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BILL.

An Ordinance to prescribe and regulate the election and appointment of certain Officers, in the several Parishes and Townships in this Province, and to make other provisions for the local interests of the Inhabitants of these Divisions of the Province.

1842

Edwards

Redates



BILL.

An Ordinance to prescribe and regulate the election and appointment of certain Officers, in the several Parishes and Townships in this Province, and to make other provisions for the local interests of the Inhabitants of these Divisions of the Province.

WHEREAS it is expedient and necessary, for the attainment of the ends of good government, and for the due execution of the laws, that certain Officers, charged with local duties, should be elected and appointed, in and for the several Parishes and Townships in this Province, and that other provisions should be made for the better protection, care, and management of the local interests of the inhabitants of these minor divisions of the Province; Be it therefore enacted, &c. That it shall and may be lawful for each and every of the Wardens to be appointed in the several Districts in this Province, by Warrant under his hand and seal, to authorize and require one of the Justices of the Peace, or some other discreet and competent person in the said Districts respectively, after eight days' notice in this behalf, to assemble and cause to be assembled, the Inhabitant House-holders of the several Parishes and Townships, and reputed Parishes and Townships, in the said Districts respectively, who shall and may have the qualifications herein after mentioned, on a certain day, and at some convenient place, within such local divisions respectively, for the purpose of electing the officers herein after mentioned, to serve in the said Parishes and Townships, and reputed Parishes and Townships, respectively, till the second Monday in the month of January, which will be in the year one thousand eight hundred and forty-two, and until other officers shall have been elected, appointed, and sworn, in their places.

II. And be it further ordained and enacted, That the Warden of each and every of the said Districts shall and may, in like manner, from time to time, by Warrant under his hand and seal, authorize and require, one of the Justices of the Peace, or some other discreet and competent person, in the said Districts respectively, on the second Monday in the month of January, which will be in the year one thousand eight hundred and forty-two, and on the same day in each succeeding year, to assemble, and cause to be assembled, the Inhabitant House-holders of the Parishes and Townships, and reputed Parishes and Townships, in such districts respectively, who shall and may have the qualifications herein after mentioned, at some convenient place, within the local divisions aforesaid, respectively, for the purpose of electing the officers herein after mentioned, to serve in the said local divisions respectively, till the second Monday, in the month of January, in the next succeeding year, and until other officers shall have been elected, appointed, and sworn in their places.

III. And be further ordained and enacted, that the Inhabitant House-holders, to be assembled as aforesaid, shall be severally seized and possessed to their own use, in free-hold, or under a certificate, or location ticket, derived from the authority of the Governor and Council of this Province, of lands and tenements within such Parish or Township, or reputed Parish or Township, of the yearly value of forty shillings, sterling, or upwards, over and above all rents and charges payable out of or in respect of the same, or shall have become and be severally possessed, as lessees, for a term not less than years, of lands and tenements within such local divisions, respectively, at and for an annual rent or consideration not less than pounds, sterling, of which one year's rent or consideration shall have been paid before the holding of such election; and the said Inhabitant Householders, to be assembled as aforesaid, shall also have been resident within such local divisions respectively, during one year next before such election.

IV. Provided always, and be it further ordained and enacted, that when and so soon as any rate or rates, assessment or assessments, shall be laid, by competent authority, within any such Parish or Township, or reputed Parish or Township, no such Inhabitant Householder, as aforesaid, shall be entitled to vote, at the election of any of the officers hereinafter mentioned, or of any other officer, within such Parish or Township, or reputed Parish or Township, unless he shall have been rated to and in respect of the rates or assessments, to be laid as aforesaid, and unless he shall have paid the amount of all such rates and assessments, as may have become due and payable by him, before the holding of any such election.

V. Provided also, and be it further ordained and enacted, that no person shall be capable of voting, or of being elected, at any such election as aforesaid, who shall not be of the full age of twenty-one years, and a natural born subject of Her Majesty, or a subject of Her Majesty, naturalized by act of the Parliament of the United Kingdom of Great Britain and Ireland, or

by act of the Legislature of Lower Canada, or of the Province of Canada.

VI. Provided also, and be it further ordained and enacted, that no person being in Holy Orders, or being a Minister or Teacher of any dissenting or religious sect or congregation, or any Judge or Clerk of any Court of Justice, or any Military, Naval, or Marine Officer, in Her Majesty's service on full pay, shall be elected to or for any of the offices aforesaid; nor shall any licensed School Master, or practising Physician, or any Miller, when the only Miller in any Mill, nor any person of sixty five years of age, or upwards, nor any person who shall have served any of the offices aforesaid, or paid a fine for not accepting the same, within the period of five years immediately preceeding any such election, be held or bound, without his consent, to accept or execute any of the said offices.

