



ANNO QUARTO-DECIMO & QUINTO-DECIMO

# VICTORIÆ REGINÆ.

## CAP. I.

An Act to repeal the several Acts of the Parliaments of Lower and Upper Canada now in force for the trial of controverted Parliamentary Elections in the two sections of the Province respectively, and to provide by one General Act for the Trial of all Parliamentary Election Petitions.

[ 2d August, 1851. ]

**W**HEREAS as well for the purpose of having one uniform system for the trial of all controverted Parliamentary Elections as for that of consolidating and amending such of the provisions of the Acts now in force for the conduct of trials of Elections in the two sections of the Province respectively, as it is deemed desirable to retain, it is expedient to repeal the several Acts of the Parliaments of the late Provinces of Lower and Upper Canada making provisions for such trials, and to provide by one General Act for the trial of all Parliamentary Election Petitions: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same—

Preamble.

### 1. ELECTION PETITIONS AND THEIR RECEPTION.

I. That every Petition presented to the Commons House of Legislative Assembly of this Province, within the time hereinafter for that purpose limited with respect to such Petition, and complaining of an undue election or return of a Member to serve in Parliament, or complaining that no return has been made according to the requisition of any Writ issued for the election of a Member to serve in Parliament, or complaining of the special matters contained in any such return, and which Petition shall be subscribed by some person who voted or had a right to vote at the Election to which the same relates, or by some person claiming to have had a right to be returned or elected thereat, or alleging himself to have been a Candidate at the Election, shall be deemed an Election Petition.

What shall be deemed an Election Petition.

II. And be it enacted, That in the case of every such Election Petition arising out of an Election held in consequence of the expiration or dissolution of any Parliament, such Election Petition shall be presented to the Commons House of Legislative Assembly within the first fourteen days of the Session of Parliament which shall commence or be held on or next after the Return Day of the Writ under which such Election was held, provided the said House shall on the last of such fourteen days have entered upon, and gone through with that head or division of the daily routine of the business thereof which consists in the presenting and bringing up of Petitions; and if the

When to be presented, if arising out of an election held in consequence of the expiration or the dissolution of a Parliament.

the said House in such last mentioned case shall not have entered upon and gone through with such head or division of the said daily routine on such last day, that then, and in every such case, such Petition shall be so presented upon the first day thereafter upon which the said House shall have entered upon and gone through with such head or division of the said daily routine as aforesaid.

When to be presented, if arising out of an election held otherwise than in consequence of the expiration or dissolution of a Parliament, the return being made when Parliament shall not be in session or on one of the last 14 days of a session.

III. And be it enacted, That in the case of every such Election Petition arising out of any Election held otherwise than in consequence of the expiration or dissolution of any Parliament, if the day on which the Return upon such Election shall be brought into the office of the Clerk of the Crown in Chancery shall be a day on which Parliament shall not be in Session, or shall be one of the last fourteen days of any Session, then, and in every such case, such Petition shall be so presented within the first fourteen days of the Session of Parliament which shall commence and be held next after the day on which such Return shall have been so brought into the said office of the said Clerk of the Crown in Chancery, provided the said House shall on the last of such last mentioned fourteen days have entered upon and gone through with that head or division of the daily routine of the business thereof which consists in the presenting and bringing up of Petitions; and if the said House, in such last mentioned case shall not have entered upon and gone through with such head or division of the said daily routine on such last day, then, and in every such case, such Petition shall be so presented to the House upon the first day thereafter upon which the said House shall have entered upon and gone through with such head or division of the said daily routine as aforesaid.

When to be presented, if Parliament be in session at the time of the return and sit 14 days afterwards.

IV. And be it enacted, That in the case of every Election Petition arising out of an Election held otherwise than in consequence of the expiration or dissolution of any Parliament, if the day on which the Return upon such Election shall be brought into the office of the Clerk of the Crown in Chancery shall be a day on which Parliament shall be in Session, but not one of the last fourteen days of any such Session, then, and in every such case, such Petition shall be so presented within the first fourteen days next after such return shall have been so brought into the said office of the said Clerk of the Crown in Chancery as aforesaid, provided the said House shall on the last of such fourteen days have entered upon and gone through with the said head or division of the daily routine of the business thereof which consists in the presenting and bringing up of Petitions; and if the said House, in such last mentioned case, shall not have entered upon and gone through with such head or division of the said daily routine on such last day, then, and in every such case, such Petition shall be so presented upon the first day thereafter upon which the said House shall have entered upon and gone through with such head or division of the said daily routine as aforesaid.

Petition may be presented and brought up at any period of the day, as a matter of privilege.

V. And be it enacted, That nothing herein contained shall preclude the presenting and bringing up of any such Election Petition, as a matter in which the privileges of the House are concerned, during any part of any day on which such Election Petition might be presented and brought up, according to the provisions of the next preceding three sections of this Act, by reason merely of the routine period for presenting and bringing up such Petition for such day having passed, provided the same shall be so presented and brought up at a time and in the manner agreeable in other respects to the orders and practice of the said House.

What shall not be a Session within the meaning of this Act.

VI. And be it enacted, That no Session of Parliament which shall not have lasted for fifteen days at the least, including the day of its meeting and the day of its prorogation, shall be deemed a Session thereof within the meaning of the second, third and fourth sections of this Act or any of them.

Longer periods allowed for presenting petitions complaining of bribery or corruption.

VII. And be it enacted, That if any such Election Petition shall contain any allegation of bribery or corruption, with a specific allegation of any payment of money or other reward having been made by any Member, or on his account, or with his privity, since the time of the return of the Writ under which such Election shall have been held, in pursuance or in furtherance of such bribery or corruption, then, and in every such case, twenty-eight days shall be allowed instead of fourteen days for the presenting of such Petition, which twenty-eight days shall in all such cases be reckoned from the day of such payment

payment exclusive of such day, and in all the cases in which by the next five preceding sections of this Act, a further time is allowed beyond the fourteen days therein and thereby limited for presenting and bringing up Election Petitions not containing any such charge of bribery or corruption as aforesaid, a like further time shall be allowed beyond the said twenty-eight days herein and hereby limited for presenting and bringing up Election Petitions containing any such charge of bribery or corruption as aforesaid; and all the provisions hereinbefore contained for such purpose in the second, third, fourth and fifth sections of this Act, shall apply as if the same had been here repeated *mutatis mutandis*, in respect of Election Petitions containing any such charge of bribery or corruption as aforesaid, and the said twenty-eight days hereby allowed for the presenting and bringing up of the same as aforesaid.

VIII. And be it enacted, That no Petition, although otherwise within the description of an Election Petition contained in the first section of this Act, shall be deemed to be an Election Petition within the meaning of the same, unless it shall have been presented to the said Commons House of Legislative Assembly within the time for that purpose limited, with respect to such Petition, by the provisions contained in the six next preceding sections of this Act.

IX. And be it enacted, That the Petitioner may at any time after the presentation of every such Election Petition, withdraw the same upon giving notice in writing under his hand or under the hand of his agent to the Speaker, and also to the sitting Member or his agent, and also to the party who may have been admitted to oppose the prayer of such Petition, that it is not intended to proceed with the Petition, and in such case the Petitioner shall be liable to the payment of such costs and expenses as may have been incurred by the sitting Member or other party complained of in such Petition, and also by any party admitted to oppose the prayer of such Petition, to be taxed as hereinafter provided.

