

ing or in any wise relating to all or any of the said Licences respectively here-
in before mentioned, except so far as they are varied or changed by this Act,
shall, and are hereby extended to such Licences respectively, as shall be granted
to commence from the fifth day of April next ensuing, and from the said fifth
day of January in the year one thousand eight hundred and six, and from the
fifth day of January in each and every subsequent year, under and by virtue
of this Act, any thing herein contained to the contrary notwithstanding.

Laws now in
force, to extend
to such licences
as shall be a-
ken subsequent
ther.

IV. *And be it further Enacted by the Authority aforesaid,* That so much of the
fifth clause of an Act passed in the forty-third year of His Majesty's reign in-
titled " An Act for the better securing to His Majesty, his Heirs and Suc-
cessors, the due collection and receipt of certain duties therein mentioned,"
as directs that the Inspector shall pay into the hands of the Receiver General
of this Province, all such monies as he shall receive once on or before the
first day of October, and once on or before the first day of April shall be re-
pealed, and the same is hereby repealed. And that from and after the passing
of this Act, each and every Inspector shall, twice in every year, pay or cause
to be paid into the hands of the Receiver General of this Province, all such
monies as he shall receive, that is to say, on the first day of June and on the
first day of January.

Times of pay-
ment by the In-
spector to the
Receiver Ge-
neral.

CHAP. II.

*An ACT to afford relief to those Persons who may be entitled to claim Lands in
this Province, as Heirs or Devisees of the Nominees of the Crown, in cases
where no Patent hath issued for such Lands.*

[Passed 2d March, 1805.]

I. **WHEREAS** it is expedient to afford relief to those persons, who may
be entitled to claim Lands in this Province, as heirs or devisees of
the nominees of the Crown in cases where no Patent hath issued for such
Lands, **Be it therefore Enacted by the King's most excellent Majesty, by and
with the advice and consent of the Legislative Council and Assembly of the
Province of Upper Canada, constituted and assembled by virtue of, and under
the authority of an Act passed in the Parliament of Great Britain, intituled,
" an Act to repeal certain parts of an Act passed in the fourteenth year
of his Majesty's reign, intituled, " an Act for making more effectual provi-
sion for the government of the Province of Quebec in North America, and
to make further provision for the government of the said Province," and by
the authority of the same, That it shall and may be lawful for the Governor,
Lieutenant Governor, or person administering the government of this Pro-
vince, at any time within three years after the passing of this Act, to issue
such and so many Commissions under the Great Seal of this Province, to the
Members of the Executive Council thereof, his Majesty's Chief Justice of
the said Province, and the Justices of the Court of King's Bench therein,
for the time being, as he shall think fit, which said Commissioners, or any
three of them, of whom the said Chief Justice, or one of the said Justices
shall be one, in cases brought before them as such Commissioners, respecting
Lands within the said Province, where the nominee or nominees of the
Crown to these Lands, is or are dead, without having obtained his Majesty's**

Preamble

Commissioners
to be appointed.

Letters

PETER HUNTER ESQUIRE, LIEUTENANT GOVERNOR.

Commissioners to ascertain who are the heirs or devisees of the nominees of the Crown to lands

Letters Patent for the same, in his, her, or their life times, shall, by and under the authority of such Commission or Commissions, have full power and authority in manner herein after mentioned, to ascertain, determine and declare who is, or are, the heir, or heirs, devisee, or devisees of the said nominee, or nominees of the Crown to such Lands.

Documents and evidences to be produced before the Commissioners.

II. *And be it further Enacted by the Authority aforesaid,* That it shall and may be lawful to and for all and every person or persons, claiming any lot or lots of Land within this Province, as being the heir or heirs, devisee or devisees of the nominee or nominees of the Crown to such lands, for which said lot or lots, parcel or parcels of Land, his Majesty's letters patent have not been obtained, to come, either personally or by agent, duly authorized, before and produce to such Commissioners, or any three of them, whereof the said Chief Justice, or some one of the said Justices shall be one, all such documents and evidences as he, she, or they may possess, for the purpose of satisfying such Commissioners of the validity of such claim or claims, for which purpose such Commissioners, or any one of them are, and is hereby authorized and empowered to administer such oath or oaths, either to the party or parties claiming to be heir or heirs, devisee or devisees, of the nominee or nominees of the Crown, to the said lot or lots, parcel or parcels of land as aforesaid, or to the witness or witnesses appearing in support of such claim or claims, as shall be judged proper and expedient, and also by summons under the signature of any one of them the said Commissioners, to require the attendance of all and every such person or persons, whose evidence may be judged necessary, to ascertain the validity of any such claim or claims, or to explain the subject matter thereof, and in such summons, also, to order the production of all such books, papers, or documents, as shall be in the custody or power of any such person or persons whose attendance shall be so required by such summons, in such manner, as such Commissioner or Commissioners signing such summons shall deem expedient; which summons, all and every person or persons, to whom the same shall be directed, is and are, hereby required to obey, upon being duly served therewith, under the penalty of twenty pounds of lawful money of this Province, to be recovered in like manner as the costs and expences of witnesses are by this Act herein after directed to be recovered.