VII. Provided also, and be it further ordained and enacted, that no person shall be capable of voting at any such election, to be held as aforesaid, or of being elected at the same, who shall have been attainted for Treason or Felony, in any Court of Law, within any of Her Majesty's dominions.

VIII. And be it further ordained and enacted, that the Justice of the Peace, or other person, by whom the Inhabitant House-holders shall be assembled as aforesaid, shall preside at the meeting of the said Inhabitant House-holders, to be held as aforesaid, and shall have the like authority, to preserve order, enforce obedience, administer oaths, and commit for a contempt of his authority, as belongs, or shall or may belong, to any Returning Officer, at an election of a Member to serve in the Legislative Assembly of this Province, or in which this Province may be represented.

IX. And be it further ordained and enacted, that it shall be lawful for the said Inhabitant House-holders, or the greater part of them, so assembled and qualified as aforesaid, within the local divisions aforesaid, or any of them, to choose one fit and proper person, from among the Inhabitants of such Divisions respectively, to be Clerk of the Parish, or Township, or reputed Parish or Township, in which such election shall be had; and it shall be the duty of the Clerk so elected, to make and preserve minutes of the proceedings of the meetings of the local division aforesaid, for which he shall be Clerk as aforesaid, and to transcribe the same in a Book, to be kept for that purpose, in which shall be entered and recorded all matters relating to such local division, which it shall appertain to his office to record; and the said Clerk shall have the custody of all records, books, documents, and papers belonging to the local division of which he shall be Clerk as aforesaid.

X. And be it further ordained and enacted, that it shall be lawful for the said Inhabitant Householders, or the greater part of them, assembled and qualified as aforesaid, within the local divisions aforesaid, or any of them, in like manner, to choose, from among the inhabitants of such divisions, respectively, three fit and proper persons, to serve the office of Assessors, for such local divisions respectively, who shall assess all such rates and taxes, as shall be imposed by any act or acts of the Legislature of this Province, or by other competent authority, and be payable by the inhabitants thereof: and in like manner to choose one fit and proper person, to be Collector for the Parish or Township, or reputed Parish or Township, in which the said Inhabitant House-holders shall be assembled as aforesaid; and it shall be the duty of such Collector, to demand and receive, from the Inhabitant House-holders of the local division for which he shall have been elected Collector as aforesaid, all public assessments and rates, due and payable within such division; and he shall account for, and pay over, the monies so received by him, in such manner as shall be directed by law: and it shall be lawful for the said Inhabitant Householders, in like manner, to choose one or more fit and proper persons, to be Surveyor or Surveyors of Highways and Bridges, two or more Overseers of Highways, one or more fit and proper persons, to be Overseers of the Poor, two or more Fence-viewers and Inspectors of Drains, and one or more Pound-keeper or Pound-keepers, within the said local divisions, respectively. Provided always, that it shall be lawful to elect the same person or persons, to fill one or more of the said offices of Overseer of the Poor, Overseer of Highways, and Fence-viewer and Inspector of Drains, at the same time, as to the majority of the said Householders, assembled and qualified as aforesaid, shall seem expedient.

XI. And be it further ordained and enacted, that it shall be lawful for the Justice of the Peace, or other person, presiding at any such meeting of the Inhabitant Householders, as aforesaid, at which the officers aforesaid shall have been elected, and such Justice or other person is hereby authorized and required, to administer an Oath of Office, to each of the persons so elected as aforesaid, to the effect following, to wit:—"You, A. B., do promise and swear, that you will faithfully, diligently, and justly serve and perform the office and duties of _____, for _____ according to the best of your ability.—So help you God." And every person, who shall be elected to one of the offices aforesaid, shall, after having taken the said Oath, be held to be legally appointed to such office, and subject to the duties thereof.

XII. And be it further ordained and enacted, that every person who shall be elected to any of the offices aforesaid, shall, within five days after his election, accept such office, and take the Oath aforesaid, before the Justice of the Peace, or other person, who shall have presided at such meeting as aforesaid, or before the Clerk of the Parish or Township, or reputed Parish or Township, in which such election shall have been had, each and every of whom are hereby authorized to administer the same, and in default thereof shall forfeit and pay the sum of two pounds, current money of this Province, to be levied by distress and sale of his goods and chattels, in virtue of a warrant under the hand and seal of any Justice of the Peace for the District, within which such election shall have taken place; which warrant such Justice is hereby empowered to grant, upon complaint or information before him, and after conviction of the person so making default, by confession, or on the oath of one or more credible witness or witnesses, other than the informer; and the said sum so forfeited shall be paid, one half to the informer, and the other half into the hands of the Treasurer of the District, in which the said election shall have been had, towards the public stock of the said District.