## 2. RECOGNIZANCES.

X. And be it enacted, That before any Election Petition shall be presented to the House, a Recognizance shall be entered into by one, two, three or four persons, as sureties for the person subscribing such Petition, for the sum of Two Hundred Pounds in one sum, or in several sums of not less than Fifty Pounds each, for the payment of all costs and expenses which under the provisions herein contained shall become payable by the person subscribing the Petition to any witness summoned in his behalf, or to the sitting Member, or other the party complained of in such Petition, or to any party who may be admitted to defend such Petition as hereinafter provided, or to any person who on the application of such Petitioner for the issue of a Commission to take evidence on such trial, may be appointed a Commissioner for that purpose, or to any Clerk, Bailiff or other Officer employed by such Commissioner in or about, or in any way relating to the execution of the Commission issued to him in that behalf; and such Recognizance may be in the form or to the like effect as is set forth in the Schedule to this Act annexed marked A (1,) with such alteration as may be necessary to adapt such form to the circumstances of the case.

XI. And be it enacted, That before any application shall be made to any Select Election Committee appointed under this Act, on the part of any sitting Member interested or concerned in any such Election Petition, for the issuing of a Commission to take evidence upon the trial thereof, a Recognizance shall be entered into by one, two, three or four persons, as sureties for such sitting Member, for the sum of One Hundred Pounds in one sum, or in several sums of not less than Twenty-five Pounds each, for the payment of all costs and expenses which under the provisions herein contained shall become payable by such sitting Member to any Commissioner who may be appointed for taking such evidence for such trial, or to any Clerk, Bailiff or other Officer employed by such Commissioner in or about, or in any way relating to the execution of such Commission, which Recognizance shall be entered into before the Speaker or a Justice of the Peace, as is herein provided with respect to other

Recognizances

No petition to be deemed an Election Petition unless presented in due time.

On what conditions a petition may be withdrawn.

Security for costs, to be given before the petition is presented; amount and form of recognizance, &c.

Security for costs, to be given by sitting Member demanding a commission; amount and form of recognizance, &c.

Recognizances to be entered into under this Act, and shall be accompanied by Affidavits of the sufficiency of the sureties as is provided with respect to the same, or a deposit of money may be made in lieu of such Recognizance, or a deposit of money in lieu of some part of the amount required to be so secured, and a Recognizance for the residue thereof shall be made and entered into as is hereby provided with respect to such other Recognizance, and such Recognizance may be in the form or to the like effect as is set forth in the Schedule to this Act annexed marked A (2), with such alteration as may be necessary to adapt such form to the circumstances of the case.

Parties entering into  
recognizances to  
justify their  
sufficiency on oath.

XII. And be it enacted, That any person who enters into any such Recognizance shall testify upon oath in writing, to be sworn at the time of entering into the said Recognizance, and before the same person by whom his Recognizance is taken, that he is seized or possessed of real or personal estate (or both) above what will satisfy all his just debts, of double the clear value of the sum for which he is bound by his said Recognizance, and every such Affidavit shall be endorsed upon or annexed to the Recognizance, and such Affidavit may be in the form or to the like effect as is set forth in the Schedule to this Act annexed marked A (4), with such alterations as may be necessary to adapt such form to the circumstances of the case.

Sureties to be  
mentioned by their  
names and additions.

XIII. And be it enacted, That in every such Recognizance and Affidavit of sufficiency of sureties, shall be mentioned the christian and surnames in full, and the usual places of residence or business of the persons becoming sureties as aforesaid, with such other description of the sureties as may be sufficient to identify them easily.

Recognizances to be  
entered into before  
the Speaker, or a  
Justice of the Peace,  
&c.

XIV. And be it enacted, That every Recognizance hereinbefore required, shall be entered into, and every Affidavit of sufficiency of sureties hereinbefore required shall be sworn before the Speaker of the said House, or a Justice of the Peace; and the said Speaker, and also every Justice of the Peace, is hereby empowered to take the same, and every such Recognizance and Affidavit taken before a Justice, being duly certified under the hand of such Justice, shall be delivered to the said Speaker, who shall thereupon cause the same, as well as all such Recognizances and Affidavits taken before himself, to be filed in the office of the Chief Clerk of the said House, for the information of the House and its Committees, and of all parties concerned or interested in the same.

Money may be  
deposited instead of  
giving recognizance.

XV. And be it enacted, That any person by whom an Election Petition is signed, or any such sitting Member by whom an application for the issue of a Commission to take evidence as aforesaid is about to be made, may, instead of procuring a Recognizance for the amount or the full amount of the sums of Two Hundred Pounds and one Hundred Pounds respectively hereinbefore required for such purpose, pay into the hands of the Chief Clerk of the Commons House of Legislative Assembly of this Province, for the like purposes for which such Recognizance is hereinbefore required, either the whole or any part of such Two Hundred or One Hundred Pounds, as the case may be, which he thinks fit, not being less than Fifty Pounds, and in such case such person shall, if the whole of such sum be paid in, be required to find no sureties for such purpose, and if a part only of such sum be paid in, he shall then be required to find sureties for so much only of the said sum of Two Hundred Pounds or of One Hundred Pounds respectively, as the sum paid into the hands of such Chief Clerk as aforesaid falls short of such Two Hundred Pounds or One Hundred Pounds, as the case may be; and every sum so paid into the hands of such Chief Clerk as aforesaid, shall be carried by him to the credit of an account to be opened by him with the Speaker of the said House by his name of office, and shall be paid out by such Chief Clerk for the time being, from time to time, in discharge of such Warrants as may from time to time be issued for that purpose upon him by the Speaker of the said House for the time being, in pursuance of the provisions of this Act; and the said Chief Clerk shall preserve in his books a remembrance of the Petition upon which every such sum of money shall have been paid into his hands as aforesaid, as the same shall have been stated by the party paying in the same, and shall grant to such party a receipt or certificate for the same, and no money shall be deemed for the purposes of this Act to have been paid into the hands of such Chief Clerk until such receipt or certificate shall be procured and delivered

How such money  
shall be dealt with.



to the Speaker of the said House, who shall thereupon cause a copy of the same, certified under his hands, to be filed in the office of the Chief Clerk of the said House, for the information of the House and its Committees, and of all parties concerned or interested in the same, and shall thereupon re-deliver the original of such receipt or certificate with a Memorandum under his hand of the same having been delivered to him according to the provisions of this Act to the party by whom the same was so delivered to him as aforesaid.

XVI. And be it enacted, That no Election Petition shall be received unless, at the time it is presented to the House, it be endorsed with a certificate under the hand of the Speaker of the said House, that the Recognizance hereinbefore required has been entered into and received by him, with the required Affidavit of sufficiency of sureties thereunto annexed or endorsed, or that the Chief Clerk's receipt or certificate for the amount of such Recognizance has been delivered to him, or that a Recognizance with Affidavits of sufficiency for part, and the Chief Clerk's receipt or certificate for the residue of such amount, has been so delivered to him as aforesaid.

