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No. 4.

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**B I L L .**

“An Act to provide better for the freedom of  
Elections throughout this Province, and  
for other purposes therein mentioned.”

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Received and Read a first time, Tuesday 15th June, 1811.

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Second Reading.

Bibliothèque  
Le Séminaire de  
3, rue de l'Université  
Québec 4, QUÉBEC

137

Jurispr. Can. N<sup>o</sup> 19

1841

BILL.

An Act to provide better for the freedom of Elections throughout this Province, and for other purposes therein mentioned.

**WHEREAS** the practice of having but one Polling Place at Elections of Members of Parliament, which prevailed in both Upper and Lower Canada, previous to the passing of the Act of the Imperial Parliament for the Union of those Provinces, and which, by the provisions of that Act is continued as the law of the land in this Province at this day, has proved to be of danger to the public peace, and is moreover in large Counties and Ridings attended with much inconvenience to the Electors generally; And whereas it is expedient to provide against such evils and to afford every reasonable facility and convenience to the electors for giving their votes; And whereas it is expedient to limit the time for holding Elections, and generally to provide more effectually for the freedom of Elections, and the holding and conducting the same; 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, 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 all laws in force in this Province or any part thereof, relating to the manner of holding and conducting Elections for Members to represent the people of this Province in the Provincial Parliament, in so far as their provisions are at variance with or repugnant to this Act, shall be and the same are hereby repealed.

Preamble.

All Laws repugnant to or inconsistent with this Act repealed.

II. And be it enacted, that hereafter at every Election for a Member or Members to represent any County, Riding, City, Town or Borough in the Provincial Parliament of this

When a Poll is demanded, it shall be held in each Sub-division of the



place for which  
the Election  
shall be.

Province, at which a Poll shall have been duly demanded and granted according to law, a separate Poll shall be opened and held for every Parish, Township, and Ward, as the case may be, into which such County, Riding, City, Town or Borough may be divided.

The Returning Officer may, for the purposes of this Act subdivide any City, Town, or Borough not already subdivided.

III. And be it enacted, that until any City, Town or Borough shall be divided into wards for general municipal purposes, it shall and may be lawful for the Returning Officer for such City, Town, or Borough, when and so often as he shall receive any Writ for the Election of one or more Members, to represent such City, Town or Borough in the Provincial Parliament, by an instrument in writing under his hand, to divide such City, Town, or Borough for the purpose of such Election into two or more wards.

Parishes and Townships united to others for certain purposes to remain so united for the purposes of this Act.

IV. And be it enacted, That in all cases where one or more Parishes or Townships, from their not containing the requisite number of Inhabitants, shall not have become entitled by law to hold Parish or Township Meetings, for the Election of Parish and Town Officers, and shall not as yet have held any separate Meeting for such purposes ; but for such purposes shall have been united to any adjoining Parish or Township, such Parish or Township shall, for the purposes of this Act, be also united to the same Parish or Township, and instead of a Poll being opened for each of such Parishes or Townships separately, one Poll only shall be opened and held for such United Parishes or Townships.

Places at which a Poll shall be held within each sub-division as aforesaid.

V. And be it enacted, that the Poll for every such Election, for every Parish and Township in such County or Riding, shall be held at the place where the then last Town Meeting for the Election of Parish and Town Officers for such Parish or Township shall have been held, and the Poll for every Ward in every such City, Town and Borough, at such convenient place within every such Ward, as the Returning Officer for such City, Town or Borough for the time being shall appoint.

VI. And be it enacted, that at every such Election, the Electors of such County, Riding, City, Town, or Borough, shall poll their votes for such Election at the Poll which shall be opened for the Parish, or Township or Ward within which the property in right of which they shall respectively vote at such Election shall lie, and at no other.

Votes to be polled at the sub-division in which the property qualifying the votes shall lie.

VII. And be it enacted, that every Elector before he shall be received or allowed to poll his vote at any such Election, shall, if required by the Deputy Returning Officer to whom he shall tender such vote, or by any Elector or Candidate at such Election, or by the Counsel or Agent of any such candidate, in addition to the oaths or affirmations which may now by law be required of him, make oath or affirmation before such Deputy Returning Officer (who is hereby authorised to administer the same) that he hath not before voted at such Election, either at the Polling Place where he shall tender such vote, or at any other Polling Place within such County, Riding, City, Town or Borough, as the case may be.

