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4th Session, 3rd Parliament, 14 Victoria, 1851.

BILL.

An Act to provide for the appointment
of the Sheriffs of Counties in Upper
Canada, at periodical elections, by
the Freeholders.

Received and read a first time, Thursday, 5th
June, 1851.

Second reading,

Mr. MACKENZIE.

TORONTO: PRINTED BY LOVELL AND GIBSON.

B I L L .

An Act to provide for the appointment of Sheriffs
of Counties, in Upper Canada, at periodical elec-
tions, by the Freeholders.

WHEREAS the Sheriff is a magistrate of great im-
portance to the whole administration of all justice, Preamble.
civil and criminal, and is, in England and Wales, appointed
for a period fixed by law, and not removable even by the
royal authority during the continuance of his term, ex-
cept for malversation in office; and there is no officer
known to the British Constitution similar to that of a
Sheriff in Upper Canada, who is selected by the Execu-
tive Government, and holds office during its pleasure:
and whereas the patronage of the Crown in this
Province is fast increasing and ought to be diminished,
especially as regards the appointment of all County offi-
cers and magistrates, whose incomes are derived from
local revenues; and whereas complaint has been made,
in times past, that Sheriffs in Upper Canada have inter-
fered with the freedom of elections, and the peaceful or-
ganization of public meetings of the freeholders, and were
irregular accounting officers, and it is desirable to check
such practices, through the application of the elective
principle; and whereas the Sheriffs of London and Mid-
dlesex, in England, are elected yearly by the people,
agreeably to ancient custom, the inhabitants of every
County in England and Wales having formerly elected
their Sheriff, the Statute providing "that the Com-
mons might choose such as would not be a burthen to them,"
thus preventing needy, corrupt, mercenary persons from
prostituting the functions of that high office for favor or
personal advantage; and whereas the existing mode of
selecting Sheriffs in Upper Canada is highly dangerous
to civil liberty, more especially in times of violent party
excitement; Be it enacted, &c.

That the Sheriff of each of the Counties in Upper Ca-
nada shall be elected and chosen once in every three
years, and as often as there is a vacancy, by such inhabit-
ants of the County as are qualified to vote therein for
members of the Legislative Assembly: a Sheriff can hold
no other office, and is ineligible to be re-elected for the
next three years after the close of his official term.

Sheriffs to be
elected every
three years.

To hold no
other office.

II. And be it enacted, That the elections of Sheriffs
shall be held on the Tuesday and Wednesday succeeding
the first Monday of November next, and the individuals

When the first
election shall
be held.

Future
Elections.

then elected shall enter upon the performance of the duties of their office on the first day of January, 1852, having first given the security required by law for the faithful performance of the said duties; and all future elections shall be held on the same days of the week and month in every third year. 5

Registers to
be Returning
Officers.

III. And be it enacted, That the Registers of deeds and titles for the several Counties shall be Returning Officers for the respective Counties over which their authority, as such Registers, shall extend; and in cases of Counties united for judicial purposes, the Register of either of such Counties, who has been longest in office; and in case of the death of any Register, or his absence from Upper Canada, or in case he is incapacitated by sickness from acting as Returning Officer, it shall be lawful for the Governor to appoint any resident elector of a County to perform the duties of such Returning Officer in such County. 15

Penalty for
refusing to
act as
Returning
Officer.

12 Vict. c. 27.

IV. And be it enacted, That the penalty for refusing to act as such Returning Officer shall be the same as is provided in the eighth section of the Act passed in the twelfth year of Her Majesty's Reign, chap. 27, 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,*" and the mode or manner of the election of Sheriff, and the proceedings during the election, shall be, in all respects, the same as are provided in the said Act, commencing with section nine and ending with section sixty-nine, exclusive of section forty-eight, so far as the provisions of the said Act are applicable to the elections of Members to serve in the Legislative Assemblies of this Province for the several Counties and Ridings in Upper Canada; except that in the oaths, proclamations, commissions, and indentures in the Schedule attached to said Act, the words, "Sheriff of the said County," or other suitable words, naming the officer to be or who shall have been elected, shall be substituted for the words indicating that the election is for one or more Members of the Legislative Assembly; and except that those parts of said Act which provide for, or refer to the trial of the merits of any election by the Legislative Assembly, in case it should be controverted, shall not apply to the election of any person to fill the office of Sheriff. 20 25 30 35 40 45

Certain provisions of that Act extended to elections under this Act.

Exceptions.

Provision for filling vacancies occurring between the elections.

V. And be it enacted, That if any vacancy shall occur in the office of Sheriff of any such County as aforesaid, before the expiration of the period for which he was elected, such vacancy shall, for the remainder of such

term, he filled by a person to be appointed by the Municipal Council of the County, at a meeting of such Council to be called by the Warden thereof, so soon as he shall have received notice of the vacancy; and the Sheriff so appointed shall enter upon the discharge of the duties of his office so soon as he shall have given the security required by law; and in the mean time the Deputy of the former Sheriff (if any) shall exercise all the powers and perform all the duties of the Sheriff, and if there be no such Deputy, or he refuse to act, then the Governor shall appoint a person to act as the Sheriff until another shall be elected and act.

VI. And be it enacted, That the authority of the Register, or other such Returning Officer as aforesaid, for holding an election of Sheriff in and for any County, shall be a Writ of Election to be addressed to him, and to be prepared and issued by the Clerk of the Crown in Chancery, on his receiving from the Warden of the County a warrant authorizing or requiring him to prepare and issue such writ.

On what authority elections shall be held.

VII. And be it enacted, That the word "County" in this Act shall include any "union of Counties for judicial purposes."

Interpretation clause.