XVII. And be it enacted, That no application shall be entertained by any Select Election Committee under this Act, on the part of any sitting Member interested or concerned in any such Election Petition, for the issue of any Commission to take evidence upon such trial, unless, at the time of such application, there shall be produced to such Select Committee copies,—certified under the hand of the Speaker or the Chief Clerk of the Commons House of Legislative Assembly to be true copies of the same,—of the Recognizance herein required, to be entered into on behalf of such sitting Member,—of all Affidavits by which the sufficiency of the sureties in such Recognizance shall have been established,—or of the Chief Clerk's certificates of the deposit of money in lieu of such Recognizance,—or of such Recognizances and Affidavits for any part of such amount,—and of the Chief Clerk's certificates for the residue thereof, as the case may be, together with an Affidavit from such sitting Member that he is acquainted with the persons who have entered into such Recognizance, if any have been given as aforesaid, and that he has reason to believe irrespective of having the same sworn to by such persons, and that he does verily believe that such persons are worth the amounts respectively stated by them in their said Affidavits of sufficiency respectively; and every such Recognizance shall have the same requirements as to the names and description of parties and the manner of taking the same, as is hereinbefore provided with respect to the Recognizances required of Petitioners.

XVIII. And be it enacted, That in case, at the time of any such application on the part of the sitting Member for the issue of any such Commission as aforesaid, it shall be objected on the part of the Petitioners in such Election Petition, that the sureties of such sitting Member, or any of them, are not really worth the amounts stated in their Affidavits of sufficiency respectively, or that such Recognizance is objectionable upon similar grounds to those hereinafter mentioned in the twentieth section of this Act or any of them, or any other that shall appear to such Select Committee to require explanation or correction, it shall and may be lawful for such Select Committee, if upon hearing the parties they shall deem it just to do so, to give time to such Petitioner to make good such objection, and to make such orders from time to time as to the same, and as to the putting in of new Recognizances or a deposit of money in lieu thereof or part thereof, and as to the justification of the sufficiency of the persons entering into any such Recognizances, as to such Select Committee shall appear just in the premises; and all such orders shall be binding upon the parties interested or concerned in such Election Petition, and the neglect of any party to obey the same shall be attended with such consequences in respect of the same, and the prosecution or defence of his case before such Select Committee, and the payment of costs to the party or parties inconvenienced or delayed, which shall be taxed and recovered as hereinafter provided for the costs and expenses of prosecuting or opposing Election Petitions, as such Election Committee shall think fit to order and direct in that behalf, or the payment of such costs and expenses may be made a condition to allowing the party to proceed with

Petition not to be received unless the Speaker's certificate of recognizance or deposit be endorsed thereon.

What must be certified and done before an application by sitting Member for a commission to take evidence can be entertained.

Objections to recognizances of or on behalf of sitting Member how to be heard and disposed of

his prosecution or defence if such Select Committee shall think fit so to order and direct; Provided always nevertheless, that no such sitting Member shall obtain the benefit of any evidence taken on his behalf, under any such Commission until he shall have perfected the security hereby required in that behalf, either by Recognizance or deposit as hereinbefore provided, and shall have obtained an order of such Select Election Committee allowing the same as sufficient.

Names of sureties,  
&c., to be entered by  
the Clerk in book.

XIX. And be it enacted, That on or before the day when any such Petition is presented to the House, or when notice of the intention of any sitting Member to apply to the Select Committee for the trial of such Election Petition for the issue of a Commission to take evidence upon such trial, shall have been served on the Petitioners, the names and descriptions of the sureties, where there are sureties, as set forth in the Recognizance, and the amount of the Chief Clerk's receipts or certificates of deposits in lieu of the Recognizance, shall be entered in a book to be kept by the Chief Clerk of the said House in his office, and the said book, and also the Recognizance and Affidavits, and the Chief Clerk's said receipts or certificates, shall be open to the inspection of all parties concerned.

Objections to  
recognizances of  
Petitioners may be  
taken by sitting  
Member or Electors  
supporting his  
election.

XX. And be it enacted, That any sitting Member petitioned against, or any Electors petitioning and admitted parties to defend the election or return, may object to any such Recognizance on the ground that the same is invalid, or that the same was not duly entered into or received by the Speaker, with the affidavit thereunto annexed or endorsed as hereinbefore required, or on the ground that the sureties or any of them are insufficient, or that a surety is dead, or that he cannot be found or ascertained for the want of a sufficient description in the Recognizance, or that a person named in the Recognizance has not duly acknowledged the same: Provided always, firstly, that the ground of objection shall be stated in writing under the hand of the objecting party or his agent, and shall be delivered to the Speaker of the said House, within ten days, or not later than twelve o'clock at noon of the eleventh day after the presentation of the Petition; and provided also, secondly, that if such eleventh day happen to be a Sunday or other Statutory Holiday, it shall be sufficient, if such notice of objection be delivered to the Speaker not later than twelve o'clock at noon of the following day, or of the first day thereafter which shall not be a Sunday or Statutory Holiday; and provided also, thirdly, that the said Speaker shall thereupon cause the said objection to be forthwith filed in the office of the Chief Clerk of the said House, for the inspection of the House and its Committees, and of all parties concerned or interested in the same.

Proviso.

Proviso.

Proviso.

Notice of objections,  
to be posted up.

XXI. And be it enacted, That as soon as any such statement of objection is received by the said Speaker, he shall cause the Chief Clerk of the House to put up an acknowledgment thereof in some conspicuous part of his office, and shall appoint a day for hearing such objections, not less than three nor more than five days from the day on which he received such statement; and the Petitioner and his agent shall be allowed to examine and take copies of every such objection.

Speaker to decide on  
objections.

XXII. And be it enacted, That at the time appointed, the Speaker of the said House shall enquire into the alleged objections, on the grounds stated in the notice of objection, but not on any other ground; and for the purpose of such enquiry, he may examine upon oath any persons tendered by either party for examination by him, and may also receive in evidence any Affidavit relating to the matter in dispute before him, sworn before him, or before any Justice of the Peace, and the said Speaker may, if he thinks fit, adjourn the said enquiry from time to time until he decide on the validity of such objection, and he may, if he thinks fit, award costs to be paid by either party to the other, which costs shall be taxed and recovered as hereinafter provided for the costs and expenses of prosecuting or opposing Election Petitions, and the decision of the Speaker shall be final and conclusive against all parties.

Provision in case of  
the death of any  
surety.

XXIII. And be it enacted, That if any surety die, and his death be stated as a ground of objection before the end of the time allowed for objecting to Recognizances, the Petitioner may pay into the hands of the Chief Clerk of the Commons House of Legislative Assembly of this Province on the account of the Speaker, the sum for which the deceased surety

surety was bound; and upon the delivery of the receipt or certificate of the said Chief Clerk for such sum to the Speaker, within three days after the day on which the statement of such objection was delivered to the said Speaker, the Recognizances shall be deemed unobjectionable if no other ground of objection thereto be stated within the time before mentioned for stating objections to Recognizances.

XXIV. And be it enacted, That if the Speaker have received any statement of objection to the Recognizances of any such Election Petition, and have decided that such Recognizances are objectionable, he shall forthwith report to the House that such Recognizances are objectionable; but if he shall have decided that such Recognizances are unobjectionable, or if he have not received any such statement of objection, then, as soon as the time hereinbefore allowed for stating any such objection has elapsed after the presentation of the Petition, or as soon thereafter as he has decided upon the statement of objection, he shall report to the House that the Recognizances to such Petition are unobjectionable, and every such report shall be final and conclusive to all intents and purposes; and the Chief Clerk of the said House shall make out a list of all Election Petitions on which the Speaker has reported to the House that the Recognizances are unobjectionable, in which list the Petitions shall be arranged in the order in which they are so reported upon, and a copy of such list shall be kept in the office of the said Chief Clerk, and shall be open to the inspection of all parties concerned or interested in the same.