Each Voter shall if required make oath that he was not previously voted at the election.

VIII. And be it enacted, that every Returning Officer to whom any Writ for the Election of a Member or Members to represent any County, Riding, City, Town, or Borough, in this Province, shall be directed, shall, by Proclamation under his hand, issued and published eight days before the holding such Election, appoint the day for proceeding to such Election, at the most convenient place for such purpose, in such County, Riding, City, Town or Borough; at which day and place he shall attend between the hours of twelve o'clock at noon, and two o'clock in the afternoon, and proceed by Proclamation to such Election in obedience to such Writ.

Each Returning Officer shall appoint the time and place of holding the Election, and shall give eight days notice of the same.

IX. And be it enacted, that in the event of a Poll being demanded according to law at any Election for a Member or Members to represent any County, Riding, City, Town or Borough, in this Province, the Returning Officer shall, and he is hereby required to grant the same, and forthwith to

If a Poll be demanded, the Returning Officer shall appoint the day on which such Poll shall be taken in the second sub-division of the place.

appoint some day not less than four nor more than eight days thereafter for taking such Polls, and he shall forthwith, by public proclamation, give notice of the time and place at which the Polls of such Elections shall be taken in the several Parishes, Townships, or Wards of such County, Riding, City, Town or Borough, as hereinbefore provided, and shall thereupon adjourn the future proceedings in such Election, to some day within four days after the day fixed for the taking such Polls in the several Parishes, Townships or Wards as aforesaid.

Hour at which the Polling shall commence.

To be continued during two consecutive days.

Exception.

Hours during which the Poll shall be open.

Returning Officer to appoint a Deputy and a Poll Clerk for each subdivision.

And shall direct such Deputy to take the Poll.

Deputy to report their doings to the Returning Officer.

X. And be it enacted, that at every such Election, when a Poll shall be granted, the Polling shall commence in all the Parishes, Townships and Wards in said County, Riding, City, Town, or Borough, respectively, at nine o'clock in the forenoon of the day fixed for taking the Polls for such Election, and such Polling shall continue for two days only; and such two days shall be consecutive days, except where Sunday, Christmas Day, or Good Friday, or any two of them, shall intervene, in which case the second day of Polling shall be the day following any such Sunday, Christmas Day, or Good Friday, as the case may be, and the said Polls shall be kept open for eight hours on each day of Polling, and no Polling shall be kept open later than five o'clock, in the afternoon of the second day of Polling.

XI. And be it enacted, that for the purposes of taking the Polls for such Elections as hereinbefore directed, the Returning Officer to whom any writ for the Election of a Member or Members, to represent any County, Riding, City, Town, or Borough, in this Province shall be directed, shall, by warrant under his hand and seal, appoint a Deputy and also a Poll Clerk for each and every of the Parishes, or Townships, or Wards, as the case may be, within such County, Riding, City, Town or Borough; and shall by precept, under his hand and seal, require each of such Deputies to take the Poll of such Election, for his Parish, or Township, or Ward, as the case may be, according to law, and to return the same to him under his hand and seal, by the day

to which such Returning Officer shall have adjourned such Election as hereinbefore directed, on which day such Returning Officer shall proceed to ascertain the state of the general poll of such Election, and to declare the same, and to declare elected and returned the person or persons who shall have the majority of the votes Polled at such Election, in the different Parishes, or Townships, or Wards, in such County, Riding, City, Town, or Borough, as the case may be.

Who shall declare the result of the Election.

XII. And be it enacted, that all powers and authorities now by law vested in Returning Officers, and necessary for the orderly and proper taking of the Polls of Elections, for Members to represent the People of this Province in Provincial Parliament, shall be and the same are hereby vested in every such Deputy Returning Officer, within his respective jurisdiction, as fully and absolutely as in his principal.

Deputies to have the same power as the Returning Officers for the preservation of order.

XIII. And be it enacted, that no Deputy Returning Officer or Poll Clerk shall proceed to the receiving and recording of votes or to the discharge of any other of their respective duties, at any such Election, until in a public manner they shall have severally taken, and subscribed in the Poll Book, the following oath or affirmation, which oath or affirmation any Justice of the Peace of the District in which such Parish, or Township, or Ward shall lie, is hereby authorised and on request required to administer:

Deputies and Poll Clerks to take a certain oath before they act as such.

