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[No. 192.]

5th Session, 8th Parliament, 29-30 Victoria, 1866.

BILL.

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

**Received and read first time, Tuesday, 3rd
July, 1866.**

Second reading, Thursday, 5th July, 1866.

Hon. Mr. ATTY. GENL. MACDONALD.

Printed by G. E. DESBARATS.

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.** No show of hands shall be taken on the nomination day, notwithstanding anything contained in the thirty-fourth section of the Act Chapter Six of the Consolidated Statutes of Canada, intituled : *An Act respecting Elections of Members of the Legislature*, and if at the nomination more than one candi- No show of hands required.
 10 date is proposed and a poll is then and there demanded by or on behalf of any one or more of the candidates proposed, the Poll.
 Returning Officer shall grant a poll for taking and recording the votes of the electors.

15 **2.** Whenever the number of qualified electors within any municipality, ward, or other electoral division, according to the voters' lists then in force, shall exceed five hundred, the Municipal Council of the City, Town, or other Local Municipality having jurisdiction over the locality shall, within three months after the passing of this Act, and afterwards, from time to time, Division of electoral divisions into polling divisions.
 20 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 five hundred and less than nine hundred, three, if the number of electors exceeds nine hundred Appeal as to such division.
 25 and be less than thirteen hundred, and so on, adding one sub-division for every four hundred additional 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, Appeal as to such division.
 30 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 a Judge of the Superior Court in term or in vacation ; and in all cases such appeal
 35 must be made within one month.

3. In case a Municipality is divided for Electoral purposes, under this or any other Act, the Clerk of the Municipality shall, List of electors for each

polling division. 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 names of the electors in one of such electoral divisions.

4. 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 Subdivision into which such City, Town or other Local Municipality may have been subdivided; 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 three miles distant from each other in other Local Municipalities.

5. In case of failure on the part of any Municipal Council to divide any City, Town or other Local Municipality into Electoral Subdivisions, proportioned to the number of electors, as provided by the third section of this Act, or in case the time to appeal from the division should not have expired before the reception of the Writ, the Returning Officer shall provide for as many polling places for polling the votes of the electors, 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.

6. Whenever Electoral Sub-divisions shall have been established by the Municipal Council or shall have been provided for by the Returning Officer, a copy or duplicate of the voters' list or so much thereof as is required for the sub-division, shall be furnished for each polling place appointed therefor; and the Returning Officer in Cities and Towns shall make such arrangements as to enable all voters whose surnames shall begin with the same letter of the Alphabet, to record their votes at the same polling place as nearly as may be consistent with such arrangement, but in Townships and parishes the arrangement shall be by sub-dividing the locality by well established boundaries (such as concession lines and side lines) so that the number of votes to be polled at each polling place shall, as nearly as may be, agree with the rule laid down in section three of this Act.

7. In all cases in which additional polling places are appointed, the Returning Officer shall appoint such number of Deputy Returning Officers as he may find necessary to carry on the election properly.

8. The electors of Township and Parishes shall only vote at the polling place established for the sub-division wherein the property on which they are qualified to vote is situated ; but in Cities, Towns and Wards the Electors shall vote according to the alphabetical order arranged by the Returning Officer for each of the polling places.

Where Electors shall vote.

9. 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.

Transmission of poll-books.

10. 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 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 provided by law, the total number of votes taken and received for each candidate at the election, 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 period, 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 sixty-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.

No day to be fixed for closing the election, nor any proclamation, &c.

Ascertaining and notifying result of election.

No Indenture requisite, &c.

11. It is hereby declared and enacted, that the lists of voters required by the " Act respecting Elections 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, is and 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 lists of voters shall be used.

Provisions
for enforcing
the making of
the lists.

1. In case the Clerk of any Municipality does not complete or 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

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

3. 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 15

4. 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 ; 20

5. 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. 25

Sub-section
3 of Sect. 4,
of Cap. 6, Con.
Stat. Canada,
repealed, and
new provisions
substituted.

As to parties
holding prop-
erty in com-
mon.

12. The third subsection of the fourth section of chapter six of the Consolidated Statutes of Canada is repealed, and the following is substituted therefor ;

“ 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 purpose of this section the parties assessed as aforesaid shall be presumed to be equally interested in such property, unless the contrary be shewn.” 30 35 40 45

“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,
 5 “none of them shall be deemed entitled to vote.”

13. The sixth subsection of section five of the said Act shall apply to Upper Canada. Sub. s. 5 of s. 6 extended to U. C.

14. All the provisions of the said Act respecting Elections of Members of the Legislature not inconsistent with this Act, Certain provisions to apply, &c.
 10 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, and this Act Repeal of inconsistent enactments, &c.
 15 shall be construed as one Act with the said Act, any citation whereof shall be understood as meaning the said Act as hereby amended.