Speaker to report his decision to the House, and it shall be final.

List to be kept by Clerk.

### 3. ADMISSION OF PARTIES TO DEFEND.

XXV. And be it enacted, That if at any time before the appointment of a Select Committee, as hereinafter provided, to try any Election Petition, the Speaker of the Commons House of Legislative Assembly shall be informed by a certificate in writing, subscribed by two of the Members of the said House, of the death of any sitting Member whose election or return is complained of in such Petition, or of the death of any Member returned upon a double return, whose election or return is complained of in such Petition, or that a Writ of Summons has been issued under the Great Seal of the Province to summon any such Member to Parliament as a Legislative Councillor of this Province, or if the said Commons House of Legislative Assembly shall have resolved that the seat of any such Member is by law become vacant, or if the House be informed by a declaration in writing, subscribed by any such Member and delivered to the Speaker within fourteen days after the day on which any such Petition was presented, whether such fourteen days or any of them shall occur during a Session of Parliament or during a prorogation thereof, that it is not the intention of such Member to defend his election or return, in every such case, notice thereof shall immediately be sent by the Speaker to the General Committee of Elections, and to the Members of the Chairmen's Panel hereinafter mentioned, and also to the Sheriff or other Returning Officer for the County, Riding, City, Town, Borough or place to which such Petition relates, and such Sheriff or other Returning Officer shall cause a true copy of such notice to be affixed in some conspicuous place in or near to the place where the nomination for such election was held; and such notice shall also be inserted by order of the Speaker, in one of the next two Government Official Gazettes of the Province, and shall as soon as may be, be communicated by him to the House.

Proceedings where the contested seat becomes vacant, or the sitting Member declines defending it, before the appointment of the select Committee.

XXVI. And be it enacted, That at any time within fourteen days after the day on which any Election Petition was presented, or within twenty-one days after the day on which any notice was inserted in the Gazette to the effect that the seat is vacant, or that the Member returned will not defend his election or return, or if either of the said periods expire during a prorogation of Parliament, or during an adjournment of the Commons House of Legislative Assembly for any period exceeding seven full days exclusive of the day of adjournment and the day of meeting according to such adjournment, and if he have not done so before, then on the first day on which the House meets after such prorogation or adjournment, provided the said House shall on

Voters may within a certain period petition for leave to defend the return, or to oppose the petition against it.

such first day have entered upon and gone through with that head or division of the daily routine of the business thereof which consists in the presenting and bringing up of Petitions, and if the said House in such last mentioned case shall not have entered upon and gone through with such head or division of the said daily routine of such first day, then, and in every such case, upon the first day thereafter upon which the said House shall have entered upon and gone through with such head or division of the said daily routine as aforesaid, any person who voted or had a right to vote at the Election to which the Petition relates, may petition the said House, praying to be admitted as a party to defend such return, or to oppose the prayer of such Petition; and such person shall thereupon be admitted as a party, together with the sitting Member if he be then a party against such Petition, or in the room of such Member if he be not then a party against the Petition, and every such Petition shall be referred by the House to the General Committee of Elections hereinafter mentioned: Provided always, nevertheless, that nothing herein contained shall preclude the presenting or bringing up of such Petition of any such party during any part of any day on which such Petition might be presented as is provided by the Fifth Section of this Act respecting Election Petitions.

Proviso.

Member declining to defend not to sit or vote until Petition be decided upon.

XXVII. And be it enacted, That whenever the Member whose election or return is so complained of in such Election Petition, has given notice as aforesaid of his intention not to defend the same, he shall not be afterwards allowed to appear or act as a party against such Petition in any proceedings thereupon, and he shall also be restrained from sitting in the said Commons House of Legislative Assembly, or voting on any question, until such Petition has been decided upon.

Voters petitioning for leave to defend to give security.

XXVIII. And be it enacted, That before any such Petition for permission to defend shall be presented to the House, a Recognizance shall be entered into on the part of such Petitioner by one, two, three or four persons as sureties for the persons subscribing such Petition, for the sum of One Hundred Pounds in one sum, or in several sums of not less than Twenty-five Pounds each, for the payment of all costs and expenses which under the provisions herein contained shall become payable by the person subscribing such Petition, to any witness summoned in his behalf, or to the person subscribing the Election Petition to which such person prays permission to appear for the purpose of defence as aforesaid, or to any person who, upon the application of such first mentioned Petitioner for the issue of a Commission to take evidence upon the trial of such Election Petition, may be appointed a Commissioner for that purpose, or to any Clerk, Bailiff or other Officer employed by such Commissioner in or about or in any way relating to the execution of the Commission issued to him in that behalf, which Recognizance shall be entered into before the Speaker or a Justice of the Peace as is herein provided with respect to other Recognizances to be entered into under this Act, and shall be accompanied by Affidavits of the sufficiency of the sureties as is provided with respect to the same, and the same may be in the form or to the like effect as is set forth in the Schedule to this Act annexed marked A (3), with such alterations as may be necessary to adapt such form to the circumstances of the case; or a deposit of money may be made in lieu of such Recognizance, or a deposit of money in lieu of some part of the amount required to be so secured, and a Recognizance for the residue thereof shall be made and entered into as is hereby provided with respect to such other Recognizance, which shall be accompanied by Affidavits of sufficiency from the sureties, and an Affidavit of belief in such sufficiency made by such Petitioner for permission to defend, as is hereinbefore provided with respect to the Recognizance to be entered into on behalf of any such sitting Member as aforesaid: Provided always nevertheless, that all objections to such sureties or the manner in which they have been put in, shall be heard and disposed of by the Select Election Committee for the trial of such Election Petition, in the same manner and subject to the like powers and provisions, as well respecting costs and the payment and recovery thereof, as respecting all other matters connected with the enquiry into and allowance of the sufficiency of such sureties as is herein provided with respect to the Recognizance hereby required to be entered into by any such sitting Member as aforesaid.

Form of recognizance, &c.

Money may be deposited instead.

Proviso.



XXIX. And be it enacted, That if in the case of an Election Petition complaining of a double return, the Member whose return is complained of in such Petition have given notice, as aforesaid, that it is not his intention to defend his return, and if no party, within the period hereinbefore allowed for that purpose, have been admitted to defend such return, then if there be no Election Petition complaining of the other Member returned on such double return, it shall be lawful for the last mentioned Member, or other the persons who subscribed the Petition complaining of such double return, to withdraw such Petition by letter addressed to the Speaker, and thereupon the order for referring such Petition to the General Committee of Elections shall be discharged, and the House shall give the necessary directions for amending the said double return, by taking off the file the indenture by which the person so declining to defend his return was returned, or otherwise, as the case may require.

Provision in case of double return, when the Member petitioned against does not defend his return.