Commissioners to administer oath to the party, and to summon witnesses.

Penalty for not obeying the summons.

Nature of the testimony to be received.

Provided always nevertheless, and it is hereby declared, that the said Commissioners, acting under such authority as aforesaid, are hereby authorized and empowered, to receive such written or oral testimony as may be produced to them, whether the same be, or be not consistent with the rules of evidence laid down by the laws of England, and to give and allow such force and effect to such testimony as justice in each respective case shall in their judgment require.

Commissioners to determine & report upon the claims.

III. *And be it further Enacted by the Authority aforesaid,* That after the said commissioners shall, by virtue of the said commission, or commissions, have examined such claim or claims as aforesaid, they shall be at liberty, and they are hereby authorized either to reject such claim or claims, or to allow the same, as in their judgment, the justice and equity of the case may require, without any regard to legal forms and solemnities whatsoever, and to report

on the same accordingly, which said report shall be final and conclusive, and shall be addressed to the Governor, Lieutenant Governor, or Person administering the Government of this Province, in Council, and from thenceforth it shall and may be lawful for the said Governor, Lieutenant Governor, or Person administering the Government in Council, to issue His Majesty's Letters Patent, under the Great Seal of this Province, for the lot or lots, parcel or parcels of Land specified in said report, to, or in trust for, such person or persons, his, her, or their heirs and assigns, as are therein ascertained and declared by the said Commissioners, to be the heir or heirs, devisee or devisees, of the nominee or nominees of the Crown to the said lot or lots, parcel or parcels of Land respectively; *Provided nevertheless*, that the said letters patent so to be issued as aforesaid, shall have such and none other force, operation, or effect, in Law or in equity, touching and concerning any charge, incumbrance, lien, matter or thing, upon or relating to, the said lot or lots, parcel or parcels of Land, save and except the establishing the claim or claims of the person or persons, to or in trust for whom the said lot or lots, parcel or parcels of Land by the said letters patent shall be granted and conveyed, to be the heir or heirs, devisee or devisees, of the nominee or nominees of the Crown to the same, than if His Majesty's letters patent had been obtained for the said lot or lots, parcel or parcels of Land by the said nominee or nominees in his, her, or their life times, any thing herein contained to the contrary notwithstanding. *Provided also*, that nothing herein contained shall extend, or be construed to extend, to the claim or claims, of any person or persons, who shall be ascertained and declared by the said commissioners to be the heir or heirs, devisee or devisees of the nominee or nominees of the Crown, to any lot or lots, parcel or parcels of Land within this Province, other than to such lot or lots, parcel or parcels, of Land, as shall by the said Commissioners be specified in their said report as aforesaid, and that all claims, of what nature or kind soever to any Lands within this Province, other than to such Lands as shall be so specified and set forth by the said Commissioners, shall continue and remain as if this Act had never been made.

Letters Patent to issue.

Effect of the Letters Patent to be issued.

IV. *And be it further Enacted by the Authority aforesaid*, That where any such nominee or nominees, as aforesaid, in his, her, or their life times, and under his, her, or their hand and seal, hands and seals, shall have executed any written instrument giving, or purporting to give, any charge, incumbrance or lien, on any such lot or lots, parcel or parcels of Land, so claimed and allowed as aforesaid, it shall and may be lawful for the person or persons in whose behalf such instrument may have been executed, his, her, or their heirs, executors, administrators or assigns, to cause the same to be registered in the office or offices, of the Register or Registers, for the county or counties, in which any such lot or lots, parcel or parcels of Land shall respectively lie or be situated; and such written instrument shall have the same (and no other) force, validity and effect, than if such nominee or nominees had at the time of executing the same been in possession of a patent from the Crown for such lot, or lots, parcel or parcels of Land as aforesaid.

