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1st Session, 4th Parliament, 16 Victoria, 1862.

BILL.

An Act to prevent the effect of Fraudulent Elections of Municipal Councillors in Lower Canada.

Received and read a first time, Tuesday, 7th
September, 1862.

Second reading, Thursday, 9th September,
1862.

Mr. TACHÉ.

QUEBEC :

PRINTED BY JOHN LOVELL, MOUNTAIN STREET.

BILL.

**An Act to prevent the effect of Fraudulent Elections of
Municipal Councillors in Lower Canada.**

WHEREAS Elections of Municipal Councillors have been
carried by surprise and fraud, with the intention of pre-
venting the free exercise of the election franchise by the Municipal
Electors, and for the attainment of private ends; Be it therefore
5 enacted, &c.,

Preamble.

That the Circuit Court sitting as a Court of Review under the pro-
visions of the Lower Canada Municipalities Act, intituled, "*An*
10 "*Act to make better provision for the Establishment of Municipal*
"*Authorities in Lower Canada,*" is and shall be a competent tribu-
nal for the purposes of this Act, and the said Court is hereby
required to hear, try and determine all complaints that may be
brought before it under this Act.

Circuit Court
to try cases
under this Act.
10 and 11 Vic.,
c. 7, cited.

11 II. That any Municipal Councillor whose election shall have
been carried by fraud or surprise, and contrary to the intention of
the Municipal Act above cited, and the other Laws regulating the
constitution and conduct of the Municipal Institutions in Lower
Canada, or any person usurping the functions of Municipal Coun-
cillor, or detaining the office of Municipal Councillor, and by detain-
15 ing the same, preventing, actively or passively, the election of a
Councillor or Councillors in any Parish or locality, may be proceeded
against by any rate-payer in the Municipality concerned, before
the Circuit Court at the place of sitting thereof nearest to his resi-
dence, for the purpose of obtaining against such Councillor or
pretended Councillor a judgment declaring his election, or his
20 detention of the office of Municipal Councillor illegal and fraudu-
lent, and his seat vacant, which Judgment shall be rendered
with costs against the unsuccessful party.

Persons
usurping the
office of
Municipal
Councillor
may be
proceeded
against at law.

25 III. That the default to appear, or the verbal admission of such
Councillor or pretended Councillor, shall be deemed to be to all
intents and purposes a confession of Judgment, authorizing the

Default, &c.,
to be a
confession of
judgment.

said Court such seat vacant, and to give judgment against the defendant with costs.

Circuit Court to be governed in its proceeding by 12 V., c. 41.

IV. That the said Circuit Court shall be governed in its proceedings in any such matter by the rules laid down for the Superior Court by the Act intituled, "*An Act to define the mode of proceeding before the Courts of Justice in Lower Canada in matters relating to the protection and regulation of corporate rights, and to writs of prerogative, and for other purposes therein mentioned,*" and is hereby invested with the same powers and authority as the said Superior Court, for the purposes of this Act as aforesaid. 5 10

Electors may proceed to elect another Councillor.

V. That it shall be lawful for the inhabitants of any parish or locality who, in consequence of any such judgment or judgments, shall find themselves not fully represented in the Municipal Council, to proceed at any time of the year to the election of a Councillor or Councillors for their parish or locality, in the manner prescribed by the laws relating to Municipalities; provided that it shall be lawful for the Governor in Council, to appoint such Councillor or Councillors, if during two months after such judgment, no such election shall have been had as aforesaid. 15

Decisions, &c. of any Council carried by votes of pretended Councillors to be void

VI. That all proceedings, decisions or appointments of or by any Municipal Council, which shall have been carried by a majority made up by the votes of such Councillors or pretended Councillors as aforesaid, shall, upon the rendering of such judgment as hereinbefore mentioned, be null and of no effect, and an appeal may be brought from such decisions, proceedings, or appointments, to the Circuit Court, in the manner and form prescribed by those clauses of the said "*Act to make better provision for the establishment of Municipal authorities in Lower Canada,*" which constitute the Court of Review in Municipal matters; Provided that, if independently of the votes of the Councillors declared to have wrongfully assumed or detained their seats, such decisions, proceedings and appointments as aforesaid shall have been carried by the votes of a majority of the other Councillors, then the same shall not be made void by such votes as hereinbefore mentioned. 20 25 30 35

Act 12 Vic., c. 44, to apply to usurpations, &c., of the office of the Councillor.

VII. And be it enacted, That the said Act, intituled, "*An Act to define the mode of proceeding before the Courts of Justice in Lower Canada, in matters relating to the protection and regulation of corporate rights, and to writs of prerogative, and for other purposes therein mentioned,*" applies, and shall apply, to all questions of wrongful assumption of the office, or detention of seats 40

of Municipal Councillors, or relating to the office of Mayor of any Municipality, independently of, and without regard to, the decisions of such Municipal Councils in matters of controverted elections of members of such bodies, in all cases where there shall have been no proceeding instituted for the like purpose before the Circuit Court, as hereinbefore provided, or where the Circuit Court shall have declared itself incompetent to hear and decide any such question which may arise.

VIII. That this Act shall be in force from the time of its passing, and as regards any person then illegally detaining any such seat as aforesaid at the time when it shall come into force, whether the election or pretended election or appointment shall have taken place before or after the passing of this Act.

To what cases
this Act shall
apply.