#### 4. GENERAL COMMITTEE OF ELECTIONS.

XXX. And be it enacted, That in the first Session of every Parliament, on the first meeting of the Commons House of Legislative Assembly, on or next after the fifteenth day of such Session, and in every subsequent Session, as soon as convenient after the commencement of the Session, the Speaker shall, by Warrant under his hand, appoint six Members of the House against whose return no Petition is then depending, and none of whom is a Petitioner complaining of any election or return, to be Members of a Committee to be called "The General Committee of Elections," and every such Warrant shall be laid on the Table of the House, and if not disapproved of by the House, in the course of the three next days on which the House meets for the despatch of business, shall take effect as an appointment of such General Committee.

General Committee of Elections to be named by the Speaker; how and when.

XXXI. And be it enacted, That if the House disapprove of any such Warrant, the Speaker shall, on or before the third day on which the House meets after such disapproval, lay upon the Table of the House, a new Warrant for the appointment of six Members qualified as aforesaid, and so from time to time, until six Members have been appointed by a Warrant not disapproved by the House.

Nomination how corrected if the House disapprove it.

XXXII. And be it enacted, That the disapproval of the Warrant may be either general in respect of the constitution of the whole Committee, or special in respect of any Member or Members named in the Warrant.

Disapproval may be general or special.

XXXIII. And be it enacted, That the Speaker may, if he thinks fit, name in the second or any subsequent Warrant, any of the Members named in any former Warrant whose appointment has not been specially disapproved by the House as aforesaid.

Members not disapproved may be named again.

XXXIV. And be it enacted, That after the appointment of the General Committee, every Member appointed shall continue to be a Member of the Committee until the end of that Session of Parliament, or until he cease to be a Member of the Commons House of Legislative Assembly, or until the General Committee report that he is disabled by continued illness from attending the Committee, or until the Committee be dissolved as hereinafter provided.

Duration of the appointment.

XXXV. And be it enacted, That in every case of vacancy in the General Committee of Elections, the Speaker, on the first day on which the House meets after such vacancy is known by him, shall make known the vacancy to the House, and thereupon all proceedings of the General Committee shall be suspended until the vacancy is supplied as hereinafter provided.

Vacancies to suspend the proceedings of the Committee.

XXXVI. And be it enacted, That if the General Committee of Elections at any time report to the House, that by reason of the continued absence of more than two of its members, or by reason of irreconcilable disagreement of opinion, the said Committee is unable to proceed in the discharge of its duties, or if the House resolve that the General Committee of Elections be dissolved, the General Committee shall be thereby forthwith dissolved.

Committee may be dissolved in certain cases.

XXXVII. And be it enacted, That every appointment to supply a vacancy in the General Committee, and every re-appointment of the General Committee after the dissolution

Vacancies in Committee how filled up.



dissolution thereof, shall be made by the Speaker by Warrant under his hand, laid upon the Table of the House, on or before the third day on which the House meets after the dissolution of the Committee, or notification of the vacancy, as the case may be, and the Warrant shall be subject to the disapproval of the House in the like manner as is hereinbefore provided in the case of the first Warrant for the appointment of the General Committee, and upon any re-appointment of the General Committee, the Speaker may, if he thinks fit, re-appoint any of the Members of the former Committee not disqualified to serve on it.

Speaker to fix time and place of first meeting.  
Members to be sworn.

XXXVIII. And be it enacted, That the Speaker shall appoint the time and place of the first meeting of the General Committee of Elections, and the Committee shall meet at the time and place so appointed; but no Member shall act upon such Committee until he have been sworn at the Table of the House by the Clerk, truly and faithfully to perform the duties belonging to a Member of the said Committee, to the best of his judgment and ability, without fear or favour.

Quorum of Committee, four members must concur for certain purposes.

XXXIX. And be it enacted, That no business shall be transacted by the General Committee of Elections, unless at the least four Members thereof be then present together; and no appointment of a Select Committee by the General Committee to be made as hereinafter provided, shall be of force, unless at the least four Members then present of the General Committee agree to the appointment.

Committee to regulate their own proceedings, subject to this Act.

XL. And be it enacted, That subject to the provisions of this Act, the General Committee of Elections shall make Regulations for the order and manner of conducting the business to be transacted by them.

Clerk of Committee; his appointment and duties.

XLI. And be it enacted, That the General Committee shall be attended by one of the Committee Clerks of the House, selected for that purpose by the Chief Clerk of the House, and such Committee Clerk shall make a Minute of all the proceedings of the Committee, in such form and manner as shall from time to time be directed by the Regulations or Directions of the said General Committee, and a copy of the Minutes so kept shall be laid from time to time before the said Commons House of Legislative Assembly.

As to proceedings pending before Committee when dissolved or suspended.

XLII. And be it enacted, That if, at the time of the dissolution or suspension of the proceedings of the General Committee of Elections, there be any business appointed to be transacted by such General Committee on any certain day, the Speaker may adjourn the transaction of such business to such other day as to him seems convenient.

#### 5. PANELS.

In what cases and in what manner Members may be excused from serving on Election Committees.

XLIII. And be it enacted, That every Member having leave of absence from the House, shall be excused from serving on Election Committees during such leave; and if any Member in his place offer any other excuse, the substance of the allegations shall be taken down by the Clerk, in order that the same may be afterwards entered on the Journals, and the opinion of the House shall then be taken thereon; and if the House resolve that the said Member ought to be excused, he shall be excused from serving on Election Committees for such time as to the House seems fit, but no Member shall be so excused who does not claim to be excused before he is chosen to serve; and every Member who has served on one Election Committee, and who, within seven days after such Committee has made its final report to the House, notifies to the Clerk of the General Committee his claim to be excused from so serving again, shall be excused during the remainder of the Session, unless the House at any time resolve, upon the report of the General Committee, that the number of Members who have not so served is insufficient, but no Member shall be deemed to have served on an Election Committee, who on account of inability or accident has been excused from attending the same throughout.

Members disqualified.

XLIV. And be it enacted, That every Member who is a Petitioner complaining of an undue election or return, or against whose return a Petition is depending, shall be disqualified to serve on Election Committees during the continuance of such ground of disqualification.

**XLV.** And be it enacted, That the Clerk of the Commons House of Legislative Assembly shall make out an alphabetical list of all the Members of the said House, distinguishing in such list the names of every Member for the time being excused or disqualified, and shall also notice in the list every cause of such temporary excuse or disqualification, and the duration thereof; and such list shall be openly read over in the House by the Clerk thereof, at the next meeting of the said House, on or after the Fifteenth day of the First Session of every Parliament, and be thereafter printed and distributed to the Members of the said House with the printed votes of the House.

Clerk to make list of Members, noting thereon those excused or disqualified.

**XLVI.** And be it enacted, That during three days next after the day of the openly reading of such list in the House as aforesaid, corrections may be made in such list by reading of the Speaker, if it appears that any name has been improperly left on or struck out of such list, or that there is any other error in such list.

How the list may be corrected.