XIII. And be it further ordained and enacted, that it shall be lawful for any two or more of the Justices of the Peace, for the District in which any person so elected to office shall refuse or neglect to accept the same, and take the Oath of Office as aforesaid, at a Special Session to be held for that purpose, to appoint a fit and proper person or persons, to serve in the place of the person or persons, who shall have so refused or neglected; and if the person or persons so appointed by such Justices shall not, within five days after notice of his or their appointment as aforesaid, accept the office or offices to which he or they shall have been so appointed, and take the Oath aforesaid, each and every of such persons severally shall forfeit the sum of two pounds current money of this Province, to be levied, paid, and applied, in the manner herein before provided, in the case of the person elected to one of the offices aforesaid refusing or neglecting as aforesaid. And in all cases where the person or persons, so appointed by such Justices, shall refuse or neglect to accept the office or offices, to which he or they shall have been so appointed, and take the oath aforesaid, it shall be lawful for the said Justices, to appoint another person or persons, in his or their place, and repeat such appointments, until such office or offices shall be accepted, and the oath aforesaid taken; and to enforce their authority in this respect, by the imposition of the Penalty aforesaid, to be levied as aforesaid, in case of each successive refusal or neglect to accept such office or offices, and take the oath aforesaid.

XIV. And be it further ordained and enacted, that if any Parish or Township, or reputed Parish or Township, shall neglect or omit, at the meeting to be held for that purpose as aforesaid, to choose the said officers, to be chosen as aforesaid, or any of them, it shall be lawful for any two or more of the Justices of the Peace for the District, in which such neglect or omission shall have occurred, at a Special Session to be held for that purpose, to appoint the said officers, or such of them as the said Parish or Township, or reputed Parish or Township, shall have neglected or omitted to elect: and such officers so appointed shall hold their offices, until others are chosen or appointed in their places, and shall have the same powers, and be subject to the same duties and penalties, as if they had been duly chosen by the Inhabitant Householders. And if any of the persons, so appointed by the said Justices as last aforesaid, shall refuse or neglect to accept the offices, to which they shall have been appointed as last aforesaid, they shall severally incur the same penalties, as are herein before provided, in the case of persons elected as aforesaid refusing or neglecting to accept the offices to which they have been elected, to be levied, paid, and applied in manner aforesaid; and it shall be lawful for the said Justices to make successive appointments, in like manner as herein before provided, until such offices shall have been accepted, and the oath aforesaid taken.

XV. And be it further ordained and enacted, that if any of the said officers, to be elected or appointed as aforesaid, shall, after having accepted the said offices, or any of them, die, or remove from the Parish or Township, or reputed Parish or Township, for which they have been elected or appointed, or become incapable of discharging the duties of the said offices, it shall be lawful for any two or more of the Justices of the Peace for the District, in which such vacancy, removal, or incapacity shall occur, at a Special Session to be held for that purpose, to supply the place or places of such officers, respectively, in the same manner as is herein before provided, in the case of a neglect or omission to elect such officers, and under and subject to the same provisions.

XVI. Provided always, and be it further ordained and enacted, that it shall not be lawful to hold any meeting, for the election of any of the officers aforesaid, in any Parish or Township, or reputed Parish or Township, in which the population shall not exceed the number of three hundred souls; and that the inhabitants of every such local division, in which the population shall not exceed that number, shall be joined to, and be reputed and taken to be inhabitants of the Parish or Township adjacent thereto, which shall contain the

smallest number of inhabitants: and, in like manner, the inhabitants of any tract of country or place, not included in any Parish or Township, or reputed Parish or Township, shall be joined to, and be reputed and taken to be inhabitants of the Parish or Township, or reputed Parish or Township adjacent thereto, which shall contain the smallest number of inhabitants.

