the said Sheriff or Coroner, as the case may be, shall and he is hereby required forthwith to proceed to the execution of the said writ as thereby he shall be directed: Provided always, that such complaint shall be made within ten days after the declaration aforesaid shall have been made by the said Wardens, Treasurers and Clerks respectively.

Hearing on such appeal.

Judgment.

Admission to office of successful Candidate.

Proviso.

Elected Officers may appoint deputies.

Vacancies occurring between Elections.

V. The said officers respectively, may appoint deputies, who in the absence of their principals respectively, or in case of vacancies in the said offices respectively, or of any disability of the said officers respectively to perform the duties of their said offices, may perform the same until such vacancies be filled or such disability be removed.

VI. In case any of the said offices shall, before the regular periods of election as prescribed by this Act become vacant, or in case any of the said

officers shall from any cause be incapable of discharging the duties of his office, the County Councils of the said Counties or Unions of Counties respectively may, if in their judgment the interests of the County require it, by a majority of their number select suitable persons to perform the duties of such offices respectively, and such persons so selected may perform such duties until such vacancy be filled in the manner hereinafter appointed or until such disability be removed.

how to be filled *pro tempore*.

VII. When vacancies shall arise in any of the said offices by the resignation, death, or removal from office of any of the said officers between the regular periods of elections as fixed by this Act, the County Clerks of the said several Counties and Unions of Counties respectively, shall immediately notify the Wardens of the said Counties respectively in writing of such vacancy having taken place, and the said notice shall specify the cause of such vacancy, the name of the officer in whose office it occurred, and the time when his term of office will expire.

Election for filling any such vacancy.

VIII. The said Wardens respectively on receiving the said notices in the next preceding section of this Act directed to be sent to them respectively shall forthwith cause notices in writing, signed by them the said Wardens respectively, and attested by the said County Clerks, respectively, to be delivered to the Township; Village, Town, and City Clerks of the said Counties and Unions of Counties respectively, in which such vacancy shall have occurred, which notices shall contain in substance the notices so received from the said County Clerks; and the said Wardens shall at the same time give at least two weeks notice in writing to be delivered to the Township, Village, Town, or City Clerks of such Municipality of the holding of an election to supply such vacancy, fixing by the said notice last mentioned two consecutive days for the holding of the said election at the place at which the last meeting was held for the election of local officers, and the said Wardens shall also cause such notices of the time, place and object of such election to be inserted in all the newspapers published in the said County or Union of Counties and be posted up in at least three of the most public places in each of the said Townships, Villages, Towns and Cities, for at least ten days before such election.

How the Election for filling such vacancy shall be called and held.

IX. All the provisions of this Act relating to the General Election of the officers herein provided to be elected, shall apply to every election held by virtue hereof to supply vacancies, and the person or persons elected thereto shall assume the duties and continue to hold the office to which he shall be elected, as if he or they had been elected at the preceding January election.

Provisions as to General Elections to apply to Special Elections.

X. If any of the Wardens, Clerks, Treasurers, or other officers required by this Act to perform any duties under or by virtue of its provisions, shall neglect or refuse so to do without just cause therefor, he or they shall forfeit to the use of the County or union of Counties in which such offence shall be committed, a sum of money not less than *one hundred* nor more than *five hundred* pounds, to be recovered in any of Her Majesty's Superior Courts of Law in Upper Canada, on the complaint of any person who may see fit to prosecute for the same.

Penalty for neglect of duties imposed by this Act.