

*Laws of His Majesty's Province of Upper Canada*, passed in the year 1827. York: Robert Stanton, 1827.

8 George IV – Chapter 5

**An Act to Continue and Amend the Law now in force for the Trial of Controverted Elections. Passed 17th, Feb. 1827.**

Whereas an Act passed in the Fourth Year of the Reign of His present Majesty entitled, “*An Act to repeal an Act passed in the Forty-fifth Year of His late Majesty’s Reign, entitled, ‘An Act to regulate the trial of Controverted Elections, or Returns of Members to serve in the House of Assembly and to make more effectual provision for such trials,’*” will expire at the end of the present Session: And whereas it is expedient to continue and amend the same.

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 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 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 the said recited Act be, and the same is hereby continued.

II. And be it further enacted by the authority aforesaid, That at the time when the day for trying any controverted Election shall be fixed, a list of the Witnesses of the Parties, with their places of residence, shall be handed to the Clerk of the House, and shall be by him read in his place, and in cases where it shall appear that the expense of bringing such Witnesses before the Committee, to be appointed under the provision of the said recited Act would be considerable, or when the Parties desire it, the House of Assembly may nominate and appoint, under the Hand and Seal of the Speaker, Three Commissioners, (one of whom shall be Chairman, who with any other one shall be a quorum,) for the purpose of examining the Witnesses of the Parties, contained in such list, at such times and in such places as shall by the House be directed.

III. And be it further enacted by the authority aforesaid, That the said Commissioners shall, before proceeding to business, take and subscribe the Oath in the Schedule marked A. annexed, which the Chairman is authorized to administer to the other Commissioners, having himself first taken and subscribed the same in their presence, and shall meet every day, Sundays and Holy-days excepted, and shall not adjourn for any longer time than Twenty-four hours, except in case of death, sickness, or unavoidable absence of one or more of them, or except in case of removal to another place of meeting.

IV. And be it further enacted by the authority aforesaid, That the said Commissioners may from time to time appoint a Clerk, for the purpose of taking down, in writing, minutes of

their proceedings, and of such evidence as shall be taken before them, with the objections to the Witnesses produced, or the matter offered in evidence, and that every such Clerk, before proceeding to the discharge of the duties of his office, shall take the Oath marked B. in the Schedule annexed, which the said Commissioners, or either of them, may administer, as well as Oaths to Witnesses, and all other Oaths required to carry into effect the provisions of this Act.

V. And be it further enacted by the authority aforesaid, That the said Clerk, or Clerks, at the request of either of the Parties, shall make out and deliver to such Party a true copy of the proceedings and evidence, for which he shall be entitled to demand and receive, from the Party requiring the same, the sum of six pence for every hundred words contained therein.

VI. And be it further enacted by the authority aforesaid, That after closing the said evidence, the Commissioners shall cause a copy of the minutes of their proceedings, and of the evidence received, to be made, and shall compare the same with the said minutes, and transmit the same (certified under their Hands and Seals) to the Speaker of the House of Assembly, to be by him delivered to the Chairman of the Select Committee, to be appointed under the provisions of the said recited Act

VII. And be it further enacted by the authority aforesaid, That the said Select Committee, upon the receipt of the return of the said Commissioners, shall proceed to try and determine the merits of the petition referred to them, in the same manner as if the evidence contained in such return had been delivered viva voce before them, without other or further testimony, having first heard the Parties, or their Counsel, if they shall request to be heard.

VIII. And be it further enacted by the authority aforesaid, That the said Commissioners, by Warrant or Summons under the Hand of the Chairman, or any two of them, at the request of either of the Parties, are hereby authorized to require the attendance of the Witness or Witnesses, in the list hereinbefore mentioned, to give evidence before them at such time and place as in the said Warrant or Summons shall be directed.

IX. And be it further enacted by the authority aforesaid, That if any person Summoned to appear and give evidence shall wilfully refuse or neglect to appear (a reasonable sum being advanced for his attendance if requested) he shall forfeit and pay a sum not exceeding Twenty Pounds.

X. And be it further enacted by the authority aforesaid, That if any person shall be guilty of any contempt, or improper behaviour towards the said Commissioners, while in the execution of the duties imposed upon them by this Act, he shall forfeit and pay, for every such offence, a sum not exceeding Twenty Pounds.

XI. And be it further enacted by the authority aforesaid, That the penalties imposed by this Act shall be recoverable before the said Commissioners in a summary manner, before or

after the execution of the said Commission, and in case of non payment thereof, the same shall be levied by Distress and Sale of the Offenders Goods, with the Officer's Fees, on like proceedings from a Justice of the Peace, and in default of Goods and Chattels, such Offender shall be committed to the Common Gaol of the District, for a term not exceeding Six Months.

XII. And be it further enacted by the authority aforesaid, That the Penalties imposed by this Act shall be paid by the said Commissioners into the hands of the Receiver General of this Province, for the use of His Majesty, to be applied towards the support of the Government of this Province, and shall be accounted for to His Majesty, through the Commissioners of His Majesty's Treasury, for the time being, in such manner and form as His Majesty shall please to direct.

XIII. And be it further enacted by the authority aforesaid, That upon the day appointed for the meeting of any Select Committee, when a Commission under the provisions of this Act shall have been issued and not returned, it shall be lawful for such Committee to adjourn from day to day till such return shall be made, or until the House shall dissolve the said Committee for want of such return, which they are hereby authorized to do, any Law to the contrary notwithstanding: Provided always, That nothing herein contained shall be construed to prevent the selection of another Committee for the trial of such Controverted Election.

XIV. And be it further enacted by the authority aforesaid, That the said Commissioners shall be authorized to demand and receive the sum of Fifteen Shillings per day, and the Clerk Ten Shillings per day, while employed in the execution of the said Commission, to be borne equally in the first instance by the Parties, and eventually to be borne by the person who shall by Law be subject to the Costs of such Controverted Election.

XV. And be it further enacted by the authority aforesaid, That this Act shall continue and be in force for Four Years, and from thence to the end of the then next ensuing Session of Parliament.

A

"I, A. B do Swear, that I will, without favor, affection, or malice, and according to the best of my skill and knowledge, well and truly perform the duty of a Commissioner appointed to hear and examine the evidence which shall be brought before me, by virtue of a reference under the Hand and Seal of the Speaker of the House of Assembly, upon a Petition, (here mention the names of the Petitioners, or some of them) according to the Rules, Regulations, and Directions, contained in an Act passed in the 8th Year of the Reign of King Geo the IV. entitled, '*An Act to continue and amend the Law now in force for the trial of Controverted Elections.*'"

B

“I, A B. do Swear that I will, without favor, affection, or malice, and according to the best of my skill and knowledge, well and truly perform the duty of Clerk to the Commissioners appointed to hear and examine the evidence which shall be brought before them, by virtue of a reference under the Hand and Seal of the Speaker of the House of Assembly, upon a Petition, (here mention the names of the Petitioners, or some of them) according to the Rules, Regulations, and Directions, contained in an Act passed in the 8th Year of the Reign of King Geo. the IV. entitled ‘*An Act to continue and amend the Law now in force for the trial of Controverted Elections.*’”