XVII. And be it further ordained and enacted, that every person, who shall be elected or appointed to the office of Collector of a Parish, or Township, as aforesaid, shall, within eight days after his election or appointment to that office, and before he enters on the duties thereof, make and execute, to and in favour of the Treasurer of the District, within which such Parish or Township shall be situated, for the time being, a Bond, jointly and severally with two sureties, to be approved by such Treasurer, in the sum of £200 current money of this Province, the condition of which Bond shall be, that such Collector shall duly pay and account for all monies, that shall come into his hands, as such Collector, and faithfully discharge the duties of the said office. And if any person, who shall be elected or appointed Collector as aforesaid, shall not make and execute a Bond with sureties as aforesaid, within the time limited as aforesaid, such neglect or omission shall be held and taken to be a refusal to serve the said office, and shall subject the person so neglecting, to the same penalty as is herein before provided, in case of non-acceptance or refusal of the said office, to be recovered, paid, and applied in the manner herein before provided.

XVIII. And be it further ordained and enacted, that each and every of the Parishes and Townships, and reputed Parishes and Townships, in this Province, shall for civil purposes be, and is hereby constituted, a Body Corporate, and as such shall be capable of suing and being sued, and of purchasing and holding lands and tenements situated within the limits of such Parish or Township, or reputed Parish or Township, for the use of the inhabitants thereof.

XIX. And be it further ordained and enacted, that actions, to be brought by any Parish or Township, or reputed Parish or Township, shall be brought in the name of such Parish or Township; and in actions to be brought against any Parish or Township, the service of process on the Clerk of such Parish, or Township, shall be held to be legal and sufficient; and it shall be lawful for any Parish or Township, in its corporate capacity, at a General or Special Meeting to be convened as herein after mentioned, by a resolution or resolutions in this behalf, to be adopted at such meeting, and to be entered on the minutes of the proceedings thereof, to appoint an Attorney or Attornies, to act for and represent such Parish or Township, or reputed Parish or Township.

XX. And be it further ordained and enacted, that it shall be lawful for the Inhabitant Householdors of the several Parishes and Townships, or reputed Parishes or Townships in this Province, at their General Meetings, to be convened by one of the Justices of the Peace, or other person, as aforesaid, or at special meetings, to be convened in like manner, by a Justice of the Peace, or other person, by and under the authority of the Governor of this Province, for the time being, to exercise the corporate powers with which they are invested as aforesaid, and to make such regulations as they may deem proper, for the management of any commons, lands, or property, which may belong to such parishes or townships respectively, in their corporate capacities, and for the establishment of pounds for impounding cattle therein, at such places as they may think fit, and for determining the times and manner in which cattle, horses, or sheep, shall be permitted to go at large on highways, and for determining and ascertaining the sufficiency of all fences in such Parishes or Townships, respectively: and the said Inhabitant Householdors, assembled as aforesaid, shall also have power, at the said meetings, to direct such sum of money to be raised on any such parishes or townships, respectively, as they may deem necessary, for the prosecution or defence of any action, in which the said parishes or townships, respectively, may be parties, or interested; and also to impose such penalties, on persons offending against any such rule or regulation, established at such meetings, as they may think proper, not exceeding fifty shillings, current money of this Province, and to provide for the recovery of such penalties, and the application of them when recovered, in such manner as they may deem expedient. Provided always, and be it further ordained and enacted, that it shall not be lawful for any Parish or Township, or reputed Parish or Township, to exercise any other powers of a Corporation except such as are herein before mentioned, or such as shall be specially conferred by the Legislature of this Province, or such as shall be necessary for the due execution of the powers herein before granted.

XXI. And be it further ordained and enacted, that parish and township meetings, to be held as aforesaid, shall be held in the day time only, between the rising and the setting of the sun, and shall in no case be adjourned to the next or any other day.

XXII. And be it further ordained and enacted, that the minutes of the proceedings of every Parish or Township meeting, to be held as aforesaid, shall be subscribed by the Justice of the Peace, or other person, presiding at the time, and by the Clerk

of the Parish or Township in which such meeting shall be held; and the said minutes shall be deposited and filed in the office of such Clerk, within two days after any such meeting.

XXIII. And be it further ordained and enacted, that when and so soon as the term, for which any of the officers aforesaid shall have been elected or appointed as aforesaid, shall expire, or any such officer shall cease to hold his office, he shall, on demand, deliver to his successor, on oath to be made before a Justice of the Peace for the District in which the vacancy of office shall have occurred, all and every the books, muniments, accounts, documents and papers in his custody, as such officer, or in any way appertaining to his office.

XXIV. And be it further ordained and enacted, that upon the death of any of the officers, to be elected or appointed as aforesaid, his heirs, executors, curators, or administrators shall, in like manner, on demand, deliver to the successor in office of such officer, on oath to be made before a Justice of the Peace for the District, in which such officer acted as such, all books, muniments, accounts, documents and papers in their possession, or in the possession of any of them, or within their or any of their power or controul, belonging to the office held by such deceased officer, or whereof he was in any manner possessed, in his official capacity.