Instruments by which lands are charged to be registered.

V. *And be it further Enacted by the Authority aforesaid*, That any person or persons, to whom any Lands have been allowed by the Commissioners for the securing and ascertaining titles to Lands in this Province, under and by virtue

Commissioners to determine the claims of the heirs or devisees of persons of

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Sons allowed lands under former commissions, and report upon the same.

of certain Acts of the Legislature thereof, passed in the thirty-seventh, thirty-ninth, and forty-second years of his Majesty's reign, which said person or persons; is or are dead, without having obtained, his Majesty's letters patent for the same, may and shall for the purposes of this Act, be considered as the nominee or nominees of such Land, and the Commissioners to be appointed under and by virtue of this act, may and are, hereby authorized, to examine the claim or claims brought before them, by or in behalf of the heir or heirs, devisee or devisees of such person or persons as last aforesaid; and to hear and determine, such claim or claims in like manner, and under the same regulations, provisoes, and restrictions as are by this Act directed to be observed, with respect to the claim or claims brought before them; by the heir or heirs, devisee or devisees of any nominee or nominees of the Crown, and shall report thereon in like manner, and such report shall be final and conclusive, and have the same and no other force and effect; and it shall and may be lawful for the Governor, Lieutenant Governor, or Person administering the Government, in like manner to issue his Majesty's letters patent for the lot, or lots, parcel, or parcels of Land, specified in such last mentioned report, to, or in trust for, such person or persons, his, her, or their heirs or assigns as are therein ascertained, and declared by the said Commissioners, to be the heir, or heirs, devisee or devisees, of the person or persons, to whom any Lands may have been allowed by the Commissioners acting under and by virtue of any former Act or Acts of the Legislature of this Province, herein before mentioned.

Letters Patent to issue to said heirs or devisees.

Report obtained by surprize, when to be reheard, & new claims to be let in.

VI. *And be it further Enacted by the Authority aforesaid,* That in case the said Commissioners, or either of them, shall, during their sitting, or within thirty days after they shall have signed the said report or reports, and before his Majesty's letters patent shall have issued in pursuance thereof, by representation from any person or persons claiming to be interested therein, be satisfied, or have reason to believe, that the said reports or either of them, so far as respects the allowance of the claim or claims, of any person or persons, to any lot or lots, parcel or parcels of Land specified therein, as being the heir or heirs, devisee or devisees as aforesaid, have been obtained by surprize, or have been erroneously made, and that justice requires, so far as respects the said claim or claims, that the said reports or either of them should be staid, then and in such case, it shall and may be lawful, to and for the said Commissioners, or any other Commissioners who may sit in the Execution of the said Commission, or any subsequent Commission, to rehear such claim or claims, or to let in any new claim or claims, of such other person or persons as may be, or pretend to be, such heir or heirs, devisee or devisees, as aforesaid to the said lot or lots of Land, and upon such rehearing, such Commissioners shall be at liberty to report upon the claim or claims, thereupon reheard, as if no report had before been made thereon, and such Commissioners shall be at liberty, if they shall judge it expedient to justice, to order such person or persons at whose instance such rehearing was obtained, to pay such sum or sums of money to the person or persons in whose favor a report shall have been first made, as they shall see just, to be recovered in like manner as the costs and expences of witnesses are by this Act herein after directed to be recovered.

Costs to be allowed by the Commissioners.

VII. *And be it further Enacted by the Authority aforesaid,* That the said Commissioners

Commissioners shall hold their sittings in the Town of York twice in the year, that is to say, during the first ten days in the month of June in each year, and the ten days next succeeding each and every session of the Legislature of this Province (except the present) that shall and may be held in each and every year during the continuance of this Act: *Provided always nevertheless*, that when the Commissioners shall have good reason to believe, that there will not be sufficient business to require their daily attendance throughout the term limited for their sittings as aforesaid, they may be at liberty to adjourn for any time within the same that may be consistent with the dispatch of such business as may be brought before them.

Place and time of sitting of the Commissioners.