**XLVII.** And be it enacted, That the list so finally corrected shall be referred to the General Committee of Elections, and the General Committee shall therefrom select in their discretion four, six or eight Members whom they think duly qualified to serve as Chairmen of Election Committees, and the Members so selected shall be formed into a separate Panel, to be called the Chairmen's Panel, which shall be reported to the House, and while the name of any Member is upon the Chairmen's Panel, he shall not be liable or qualified to serve on any Election Committee otherwise than as Chairman, and every Member placed on the Chairmen's Panel shall be bound to continue upon it till the end of the Session, or until he sooner cease to be a Member of the House, or until by leave of the House he be discharged from continuing upon the Chairman's Panel: Provided always, that every Member of the Chairmen's Panel who has served on one or more Election Committees, and who notifies to the Clerk of the General Committee of Elections his claim to be discharged from continuing upon the Chairmen's Panel, shall be so discharged accordingly, and every such Member shall be excused from serving upon any Election Committee, either as Chairman or otherwise, during the remainder of the Session, unless in either of such cases, the House should at any time resolve, upon the report of the General Committee of Elections, that the number of Members who have not so served is insufficient, but no Member of the Chairmen's Panel shall be deemed to have served on any Election Committee, who, on account of inability or accident, has been excused from attending the same throughout.

List of Chairmen for Election Committees to be made; its effect, &c.

Proviso as to Members having served as Chairmen during the Session.

**XLVIII.** And be it enacted, That after the Chairmen's Panel has been so as aforesaid selected, the General Committee shall divide the Members then remaining on such list into three Panels, in such manner as to them seems most convenient, but so, nevertheless, that each Panel may contain, as nearly as may be, the same number of Members, and they shall report to the House the divisions so made by them, and the Clerk shall decide by lot at the Table the order of the Panels as settled by the General Committee, and shall distinguish each of them by a number denoting the order in which they were drawn, and the Panels shall then be returned to the General Committee of Elections, and shall be the Panels from which Members shall be chosen to serve on Election Committees.

Remaining Members to be divided into three panels.

Order of panels to be decided by lot; their purpose.

**XLIX.** And be it enacted, That the General Committee of Elections shall correct the said Panels from time to time, by striking out of them the name of every Member who ceases to be a Member of the House, or who from time to time becomes entitled and claims as aforesaid to be excused from serving on Election Committees, and by inserting in one of the Panels, to be chosen by the General Committee at their discretion, the name of every new Member of the House not excused or disqualified for any of the reasons aforesaid, and shall also from time to time distinguish in the manner aforesaid in the said Panels, the names of the Members for the time being excused or disqualified for any of the reasons aforesaid, and the General Committee shall as often as they think fit report to the House the Panels as corrected, and as often as the General Committee reports the said Panels to the House, they shall be printed and distributed with the votes of the House, and the names of all the Members so omitted shall be also printed and distributed with the votes.

General Committee to correct the panels when necessary.

Members obtaining leave of absence may be transferred from one Panel to another.

As to Members ceasing to be such or discharged after serving, &c.

Vacancies in Chairmen's Panel how filled.

L. And be it enacted, That when leave of absence for a limited time has been granted by the House to any Member, the General Committee of Elections may transfer the name of such Member from the Panel in which it has been placed to some other Panel subsequent in rotation if they think fit to do so, having regard to the length of time for which such leave of absence has been granted, and to the number of Select Committees then about to be appointed.

LI. And be it enacted, That whenever any Member of the Chairmen's Panel ceases to be a Member of the House, or is by leave of the House discharged from continuing upon the Chairmen's Panel, or is so discharged by reason of service under the provision hereinbefore contained, the General Committee shall forthwith select another Member to be placed upon the Chairmen's Panel in his room, and in case it shall at any time appear to the General Committee that the Chairmen's Panel is too small, they may select one, two or three additional Members to place upon it, so nevertheless, that the Chairmen's Panel shall not at any time consist of more than eleven Members without the leave of the House first obtained.

## 6. APPOINTMENT OF SELECT COMMITTEES.

Petitions to be referred to General Committee, who shall choose Select Committees to try them, &c.  
Speaker to communicate the necessary information as to recognizances, &c.

List to be made.

Proceedings when notice of death, vacancy of seat, or intention not to defend, shall be given.

When there is more than one Petition against the same return.

Select Committees to be chosen in order of list, and to report.

LII. And be it enacted, That all Election Petitions received by the House shall be referred by the House to the General Committee of Elections for the purpose of choosing Select Committees as hereinafter provided, to try such Petitions, and the Speaker shall communicate to the House and to the General Committee, every proceeding had before him concerning the Recognizances to any Election Petition, and in every case in which any Election Petition is withdrawn, or the Speaker reports to the House that the Recognizances are objectionable, the order for referring such Petition to the General Committee of Elections shall be discharged, and no further proceedings shall be had upon such Petition, and the General Committee shall make out a list of all Election Petitions, in which the Speaker has reported to the House, that the Recognizances are unobjectionable, and in which the proceedings are not suspended, in which list the Petitions shall be arranged in the order in which they were so reported upon; and in every case in which the proceedings in any Petition inserted in such list are afterwards suspended, the Petition shall be struck out of the list, and shall be again inserted at the bottom of the list, at the end of such suspension of proceedings.

LIII. And be it enacted, That when notice of the death or vacancy of the seat of any Member petitioned against, or that it is not the intention of such Member to defend his election or return, is given to the General Committee by the Speaker as hereinbefore provided, the General Committee shall suspend their proceedings in the matter of the Petition referred to in such notice, until twenty-one days after the day on which notice of such death or vacancy, or intention not to defend, has been inserted in the Gazette under the provisions hereinbefore contained; unless the Petition of some person claiming to be admitted as a party in the room of such Member be sooner referred to them.

LIV. And be it enacted, That when more than one Election Petition relating to the same election or return are referred to the General Committee of Elections, they shall suspend their proceedings in the matter of all such Petitions until the report of the Speaker, respecting the Recognizance upon each of such Petitions, or such of them as have not been withdrawn, is received by them, and upon receipt of the list of such reports, they shall place such Petitions at the bottom of the then list of Election Petitions, bracketed together, and such Petitions shall afterwards be dealt with as one Petition.

LV. And be it enacted, That the General Committee of Elections shall choose the Committees to try the Election Petitions standing in the said list of Petitions in the order in which the said Petitions stand in such list, and they shall from time to time determine how many Committees shall be chosen in each week for trying such Petitions, and the days on which they will meet for choosing such Committees, having regard to the number of Select Committees which may then be sitting for the trial of Election Petitions,

Petitions, and to the whole number of such Committees then to be appointed, and they shall report to the House from time to time the days appointed by them for choosing such Committee.

LVI. And be it enacted, That if Parliament be prorogued after any Election Petition has been presented, but before the appointment of a Select Committee to try such Petition, the General Committee of Elections appointed in the following Session shall, within two days after their first meeting, in case the sureties have been then reported unobjectionable, appoint a day and hour for selecting a Committee to try the Petition so standing over as aforesaid: Provided always, that if the number of Petitions so standing over be so great that the times for selecting Committees to try the whole thereof cannot in the judgment of the General Committee be conveniently appointed within two days after their first meeting, the said General Committee shall within two days after their first meeting, appoint the times for selecting Committees to try so many of the said Petitions as the said General Committee deems convenient, and shall afterwards from time to time, as soon as conveniently may be, appoint the times for selecting the Committees to try the remainder of such Petitions.

