

PETER HUNTER ESQUIRE, LIEUTENANT GOVERNOR.

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 inconveniencies :

For remedy thereof, be it 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 to make more effectual provision 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 every petition, complaining of an undue Election, or return of a Member, or Members, to serve in the House of Assembly, shall contain the grounds and reason of complaint, and in case the House of Assembly, shall think such grounds and reasons (if true) sufficient to make the election void, a day and hour shall, by the said House be appointed, for taking the same into consideration, and notice thereof, in writing, shall be forthwith given by the Speaker, to the petitioners, and the sitting Member, or Members, or their respective agents, accompanied with an order to them to attend the House at the time appointed, either in person, or by their counsel or agents.

On complaints of undue election, a time to be fixed for considering thereof.

II. *Provided always*, That no such petition shall be taken into consideration within fourteen days after the same shall have been first read in the House by the Clerk, unless by consent of parties.

Time of taking the petition into consideration.

III. *And be it further Enacted by the Authority aforesaid*, That at the time appointed for taking such petition into consideration, and after reading the order of the day for that purpose, the House shall be cleared, and the Members thereof (excepting the Member or Members whose election shall be contested) with the Speaker, shall be sworn at the Table, well and truly to try the matter of the petition referred to them, and a true judgment give, according to the evidence; the Speaker shall then take the Chair, the doors shall be opened, and the petitioners, their counsel, or agent shall attend.

Manner of taking the petition into consideration.

IV. *And be it further Enacted by the Authority aforesaid*, That the witnesses for the petitioners shall be ordered by the Speaker to retire without the House, and the petitioners, their counsel, or agent, shall call them in one by one, for examination, and each and every witness, as aforesaid, shall be sworn at the Bar of the House, and the names of the witnesses, for either party, shall be given in to the Clerk of the House, before they are sworn.

Method of examining witnesses for the petitioner.

V. *And be it further Enacted by the Authority aforesaid*, That after the witnesses for the petitioners shall have been fully examined, the sitting Member, or Members, shall be requested by the Speaker, to make a defence, and the witnesses for the said sitting Member, or Members, shall be ordered to retire, shall be separately called in for examination, and shall be sworn in manner aforesaid; provided nevertheless, That whenever any Member of the House shall be a witness for either party, he shall not be obliged to retire, as aforesaid; but he shall be sworn in his place.

Method of examining witnesses for the sitting member.

VI. *And be it further Enacted by the Authority aforesaid*, That the said sitting Member, or Members, whose election shall be contested, as aforesaid, shall

Sitting member not allowed to vote in course of the trial.

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not be allowed to vote upon any question, which shall arise in the course of the trial, or upon the determination thereof.

No member to vote who has not attended during the whole of the trial.

VII. *Provided always*, That no such determination as aforesaid, shall be made, nor any question be proposed, unless there be a quorum of the House; and no Member shall have a vote on such determination, or any other question, or resolution, who has not attended during the whole of the trial.

Persons swearing falsely, shall incur the penalties of perjury.

VIII. *And be it further Enacted by the Authority aforesaid*, That the oaths by this Act directed to be taken, shall be administered by the Clerk of the House, and that any person who shall be guilty of wilful and corrupt perjury, in any evidence, which he shall give before the House, in consequence of the oath, which he shall have taken by the direction of this Act, shall, on conviction thereof, incur, and suffer the like pains and penalties, to which any other person convicted of wilful and corrupt perjury is liable, by the Laws and Statutes of this Province.

CHAP. IV.

An ACT to ratify and confirm certain Provisional Articles of Agreement, entered into by the respective Commissioners of this Province and Lower Canada, at Montreal, on the fifth day of July, one thousand eight hundred and four, relative to Duties, and for carrying the same into effect; and also to continue an Act passed in the thirty-ninth year of his Majesty's reign, and continued by an Act passed in the forty first year of his Majesty's reign.

[Passed 2d March, 1805.]

MOST GRACIOUS SOVEREIGN,

Provisional agreement recorded.

WHEREAS Articles of Provisional Agreement, were made, and entered into at Montreal, on the fifth day of July, in the forty fourth year of your Majesty's reign, by the Commissioners nominated and appointed on behalf of the Province of Upper Canada, by His Excellency Peter Hunter Esquire, Lieutenant Governor of the said Province, by commission, bearing date the twenty-second day of March, in the forty-fourth year of your Majesty's reign, in pursuance of, and under the authority of an Act, passed in the thirty-seventh year of your Majesty's reign, intituled, "An Act to authorize the Lieutenant Governor to nominate and appoint certain Commissioners for the purposes therein mentioned," and the Commissioners nominated and appointed on behalf of the Province of Lower Canada, by an Act of the Provincial Parliament thereof, passed in the forty-fourth year of your Majesty's reign, intituled, "An Act for appointing Commissioners to treat with the Commissioners appointed, or to be appointed, on the part of Upper Canada, for the purposes therein mentioned," which agreement is as follows:—

The said Commissioners having met, and communicated to each other their respective powers and authorities, and having taken into consideration, and maturely deliberated upon the objects of their appointment, and finding, that no material alteration hath taken place in the relative situation of the two Provinces;