#### *Form of Oath.*

“I. A. B. do solemnly swear (or affirm as *the case may be*,) that I have not directly or indirectly received any sum or sums of money, office, place or emolument, gratuity, profit or reward, or any bond, bill, note, or other written instrument or verbal agreement, whereby such is promised or secured, either by myself or any other person for, or to my use, benefit, or advantage, for making any false or incorrect statement or entry in the Poll Book, to be taken at this Election, or return of the same, or for shewing any favor or partiality at this Election, and

The Oath.

that I will faithfully and impartially perform my duty at this Election to the best of my judgment and ability;"

"So help me God."

No Returning Officer or Deputy Returning Officer shall have power to grant a scrutiny.

XIV. And be it enacted, that hereafter no Returning Officer or Deputy Returning Officer, in this Province, shall have any power to grant or enter upon any scrutiny of the votes polled at any Election, for a Member or Members, to represent the people of this Province in the Provincial Parliament.

Returning Officers or their Deputies to have power to administer the oath of allegiance.

XV. And be it enacted, that every Deputy Returning Officer at any Election for a Member or Members, to represent the people of this Province in Provincial Parliament, shall be, and he hereby is authorized and empowered during the period that his authority as Deputy Returning Officer shall continue, to administer the oath or affirmation of allegiance to any person or persons, who may be willing or desirous of taking the same, which oath or affirmation so taken, shall to all intents and purposes whatsoever, have the like effect upon the civil and political rights of the party taking the same, as if the same had been administered by a Commissioner or Commissioners for that purpose specially appointed by the Crown.

Certain fees allowed to Returning Officers.

XVI. And be it enacted, that every Returning Officer for the respective Counties, Ridings, Cities, Towns, or Boroughs in this Province shall be entitled to the following fees and allowances for the services and disbursements hereinafter specified respectively, that is to say;—For attendance on the day of opening the Election;

For attendance on the day of closing the Election, where Polls have been taken,

The Fees.

For an Election Clerk on the former day, For an Election Clerk on the latter day,

For two Constables on the day of opening the Election, and the same on the day of closing it, where polls have been taken; and for Constables at each Poll, per diem each, For messenger to each Deputy Returning Officer, per mile, for

each mile travelled, For  
each Hustings when necessary,

For each Deputy per diem while  
taking the Poll, For each Poll  
Clerk while taking the Poll,

and that such fees and allowances shall in each of the sections of this Province respectively, that is to say, in that section heretofore forming the Province of Lower Canada, and that section heretofore forming the Province of Upper Canada, be paid to every such Returning Officer respectively by the like persons, out of the like funds, and in the like manner, as the fees and allowances heretofore payable to Returning Officers, in each of such sections, respectively, shall or may have been heretofore used and accustomed to be paid.

By whom and  
out of what  
funds such fees  
shall be paid.

XVII. And be it enacted, that every returning Officer and Deputy Returning Officer in this Province, shall have full power to swear in such and so many special Constables for the preservation of the public peace at such Election, as such Returning Officer or Deputy Returning Officers shall or may deem necessary or expedient for that purpose.

Returning  
Officers and  
their Deputies  
to have power  
to swear in  
Special Con-  
stable.

XVIII. And be it enacted, that it shall and may be lawful for any Returning Officer or Deputy Returning Officer, during any part of the days whereon any such Election shall be to be begun, holden or proceeded with, or on which any Poll for such Election shall be begun, holden, or proceeded with, to demand and receive from any person whomsoever, any offensive weapon, such as fire arms, swords, staves, bludgeons, or the like, with which any such person shall be armed, or which any such person shall have in his hands or personal possession; and every such person who upon such demand shall decline or refuse to deliver up to such Returning Officer or Deputy Returning Officer, any such offensive weapon as aforesaid, shall be deemed guilty of a misdemeanor punishable by fine not exceeding  
pounds, and imprisonment not exceeding

Returning  
Officers and  
their Deputies,  
may demand  
the surrender of  
any weapons.

Months, or by both, in the discretion of the Court, whose duty it shall be to pass the sentence of the law upon such.