XXV. And be it further ordained and enacted that if any person going out of office as aforesaid, or his heirs, executors, or curators, shall refuse or neglect, on demand as aforesaid, to deliver up all such books, muniments, accounts, documents and papers as aforesaid, he or they shall forfeit to the Parish or Township in which such refusal or neglect shall have occurred, the sum of fifty pounds, current money of this Province, to be recovered at the suit of such Parish or Township, in its corporate name, or at the suit of the Clerk of the said Parish or Township, in the name and on the behalf, and to the use of such Parish or Township, in any Court of Record in this Province.

XXVI. And be it further ordained and enacted, that the successor of any person, so going out of office as aforesaid, who shall refuse or neglect, or the heirs, executors, or curators of whom shall neglect, to deliver up all such books, muniments, accounts, documents, and papers, on demand, as aforesaid, shall and may be entitled to, and have Process of Attachment, or *Saisie Re-ventidation*, in an action of *Reventidation*, for the recovery thereof, in like manner as this remedy may be had and used, in this Province, in ordinary cases, by the proprietor or alleged proprietor of goods and chattels, for the recovery thereof, and shall and may recover damages in the said action, for the wrongful detention of the said books, muniments, accounts, documents, and papers, or any of them, which damages, when received by the plaintiff in any such action, shall by him be paid over to the Treasurer of the District, in which such wrongful detention shall have taken place, to make part of the public stock of the said district.

XXVII. And be it further ordained and enacted, that from and after the first election and appointment of Parish and Township Officers, to be had and made as aforesaid, in pursuance of this Ordinance, so much of an Act of the Legislature of this Province, passed in the thirty-sixth year of the Reign of His late Majesty King George the Third, intituled "An Act for making, repairing, and altering the Highways and Bridges within this Province, and for other purposes," and so much of a certain Ordinance of the Legislature of this Province, passed in the second year of Her Majesty's Reign, intituled, "An Ordinance to amend the Act passed in the thirty-sixth year of the Reign of King George the Third, chapter nine, commonly called "the Road Act," as provide for the appointment, by the Grand Voyer, of a Surveyor and Surveyors of Highways and Bridges in each Parish, Seigniority and Township within his District, and for the election of Overseers of Highways, in the Parishes, Seigniorities, and Townships, in this Province, in the month of October in each year, and also so much of another Act of the Legislature of this Province, passed in the sixth year of the Reign of His late Majesty King William the Fourth, intituled, "An Act to repeal a certain Act therein mentioned and more effectually to remedy divers abuses prejudicial to agriculture," as provides for the election of Fence-viewers, and Inspectors of Drains, in the Parishes, Seigniorities and Townships in this Province, and for the appointment of Pound-keepers in the town of Three Rivers, and in the Borough of William Henry, and in certain Villages in this Province, and in the Divisions of the several Parishes, Seigniorities and Townships, in this Province, shall be and the same are hereby repealed; and all and every the powers, authorities and duties which, in and by the said three last mentioned Laws, have been and are vested in the Surveyor and Surveyors of Highways and Bridges, Overseers of Highways, Fence-viewers, Inspectors of Drains, and Pound-keepers, respectively appointed and elected, or to be appointed and elected, under and in pursuance of the said three Laws, shall from and after the first election or appointment of Parish and Township Officers, to be had and made in pursuance of this Ordinance, become and be vested in, and imposed on, the Surveyor or Surveyors of Highways and Bridges, the Overseers of Highways, Fence-viewers, Inspectors of Drains, and Pound-keepers, to be elected or appointed in pursuance of the provisions in this Ordinance

contained, to be by them respectively exercised and fulfilled according to law.

XXVII. Provided always and be it further ordained and enacted, that nothing in this Ordinance contained shall extend, or be construed to extend, to those parts of the parishes of Quebec, St. Roch and Montreal, which are comprehended within the Cities of Quebec and Montreal, respectively.

XXIX. And be it further ordained and enacted, that the words "Governor of this Province," wherever they occur in the foregoing Enactments, are to be understood as meaning and comprehending the Governor, or the person authorized to execute the Commission of Governor, within this Province, for the time being.

XXX. And be it further ordained and enacted, that this Ordinance, and the provisions herein contained, shall not cease or expire, on the first day of November, which will be in the year of our Lord one thousand eight hundred and forty-two, but shall be and remain a permanent Law, and in full force, until the same shall be repealed, or altered, by competent Legislative authority.

