

No. 73.

4th Session, 8th Parliament, 29th Vic., 1865.

BILL.

An Act to amend the Act respecting Elections of Members of the Legislature.

[No. 57 of 1865—1st Session.]

Hon. Mr. DORION.

QUEBEC :

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An Act to amend Chapter Six of the Consolidated Statutes of Canada, intituled: "An Act respecting Elections of Members of the Legislature."

WHEREAS it is expedient to amend the law of Elections of Members to serve in Parliament: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows: Preamble.

5 **1.** At all Elections of Members of the Legislative Council, and of Members of the Legislative Assembly, the Writs for such Elections shall be transmitted to the respective Returning Officers by regular mail, and in no other manner, and shall be mailed to their address by the Clerk of the Crown in Chancery within five days from the date thereof, and at periodical Elections of Members of the Legislative Council and at general Elections of Members of the Legislative Assembly the Writs shall all bear the same date. Transmission of Writs of Election.

15 **2.** In addition to the proper address on the letter containing the Writ, the words "Writ for the Division, City, Town, County or Riding of" (as the case may be), with the name of the Division, City, Town, County or Riding to which the Writ enclosed shall relate, shall be printed or written on the envelope, and it shall be the duty of the Postmaster receiving such a letter to transmit it, without delay, to the Returning Officer to whom it may be addressed, and any necessary expense for such transmission shall be paid by the Returning Officer, and included in his accounts. How Writ shall be addressed. Duty of Postmaster.

25 **2.** The nomination of candidates, and the taking and recording of the votes, at any election of a Member of the Legislative Council or Assembly, shall respectively take place on days to be fixed by the Speaker of the Legislative Council, if the election be that of a Legislative Councillor, or by the Speaker of the Legislative Assembly, if it be that of a Member of that House; and in the event of the absence or of vacancy in the office of the Speaker of the proper House, then by the Secretary of the Province. Days of nomination and polling to be fixed by Speakers:—
—Or Provincial Secretary

30 **3.** Notwithstanding anything to the contrary in section forty-three of the said Act, there shall be but one polling day for recording the votes of the electors at every election of a Legislative Councillor or of a Member of the Legislative Assembly. Only one polling day.

35 **4.** The day for the nomination of candidates, and the day for the taking and the recording of the votes, shall be stated in each Writ of Election, and shall be the same for all the Electoral Divisions which may then have to proceed to one of the periodical elections of Members of the Legislative Council, or to a general election of Members of the Legislative Assembly, subject always to the provisions of section seven of this Act. Nomination and polling days to be fixed in the Writs.

To be within certain periods.

5. The nomination of candidates shall be fixed to take place within twenty days from the date of the Writ of Election, and the day fixed for the taking and recording of the votes shall be within the days immediately following the nomination of the candidates.

Proclamation to issue within six days from receipt of Writ.

6. Notwithstanding anything to the contrary in the thirty-first section of the said Act respecting Elections of Members of the Legislature, the Returning Officer shall, within six days next after the reception of the Writ of Election, issue the Proclamation in the said section mentioned, stating the place, day and hour at which he will proceed to hold the election. 10

Nomination and election days in Gaspé, Chicoutimi and Saguenay

7. The three next preceding sections shall not apply to the election of Members of the Legislative Assembly for the Counties of Gaspé and of Chicoutimi and Saguenay, nor to the election of Legislative Councillors for any Electoral Division of which they form part, but the day fixed for the nomination of candidates at such elections will be within forty days from the date of the Writ, and the day for the taking and recording the votes of the electors within twenty days after the day fixed for the nomination of candidates, and the Returning Officer at any such election shall, within fifteen days next after the reception of the Writ of Election, issue the Proclamation mentioned in the thirty-first section of the said Act, stating the place, day and hour at which he will proceed to hold the election. 15 20

Posting up of Proclamation.

8. At all elections for a City or Town the Returning Officers shall cause the Proclamation mentioned in the two preceding sections to be posted up, as provided by the thirty-first section of the said Act; and at all elections for a County or Riding, or for an Electoral Division, for the Election of a Member for the Legislative Council, he shall without delay transmit by mail to one of the Postmasters in each Parish, Township, City or Town, in such County, Riding or Electoral Division, or to the nearest Postmaster, as many copies of said Proclamation as may be required to post up one copy of the same in some conspicuous place in his office, and also another copy in at least one other conspicuous place in such Township, City or Town, or Wards, if the same be divided into Wards, and it shall be the duty of such Postmaster to post up such Proclamations as aforesaid, and in Lower Canada a copy of the Proclamation shall be posted up at the door of at least one church or chapel or other place of public worship in such Parish, Township, City, Town or Ward, if the same be divided into Wards, and the expenses of so doing shall be paid by the Returning Officer, and allowed to him as part of his lawful expenses incurred for such election. 25 30 35 40

Penalty for not sending or not posting up the same.

