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c 274 Personation Act

Ontario

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CHAPTER 274

The Personation Act

1. Where a person is charged at a polling place with having committed the offence of personation as defined by section 172 of *The Election Act*, the deputy returning officer at such place may take the information on oath of the person making the charge (Form 1), and it shall be the duty of the deputy returning officer to take the information when requested so to do by a candidate or his agent. R.S.O. 1937, c. 9, s. 1.

Information before officer at registry or polling place. Rev. Stat., c. 112.

2. Where the information is laid before a deputy returning officer and a warrant for the arrest of the offender is issued by him under this Act, the punishment or penalty imposed by law, notwithstanding *The Election Act*, may be imposed by or recovered before two justices of the peace under *The Summary Convictions Act*. R.S.O. 1937, c. 9, s. 2.

Mode of recovering penalty. Rev. Stat., c. 379.

3. Where the person against whom it is proposed to lay the information has not left the polling place, the deputy returning officer may, either of his own motion or at the request of any one proposing forthwith to lay any information against such person, detain him or direct his detention until an information can be laid and a warrant for his arrest issued. R.S.O. 1937, c. 9, s. 3.

When offender may be detained.

4. Where the information is laid, the deputy returning officer may on the polling day, but not afterwards, issue his warrant (Form 2) for the arrest of the person charged, in order that he may be brought before the magistrate or justices of the peace to answer the information and to be further dealt with according to law. R.S.O. 1937, c. 9, s. 4.

When warrant may be issued.

5. The warrant shall be sufficient authority for any constable, peace officer or jailer to detain such person until he is brought before the magistrate or justices of the peace. R.S.O. 1937, c. 9, s. 5.

Authority of constable, etc., under warrant.

6. Where the correct name of the person charged is unknown to the informant, it shall be sufficient in the information and other proceedings to describe the person charged as a person whose name is unknown, but who is detained by the authority of the deputy returning officer under this Act, or

Where name of person charged is unknown.

the person charged may be described in such other manner as may sufficiently identify him, but when the name of the person so charged has been ascertained, it shall be stated in any subsequent warrant or proceeding. R.S.O. 1937, c. 9, s. 6.

Authority of certain officers.

7. Every poll clerk shall have the authority of a constable for the purpose of carrying out the provisions of this Act, and every deputy returning officer may appoint such special constables as he deems necessary for the like purpose, and such persons shall have full power to act without taking any oath. R.S.O. 1937, c. 9, s. 7.

Form of information and warrant.

8. Informations and warrants may be in accordance with the forms in the schedule hereto, but it shall not be necessary that a warrant shall have a seal affixed thereto, and the omission of a seal, where a warrant purports to be sealed, shall not invalidate it. R.S.O. 1937, c. 9, s. 8.

Supply of forms.

9. Every Crown attorney shall keep in his office a sufficient supply of printed forms of such informations and warrants, and shall upon the request of the returning officer furnish him with as many of such forms as are necessary for the use of the deputy returning officer, and every returning officer shall, before the polling day, furnish each deputy returning officer with at least 10 of each of such forms. R.S.O. 1937, c. 9, s. 9.

Allowance to Crown attorney for supplying forms.

10.—(1) For providing and furnishing the forms, the Crown attorney shall be allowed \$4 for each election for which such forms are supplied, to be paid on the production of the receipts of the officer or officers to whom they were furnished.

How chargeable.

(2) The fees and the disbursements of the Crown attorney in obtaining the forms shall form part of the expenses of criminal justice. R.S.O. 1937, c. 9, s. 10.

Pecuniary penalty.

11. Every person guilty of any wilful misfeasance, or any wilful act or omission in contravention of this Act, shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act or omission, \$400. R.S.O. 1937, c. 9, s. 11.

FORM 1

(Section 1)

INFORMATION FOR PERSONATION AT A POLLING PLACE

County of..... }
 To Wit: } The information of of
 } the..... of....., taken this
 }day of....., 19....., before the
 } undersigned, a Deputy Returning Officer at a
 polling place in the..... of..... for an election then being
 held of a Member of the Legislative Assembly for the Electoral District
 of.....

The informant says that he believes that.....(1)
 on this day at the said polling place did commit the offence of personation
 contrary to *The Election Act*, for that the said.....

.....(2) did apply for a ballot paper in the name of another person, that is
 to say, in the name of C. D. (3).

A.B.,
 Informant.

Taken and sworn (4) before me at the said polling place on the day
 and year above mentioned.

W.J.

NOTE.—(1) *If the name of the person charged is unknown to the informant substitute "a person whose name is unknown to the informant but who is now detained in the said polling place under my order".*

(2) *Or, "person whose name is unknown".*

(3) *Or, "having voted at the same election, did apply for a ballot paper in his own name", or "did vote more than once at the same election".*

(4) *Or, if the informant is a person who may by law affirm in civil cases then for "sworn" substitute "solemnly affirmed".*

R.S.O. 1937, c. 9, Form 1.

FORM 2

(Section 4)

WARRANT FOR PERSONATION AT POLLING PLACE

County of..... }
 To Wit: } To all or any of the constables and other
 } peace officers in the of
 } and..... of.....
 Whereas information on oath has this day
 been taken before the undersigned, a deputy returning officer at a polling
 place in the of..... for an
 election then being held of a Member of the Legislative Assembly for
 the Electoral District of for that
(1) on this day at the said polling place did
 commit the offence of personation, contrary to *The Election Act*, for that
 the said(2) did apply
 for a ballot paper in the name of another person, that is to say, in the
 name of(or as the case may be, describing
 the offence as in the information);

These are therefore to command you in His Majesty's name forthwith to apprehend the saidand to bring him before the Magistrate of the saidor before two Justices of the Peace for the said county, to answer the said information and to be further dealt with according to law.

Given under my hand and seal thisday of.....
19.....

W.J.

NOTE.—(1) *If the name of the person charged is unknown substitute "a person whose name is unknown to the informant but who is now detained in the said polling place, and is being delivered into the custody of G. D., a constable of the said"*

(2) *Or, "person whose name is unknown".*

R.S.O. 1937, c. 9, Form 2.