LVII. And be it enacted, That notice of the time and place at which the Committee will be chosen to try any Election Petition shall be published, with the principal votes, not less than eight days before the day on which such Committee is appointed to be chosen; and in case the conduct of the Returning Officer is complained of, such notice shall be sent to him through the Post not less than fourteen days before the day on which such Committee is appointed to be chosen, and every such notice shall direct all parties interested to attend the General Committee of Elections by themselves or their agents, at the time and place appointed for choosing the Select Committee; and if after such notice has been published with the printed votes, or sent to the Returning Officer as aforesaid, the proceedings in the matter of such Petition become suspended, notice of such suspension shall be immediately published with the printed votes, and in case the conduct of the Returning Officer is complained of, such notice shall be sent to him through the Post.

LVIII. And be it enacted, That if notice of the death or vacancy of the seat of any Member petitioned against, or that it is not the intention of such Member to defend his election or return, have been inserted in the Gazette by order of the Speaker as hereinbefore provided, and no party has been admitted to defend such election or return, then, if the conduct of the Returning Officer is not complained of in such Petition, it shall not be necessary to insert such Petition at the bottom of the then list of Petitions, but the General Committee of Elections shall meet for choosing the Select Committee to try such Petition, as soon as conveniently may be after the expiration of the time allowed for parties to come in to defend such election or return, and not less than one day's notice of the time and place appointed for choosing such Committee shall be given in the printed votes of the House, and in such case it shall not be necessary to deliver to the Chairman of the Select Committee for the trial of such Election Petition, a list of the voters intended to be objected to as herein-after is required in other cases, unless the same shall be specially ordered by such Select Committee.

LIX. And be it enacted, That the General Committee of Elections may change the day and hour appointed by them for choosing a Select Committee to try any Election Petition, and appoint some subsequent, or by the consent of all parties concerned, some earlier day and hour for the same, if in their judgment it be expedient so to do, giving notice in the printed votes of the House, of the day and hour so subsequently appointed; and in every case in which any such change is made by them, they shall forthwith report the same to the House with their reasons for making such change.

LX. And be it enacted, That notice shall be published, with the votes, of the Petitions appointed for each calendar week reckoned from Sunday to Saturday inclusive, and of the Panel from which Committees will be chosen to try such Petitions, and each Panel shall serve for a calendar week, beginning with the Panel first drawn,

Proceedings in case of prorogation before appointment of Select Committee.

Proviso: if the number of Petitions be very great.

Notices to be given before the Select Committee is chosen in any case.

Proceedings when there is no party who defends the return.

Day appointed for choosing Committee, may be changed.

Certain notices to be printed with the votes.



and continuing by rotation in the order in which they were drawn, and not reckoning those weeks in which no Select Committee is appointed to be chosen.

Select Committee for trying Petition, how chosen, number, &c., who disqualified.

LXI. And be it enacted, That the General Committee shall meet at the time and place appointed for choosing the Committee to try any Election Petition, and shall choose from the Panel in service four Members not being then excused or disqualified from any of the causes aforesaid, and not specially disqualified for being appointed on the Committee to try such Petition for any of the following causes, that is to say : by reason of having voted at the Election, or by reason of being the party on whose behalf the seat is claimed, or related to him or to the sitting Member by kindred or affinity in the first, second, third or fourth degree, according to the civil law.

Four Members of General Committee must agree in the choice, otherwise the General Committee adjourn the choice.

LXII. And be it enacted, That if at the least four Members then present of the General Committee of Elections, do not agree in choosing a Committee to try any Election Petition, the General Committee shall adjourn the choosing of that Committee and of the remaining Committees appointed to be chosen on the same day, to the following day, and the parties shall be directed to attend on the following day, and if such following day happen during an adjournment of the House, then on the day to which the House stands adjourned, and so from day to day until all such Committees are chosen, or until the General Committee of Elections is dissolved as hereinbefore provided ; and the General Committee shall not in any case proceed to choose a Committee to try an Election Petition until they have chosen a Committee to try every other Election Petition standing higher in the list aforesaid, the order for referring which has not then been discharged, except in the case when the day originally appointed for choosing a Committee has been changed under the provision hereinbefore contained.

Chairman to be chosen from Chairmen's Panel, &c.

LXIII. And be it enacted, That on the day appointed by the General Committee to choose an Election Committee, the Members upon the Chairmen's Panel shall, in the manner hereinafter provided, select one of such Members to act as the Chairman of such Election Committee, and when they have been informed by the General Committee that four Members of such Election Committee have been chosen, they shall communicate the name of the Member so selected by them to the General Committee, but no Member shall be so elected who would be disqualified from serving on such Committee if not upon the Chairmen's Panel ; Provided always, firstly, that if with reference to any Petition for trying which they are about to appoint a Chairman, the Members of the Chairmen's Panel receive notice from the Speaker under the provision hereinbefore contained, of the death or vacancy of the seat of the sitting Member petitioned against in such Petition, or that it is not his intention to defend his seat, they shall suspend their proceedings with regard to the appointment of a Chairman to try such Petition until the day appointed by the General Committee of Elections for selecting a Committee to try such Petition ; and provided also, secondly, that every such selection of a Chairman shall be either by the unanimous voices of all the Members of such Chairmen's Panel, or in case of the absence of any Member of such Chairmen's Panel, on any such occasion, or of the dissent of the Member proposed to be selected, or of any other Member thereof, from any such proposed selection, then, and in every such case, the Chairmen's Panel, or such of them as shall be present, shall, in the presence of the parties interested or concerned in such Election Petition, their Counsel, or agent, or such of them as shall attend, proceed to select one of such Chairmen's Panel, by lot, to be the Chairman of such Election Committee.

Proviso : in case of notice of vacancy of seat or non intention to defend.

Proviso : choice of Chairman to be unanimous or by vote.

LXIV. And be it enacted, That subject to the provisions of this Act, the Members upon the Chairmen's Panel may from time to time make such Regulations as they find convenient for securing the appointment or selection of Chairmen of Election Committees, and for distributing the duties of Chairmen among all of them.

Subject to this Act, the Members of the Chairmen's Panel may make regulations, &c.

LXV. And be it enacted, That as soon as the General Committee of Elections has chosen four Members of a Committee to try any Election Petition, and has received from the Members of the Chairmen's Panel the name of a Chairman to serve on such Committee,

Parties to be called and informed of names of Committee and Chairman.



Committee, the parties in attendance shall be called in, and the names of the Members so chosen and of the Chairman shall be read over to them.

LXVI. And be it enacted, That after hearing the said names, the parties present shall be directed to withdraw, and the General Committee may proceed to choose another Committee to try the next Petition appointed for that day, and so on, until all the Committees appointed to be chosen on that day are chosen, or until the choosing of any Committee is adjourned as aforesaid; and after any such adjournment, the General Committee shall not transact any more business on that day, except with regard to those Petitions for trying which Committees have been previously chosen.

General Committee may then proceed to next Petition, &c.

LXVII. And be it enacted, That within one half hour at furthest from the time when the parties to any Election Petition have withdrawn, or if the parties to any Election Petition be then before the General Committee of Elections, then after such other parties have withdrawn, the parties in attendance shall be again called before the General Committee in the same order in which they were directed to withdraw, and the Petitioners and sitting Member, or such party as may have been admitted as aforesaid to defend the return or election, or their agents, beginning on the part of the Petitioners, may object to all or any of the Members chosen, or to the Chairman as being then disqualified or excused for any of the reasons aforesaid from serving on the Committee for the trial of that Election Petition, but not for any other reason.

Parties may object to Members, but for certain reasons only, and when.