9. Any Returning Officer refusing or neglecting to cause the proper number of copies of such Proclamation to be transmitted by mail to the several Postmasters in the County, Riding or Electoral Division, as hereinabove required, and any Postmaster refusing or neglecting to cause any copy or copies of such Proclamation to be posted up as hereinabove required, shall, for such neglect or refusal, incur a penalty of one hundred dollars. 45

Such posting to be sufficient.

10. The posting of the Proclamation aforesaid, as hereinbefore prescribed, shall be sufficient, and it shall not be necessary that any such Proclamation be posted up otherwise or for any longer period than the provisions above made will allow; and sub-sections seven and nine of section thirty-one of the said Act respecting Elections of Members of the Legislature are hereby repealed. 50

Part of sec. 31 repealed.

11. No show of hands shall be taken on the nomination day, notwithstanding anything contained in the thirty-fourth section of the said Act, and if at the nomination more than one candidate is proposed and a poll is then and there demanded by or on behalf of any two or more of the candidates proposed, the Returning Officer shall grant a poll for taking and recording the votes of the electors; Provided always, that such poll may be demanded by any candidate, or in writing by at least three electors on behalf of any one candidate. If only one candidate is proposed, or if a poll is demanded by or on behalf of only one candidate, then such candidate shall be declared duly elected, and when, at any such election, a poll is demanded by or on behalf of two or more candidates as aforesaid, if the Returning Officer neglects or refuses to grant the same, the election shall *ipso facto* be null, and such Returning Officer shall, for such refusal, incur a penalty of eight hundred dollars.

Shows of hands abolished.

In what cases a poll may be demanded and granted.

12. On the day fixed for taking the votes of the electors, the polls shall be opened at eight o'clock in the forenoon and shall be closed at five o'clock in the afternoon of such day.

Hours of voting.

13. Whenever the number of qualified electors, according to the voters' lists then in force, shall exceed three hundred, the Municipal Council of every City, Town or other Local Municipality shall, within three months after the passing of this Act, and afterwards, from time to time, as may be required, divide in the most convenient manner such City, Town or other Local Municipality into Electoral Sub-divisions, so that there shall be two such Sub-divisions if the number of electors be over three hundred and less than six hundred; three, if the number of electors exceeds six hundred and be less than nine hundred, and so on, adding one sub-division for every three hundred additional electors, and one for any fraction over a multiple of three hundred electors to be found on such lists as aforesaid; Provided always, that an appeal shall lie from such division at the instance of any five electors, which appeal shall be, in Upper Canada, to the County Judge, who shall correct such division in accordance with law; and in Lower Canada, to the County Council, as in the case of an appeal from a by-law of a local council, except in Cities and Towns, where the appeal shall lie to Judge of the Superior Court in term or in vacation; and in all cases such appeal must be made within one month;

Electoral sub-divisions.

Proviso. Appeals as to mode of division.

2. In case a Municipality is divided for electoral purposes under this or any other Act, the Clerk of the Municipality shall, in preparing the lists of electors required by law, divide such lists into as many parts as there are Electoral Divisions in the Municipality, and each part shall contain an Alphabetical List of the name of the electors in one of such Electoral Divisions.

Lists to be divided accordingly.

14. The Returning Officer, on receiving the Writ of Election, shall fix one polling place in every City, Town or other Local Municipality, according to the provisions of section thirty-eight of the said Act, and one polling place for each Sub-division into which such City, Town or other Local Municipality may have been sub-divided; Provided the number of polling places now required by law in Cities and Towns shall in no case be diminished, and that the polling places shall be at least two hundred yards distant from each other in Cities, Towns and incorporated Villages, and at least one-half of a mile distant from each other in other Local Municipalities.

