

*Laws of His Majesty's Province of Upper Canada in North America*, passed in the year 1805.  
York: John Bennet, 1805.

45 George III – Chapter 3

**And Act to Regulate the Trial of Controverted Elections, or Returns of Members to serve in the House of Assembly. Passed 2d March, 1805.**

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 attending with many inconveniences:

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.

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.

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 (expecting 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.

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.

45 George III – Chapter 3

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 obligated to retire, as aforesaid; be he shall be sworn in his place.

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

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.

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.