Penalty on  
persons refus-  
ing to deliver  
weapons so de-  
manded.

Proviso:  
Such weapons  
to be returned  
after the close  
of the Election.

person upon his conviction: Provided always that upon reasonable request made to such Returning Officer or Deputy Returning Officer, after the close of such Election, any such weapon that shall have been delivered up to such Returning Officer or Deputy Returning Officer, shall be restored by such Returning Officer or Deputy Returning Officer, to the person from whom the same may have been taken as aforesaid.

Penalty on  
persons guilty  
of any battery  
during the time  
of an Election,  
within a cer-  
tain distance of  
any Poll.

XIX. And be it enacted, that every person who shall be convicted of a battery, committed during any part of the days whenever any such Election shall be to be begun, holden, or proceeded with, or on which any Poll for such Election shall be to be begun, holden or proceeded with, within the distance of \_\_\_\_\_ of the place where such Election or such Poll shall be to be so begun, holden, or proceeded with, shall be punishable by a fine of not less than \_\_\_\_\_ and imprisonment for not less than \_\_\_\_\_ or either, in the discretion of the Court, whose duty it shall be to pass the sentence of the law upon such person upon his conviction.

No Candi-  
date or other  
person to treat  
any Elector, or  
to expend mone-  
y for the  
purpose of pro-  
curing the  
Election of any  
person.

XX. And be it enacted, that it shall not be lawful for any Candidate for the Representation of any County, Riding, City, Town, or Borough in this Province, with intent to promote his Election, or for any other person with intent to promote the Election of any such Candidate, either to provide or furnish entertainment at his expense to any meeting of Electors, previous to or during the Election at which he should be a Candidate, or to pay for or procure or engage to pay for any such entertainment, or to furnish any money or other property to any person or persons whomsoever, for the purpose of being expended in procuring the attendance of voters at the Polls, or to contribute money for any other purpose intended to promote the Election of any particular person or persons, for any such County, Riding, City, Town or Borough, except only for defraying the expenses of printing and the circulation of votes, handbills, and other papers previous to or during any such Election.

XXI. And be it enacted, that it shall not be lawful for any person, not being the Returning Officer for such Election, or his Deputy for such Parish, Township, or Ward, or the Poll Clerk, for such Parish, Township, or Ward, or one of the Constables, or special Constables, appointed by such Returning Officer, or his Deputy, for the orderly conduct of such Election or Poll, and the preservation of the public peace thereat, and who hath not had a stated residence in such Parish, Township, or Ward, for at least \_\_\_\_\_ months, next before the day of such Election, to come during any part of the days upon which such Poll may be to remain open, into such Parish, Township, or Ward, armed with offensive weapons of any kind, as Firearms, Swords, Staves, Bludgeons, or the like, or for any such person, being in such Parish, Township, or Ward, to arm himself, during any part of either of such days, with any such offensive weapons; and thus armed, to approach within the distance of \_\_\_\_\_ miles of the place where the Poll for such Parish, Township, or Ward, shall be held.

No person not being a resident in the place where any Poll is being taken, to come armed into such place during such Poll.

Nor shall any armed person approach within a certain Distance of the Poll.

22. And be it enacted, that every person offending against any of the provisions of the next two preceding sections of this act, shall be deemed guilty of a misdemeanor, punishable by fine not exceeding \_\_\_\_\_ pounds, and imprisonment not exceeding \_\_\_\_\_ months, or by both, in the discretion of the Court, whose duty it shall be to pass the sentence of the Law, upon such person, upon his conviction.

Penalty on persons contravening the two next preceding Sections.

23. And be it enacted, that every person who shall be convicted of a second offence, under either of the said two Sections of this act, shall be thereby disqualified from being Elected to represent any County, Riding, City, Town, or Borough, in the Provincial Parliament of this Province, and from voting at any Election, for a Member or Members to represent any such County, Riding, Town, City, or Borough, for the space of \_\_\_\_\_ Years next after the day on which sentence shall have been pas-

Persons convicted of a second offence against either of the said sections, to be disqualified from voting or being Elected:

And for a  
third offence to  
be so disquali-  
fied for ever.

sed upon him, for such offence; and every person who shall be convicted of a third offence, under either of the said Sections, shall be thereby, for ever thereafter, disqualified from being elected, and from voting as aforesaid.