Fixing of polling places

- 15.** On the requisition made at least one day before the polling day by any of the candidates, or their duly authorized agents, the Returning Officer shall direct the Deputy Returning Officers, or any of them, to provide for booths or compartments at any of the polling places, so that not more than one hundred and fifty electors may have to vote at 5 each booth or compartment; but the candidate, or the agent making such requisition, shall be liable for the expenses incident thereto, and shall tender at the time of making requisition a reasonable sum of money to cover such expenses.
- 16.** In case of failure on the part of any Municipal Council to divide 10 any City, Town or other Local Municipality into Electoral Sub-divisions, proportioned to the number of electors, as provided by the thirteenth section of this Act, or in case the delay to appeal from the division should not have expired before the reception of the Writ, the Returning Officer shall provide for as many booths or compartments 15. for polling the votes of the electors at the several polling places in such City, Town or other Local Municipality, as shall correspond as nearly as may be, with the number of polling places which would have been required if the said City, Town or other Local Municipality had been sub-divided into the proper number of Electoral Sub-divisions; 20
- 2.** Whenever separate booths shall have been provided for, at any polling place, a copy or duplicate of the voters' list required by law shall be furnished for each booth, and the Deputy Returning Officers shall make such arrangements as to enable all voters whose surnames shall begin with the same letter of the alphabet, to record their votes 25. in the same booth or compartment, as nearly as may be consistent with such arrangement, the number of votes to be polled at each booth shall be as hereinbefore provided.
- 17.** In all cases in which a polling place shall be divided into several booths or compartments, the Returning Officer shall appoint such num- 30. ber of Deputy Returning Officers as he may find necessary to carry on the election properly.
- 18.** The electors shall only vote at the polling place established for the sub-division wherein the property on which they are qualified to vote is situated. And if the polling place is divided into separate 35. booths, then in the booth or compartment assigned to that portion of the voters' lists on which their name is to be found.
- 19.** The several Deputy Returning Officers shall, on or before the third day next after the close of the polls, transmit the poll-books to the Returning Officer in the manner provided for by law. 40.
- 20.** The fourth and fifth sub-sections of section forty-two of the said Act are hereby repealed, and no day for the closing of the election shall be fixed by the Returning Officer; nor shall there be any public and open proclamation of the candidate or candidates elected, and so much of the sixty-fifth section, or any other part of the said Act as 45. requires such proclamation, or the counting of votes in the presence of the electors, or as refers to any adjournment for that purpose, or as depends on the fixing of the day for closing the election, is hereby repealed; and the Returning Officer shall, so soon as he shall have received all the poll-books used at the election, ascertain in the manner 50. provided by law, the total number of votes taken and received for each candidate at the election at all the polling places, as certified and sworn to by the several Deputy Returning Officers, and shall within forty-

eight hours thereafter, make and transmit by mail, his return to the Clerk of the Crown in Chancery, and he shall also, upon application, deliver to each of the candidates or their agents, or if no application be made, he shall, within the same delay, transmit by mail to each candidate, a duplicate of such Return, which duplicate shall stand in lieu of the Indenture required by the sixty-seventh section of the said Act, which is hereby repealed; Provided always, that the powers and duties of the Returning Officer, or of any other person under the sixth-eighth, sixty-ninth and seventieth sections of the said Act, shall not be affected by the abolition of the day of closing the election, or by any other provision of this Act, and the ten days limited by section seventy for depositing copies of poll-books in the office of the proper Registrar of deeds and titles, shall be reckoned from the date of the Return.

To give
Returning-officer to transmit his return.

Proviso.

21. The provisions of the following four sections shall only apply to Lower Canada.

Application of four following sections.

22 Notwithstanding anything contained in the ninth section of the said Act, except in places where, by law, assessments are levied on the annual value of real estate, it shall not be necessary to insert such annual value in the Assessment Roll, and such annual value shall not form the basis of the qualification of the electors.

Qualification of electors.

23. The Local Councils shall not, on revising the lists of electors, amend them with regard to the valuation of any real estate in the municipality; they shall only have the power to make such corrections and changes of the names of the proprietors, tenants and occupants of property as the circumstances of each case may require.

Revision of lists.

24 No person shall be entered on the lists of electors as proprietor, tenant or occupant of any real estate which is by law or by any Municipal by-law exempted from the payment of municipal taxes, whatever may be the amount at which such real estate may be valued.

Cases of exemption from Municipal taxation.

25. The Secretary-Treasurer, or other Municipal officers in charge of the voters' list in force in each Municipality where the assessments are not levied on the annual value of real estate, shall, on or before the fifteenth day of August next, or whenever required to deliver to the Returning Officers or their Deputies, copies of the lists of electors for purposes of an election, strike off from such lists, and from the copies to be delivered, the names of the persons entered thereon as proprietors, tenants or occupant of real estate, the real value of which, by the valuation roll, is shown to be less than two hundred dollars; and every Secretary-Treasurer or other municipal officer who shall strike off from such list any name which should not have been struck off, shall incur a penalty of ten dollars for every name so illegally struck from said list or left on it.