VIII. *And be it further Enacted by the Authority aforesaid*, That the said Commissioners shall not proceed to examine any such claim or claims as aforesaid, unless notice specifying such claim or claims, and the name or names of the claimant or claimants, together with the number of the lot or lots, and the concession or concessions, with the name or names of the township, or townships in which the lands so claimed do lie, be put up in some conspicuous part of the office of the Clerk of the Peace for the district in which any such lot or lots may be respectively situated, and until a certificate shall be produced to the said Commissioners, under the hand of the Clerk of the Peace of such district, that such notice hath been so put up for at least thirty days before the said claim or claims shall come to be heard before the said Commissioners: and for putting up such claim, and giving such certificate, it shall and may be lawful for the Clerks of the Peace to ask, and receive the sum of two shillings and six pence, and no more.

Notices to be put up in the Offices of the Clerks of the Peace, & produced to the Commissioners.

IX. *And be it further Enacted by the Authority aforesaid*, That in all cases in which, before the Commissioners shall have proceeded to decide upon the right to any particular lot or tract of land, two or more notices, by different persons shall have been fixed up in the office of the Clerk of the Peace, claiming adversely such particular lot or tract of land, it shall and may be lawful, to and for such Commissioners, to defer or delay the hearing of such adverse claims, or either of them, and to give to all, any, or either of such claimants, such further or enlarged time for the production of evidence, and for the decision of such claim or claims, as such Commissioners shall deem expedient to justice.

Proceedings of the Commissioners upon adverse claims.

X. *And be it further Enacted by the Authority aforesaid*, That the said Commissioners, or any three of them, of whom the said Chief Justice, or one of the said Justices shall be one, shall have power and authority, when and so often as the nature and circumstances of the case shall require it, to issue one or more commission or commissions, for the examination of witnesses, touching any such claim or claims as aforesaid, as may be brought before them.

Commissioners when to be issued for the examination of witnesses.

XI. *And be it further Enacted by the Authority aforesaid*, That in case any person or persons, who shall appear before the said Commissioners, to give evidence respecting any such claim or claims as aforesaid, shall wilfully or corruptly swear him, her, or themselves, in giving such evidence, he, she, or they shall incur the like pains and penalties, as would have been incurred upon a conviction of wilful and corrupt perjury, in any evidence given

Penalty of swearing falsely before the Commissioners.

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in his Majesty's Court of King's Bench in this Province, in any cause there depending.

Costs to be allowed by the Commissioners to witnesses, & how to be recovered.

XII. *And be it further Enacted by the Authority aforesaid,* That in all cases in which witnesses shall have duly appeared, to give evidence before such Commissioners, either voluntarily or in obedience to such summons as aforesaid, it shall and may be lawful to and for said Commissioners, to order and direct the party or parties who shall have produced such witness or witnesses, to pay such witness or witnesses, for his, her, or their loss of time and expences, such sum or sums of money as the said Commissioners in their judgment shall deem equitable and just, which order the party or parties, upon whom the same shall be made, is, and are, and he, she, and they, is and are hereby required and enjoined to obey, and such sum or sums of money, shall and may be recovered, and recoverable, under and by the authority of this Act, by action or suit in any of his Majesty's Courts of justice in this Province, due regard being had to their respective jurisdictions.

Clerk to be appointed by the Commissioners.

XIII. *And be it further Enacted by the Authority aforesaid,* That the said Commissioners shall have power and authority to employ some fit and proper person as Clerk to the said Commission, and that such Clerk shall be authorized to ask and receive for setting down, for hearing any claim, and for making up a report of the same, the sum of five shillings.

Fees allowed to the Clerk.

For a copy of the order respecting each claim, two shillings and six-pence.

For every summons signed by one or more Commissioner or Commissioners for the attendance of any witness or witnesses, two shillings and six pence.

For every Commission for the examination of witnesses, twenty shillings.

Act to be read at the General Quarter Sessions of the Peace.

XIV. *And be it further Enacted by the Authority aforesaid,* That this Act shall be read by the Clerk of the Peace, at the opening of every General Quarter Sessions of the Peace, which shall be held in each and every District of this Province, during the term for which it shall continue to be in force.

Continuance of the Act.

XV. *And be it further Enacted by the Authority aforesaid,* That this Act shall continue and remain in force until the first day of April in the year of our Lord one thousand eight hundred and eight and no longer.

CHAP. III.

An ACT to Regulate the Trial of Controverted Elections, or Returns of Members to serve in the House of Assembly.

[Passed 2d March, 1805.]

Preamble.

WHEREAS the present mode of decision in this Province, upon Petitions complaining of undue Elections, or Returns of Members to serve in the Parliament thereof, is defective, for want of those sanctions and solemnities which are established by Law in other trials, and is attended with many inconveniences :