Duties of Secretary-Treasurers.

Penalty.

26. It is hereby declared and enacted, that the lists of voters require by the "Act respecting Election of Members of the Legislature," to be used at any election of a Member to serve in the Legislative Council or Assembly; in any Municipality in Upper Canada, shall be held to be the last list of voters which shall have been, at least one month before the date of the writ to hold such election, according to law completed and delivered by the Clerk of such Municipality to the Clerk of the Peace for the County or union of Counties within which such Municipality lies.

What list of voters shall be used at elections.

Duty of Clerks of the Peace.

2. In case the Clerk of any Municipality does not complete and deliver the list of voters duly certified, by the first of October in each year, it shall be the duty of the Clerk of the Peace forthwith to apply summarily to the County Judge or acting Judge of the County Court in Upper Canada to enforce the completion and delivery of such list. 5

Application to County Judge.

3. The application may also be made by any person entitled to be named on such list as an elector.

Duty of County Judge.

4. The Judge shall, on such application, require the Clerk of the Municipality, and any other person he sees fit, to appear before him and produce the Assessment Roll and any other documents relating thereto, and to submit to such examination on oath as may be required of him or them, and the Judge shall thereupon make such orders and give such directions as he may deem necessary or proper for enforcing the completion and delivery of the list without any avoidable loss of time. 10

Liability of Clerk of Municipality.

5. The Clerk of the Municipality shall be personally liable for and shall pay the costs of the proceedings, unless on some special grounds the Judge shall see fit to order otherwise, and in such special case the costs shall be in the discretion of the Judge. 15

Effect of Judge's order.

6. Such proceeding and such order of the Judge of the County Court, shall not in anywise exonerate or release the Clerk from liability to the penalty imposed by section six of the said Act, for neglect or refusal to complete the list as therein mentioned. 20

Paragraph 3 of Sec. 4 of Cap. 6 Con. Stat. of Canada repealed and new one substituted.

27. The third sub-section of the fourth section of chapter six of the Consolidated Statutes of Canada is repealed, and the following is substituted therefor; 25

"3. Whenever two or more persons, whether as being partners in business, joint tenants or tenants in common, are 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 in respect of such property, if the value of his part or share would be sufficient to entitle him to vote at any election for Members to represent in the Legislative Council or Assembly the electoral division within which such property is situate, if such property were assessed in his individual name; except that if the property be held by any body corporate, no one of the members thereof shall be entitled to vote or be entered on the list of voters in respect of such property; and for the purposes of this section the parties assessed as aforesaid shall be presumed to be equally interested in such property, unless the contrary be shewn." 30

"Where the parties assessed are or are presumed to be equally interested as aforesaid, and such property is not assessed at an amount sufficient, if equally divided between the parties assessed, to give a qualification to each of them, none of them shall be deemed entitled to vote." 40

Application of Sec. 5 of said Act.

28. The sixth sub-section of section five of the said Act shall apply to Upper Canada. 45

29. The oath to be taken by voters under the fifty-fourth section of New form of
oath under
Sec. 54. the said Act shall be in the form following, to wit:

“You swear (or solemnly affirm), that you are (*name of voter as*
 “*entered on the list*), whose name is entered on the list of voters now
 5 “shewn to you (*showing the list to the voter*), that you were justly
 “entitled as owner (*or as tenant or occupant, as the case may be*), name
 “as a voter in the said list, and had in good faith the property qualifi-
 “cation in respect of which your name appears as such voter on the
 10 “said list; that you are a subject of Her Majesty by birth (*or natural-*
 “*isation*); 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 poll-
 “ing place, and that you have not received anything, nor has anything
 “been promised to you, either directly or indirectly, in order to induce
 “you to vote at this Election. So help you God.

15 30. All the provisions of the said Act respecting Elections of Mem- Application
of existing
laws:
 bers of the Legislature not inconsistent with this Act, shall apply to the
 additional polling places to be established under this Act; and to all
 proceedings and matters under it; and so much of the said Act and of
 any other Act as may be inconsistent with this Act, is hereby repealed,
 20 and this Act shall be construed as one Act with the said Act, any cita-
 tion whereof shall be understood as meaning the said Act as hereby
 amended.