LXVIII. And be it enacted, That if at the least four Members then present of the General Committee be satisfied that any Member so objected to is then disqualified or excused for any of the reasons aforesaid, the parties present shall be again directed to withdraw, and the General Committee shall proceed to draw from the same Panel another Committee to try that Petition; or, if the Member to whom any such objection is substantiated be the Chairman, they shall send back his name to the Members of the Chairmen's Panel, and the Members on the Chairmen's Panel shall proceed to choose another Chairman to try that Petition, and shall communicate his name to the General Committee, and so as often as the case may require.

New Committee men or a new Chairman to be chosen if any objection be sustained.

LXIX. And be it enacted, That in the second or any following Committee, the General Committee may, if they think fit, include any of the Members previously chosen by them, to whom no objection has been substantiated, and no party shall be allowed to object to any Member included in the second or any following Committee who was not objected to when included in the Committee first chosen to try that Petition.

Members not objected to may be put on new Committee.

LXX. And be it enacted, That when four Members and a Chairman have been chosen, to none of whom any objection has been substantiated, the Clerk of the General Committee of Elections shall give notice thereof in writing to each of the Members so chosen, and with every such notice shall be sent a notice of the general and special grounds of disqualification and excuse from serving hereinbefore mentioned, and of the time and place when and where the General Committee will meet on the following day, and notice of the time and place of such meeting shall be published with the printed votes of the House.

Notice to be sent to Members of Select Committee, &c.

LXXI. And be it enacted, That the General Committee shall meet on the following day at the time and place mentioned in such notice as last aforesaid; and if any such Member then and there prove to the satisfaction of at least four Members then present of the General Committee, that for any of the reasons aforesaid, he is disqualified or excused from serving on the Committee for which he has been so chosen, or if any such Member prove, to the satisfaction of at least four Members then present of the General Committee, that there are any circumstances in his case which render him ineligible to serve on such Select Committee, such circumstances having regard, not to his own convenience, but solely to the impartial character of the Tribunal, the General Committee shall proceed to choose a new Committee to try that Petition in like manner as if that Member had been objected to by any party to the Petition; and if within the space of one quarter of an hour after the time mentioned in the notice, no Member so appear, or if any Member so appearing do not prove his disqualification or excuse to the satisfaction

Members may object to themselves as disqualified: proceedings if the objection be maintained.

satisfaction of at least four Members then present of the General Committee, the Select Committee shall be taken to be appointed.

Appointment of Select Committee to be reported to the House, and printed, &c.

LXXII. And be it enacted, That at the meeting of the Commons House of Legislative Assembly for the despatch of business next after any such Select Committee has been appointed, the General Committee of Elections shall report to the House the names of the Select Committee appointed, and shall annex to such report all Petitions referred to them by the House which relate to the return or election of which such Select Committee is appointed to try the merits, and such report shall be published with the votes.

Members of Committee to be sworn; how and when,

LXXIII. And be it enacted, That at or before four of the clock on the next day on which the House meets for the despatch of business after such report, the five Members chosen to be the Select Committee shall attend in their places, and shall before departing the House be sworn at the Table by the Clerk well and truly to try the matter of the Petitions referred to them, and a true judgment to give according to the evidence, and shall be taken to be a Select Committee legally appointed to try and determine the merits of the return of election so referred to them by the House, and the legality of such appointment shall not be called in question on any ground whatever; and the Member so appointed from the Chairmen's Panel shall be the Chairman of such Committee, and they shall not depart the House until the time for the meeting of such Committee is fixed by the House, as hereinafter provided.

Members not attending, &c. to be taken into custody.

LXXIV. And be it enacted, That if any Member of the said Select Committee do not attend in his place within one hour after four of the clock on the day appointed for swearing the Committee (provided the House sits so long, or if not, then within the like time on the following day of sitting,) or if, after attending, any Member depart the House before the said Committee is sworn, unless the Committee be discharged or the swearing of the said Committee be adjourned as hereinafter provided, he shall be ordered to be taken into the custody of the Sergeant at Arms attending the House, for such neglect of his duty, and shall be otherwise punished or censured, at the discretion of the House, unless it appear to the House by facts specially stated and verified upon oath, that such Member was by a sudden accident or by necessity prevented from attending the House.

Cases excepted.

If the Members do not attend and cannot be taken in time.

LXXV. And be it enacted, That if any such absent Member be not brought into the House within three hours after four of the clock on the day first appointed for swearing the said Committee (provided the House sits so long, or if not, then within the like time on the following day of sitting,) and if no sufficient cause be shown to the House before its rising whereon the House dispenses with the attendance of such absent Member, the swearing of the Committee shall be adjourned to the next meeting of the House, and all the Members of the said Committee shall be bound to attend in their places for the purpose of being sworn on the day of the next meeting of the House, in like manner as on the day first appointed for that purpose.

Adjournment, &c.

If Members do not attend on second day appointed, a new Committee to be chosen.

LXXVI. And be it enacted, That if on the day to which the swearing of the said Committee is so adjourned all the Members of the Committee do not attend and be sworn within one hour after four of the clock, (provided the House sits so long, or if not, then within the like time on the following day of sitting), or if on the day first appointed for swearing the said Committee, sufficient cause be shewn to the House before its rising why the attendance of any Member of the Committee should be dispensed with, the said Committee shall be taken to be discharged, and the General Committee shall meet on the following day, or if such following day happen during an adjournment of the House, then on the day to which the House stands adjourned, and shall proceed to choose a new Committee from the Panel on service for the time being in the manner hereinbefore provided, and notice of such meeting shall be published with the votes.

## 7. PROCEEDINGS OF SELECT ELECTION COMMITTEES.

LXXVII. And be it enacted, That the House shall refer the Petitions in each case for which a Select Election Committee shall have been so reported by the General Committee of Elections to the Select Committee so appointed and sworn, and shall order the said Select Committee to meet at a certain time to be fixed by the House, which shall be within twenty-four hours of their being sworn at the Table of the House, unless a Sunday or other Statutory Holiday intervene; and the place of their meeting shall be some convenient room or place adjacent to the House properly prepared for that purpose.

Petitions, &c. to be referred to Committee.

Time and place of meeting.

LXXVIII. And be it enacted, That every such Select Committee shall meet at the time and place appointed for that purpose, and shall proceed to try the merits of the Election Petition so referred to them, and they shall sit from day to day, Sundays and other Statutory Holidays only excepted, and shall never adjourn for a longer time than twenty-four hours, unless a Sunday or other Statutory Holiday intervene, and in such case not for more than twenty-four hours, exclusive of such Sunday or other Statutory Holiday, without leave first obtained from the House upon motion and special cause assigned for a longer adjournment; and if the House be sitting at the time to which such Select Committee is adjourned, then the business of the House shall be stayed, and a motion shall be made for a further adjournment, for any time to be fixed by the House; Provided always, that if such Select Committee have occasion to apply or report to the House, and the House be then adjourned for more than twenty-four hours, such Select Committee may also adjourn to the day appointed for the meeting of the House.

Committee shall try the petition, shall not adjourn for more than twenty-four hours without leave, &c.

Proviso.

LXXIX. And be it enacted, That the parties complaining of or defending the election or return complained of in any Election Petition, shall, except in the case provided for, in and by the fifty-eighth section of this Act, or where otherwise directed by order of the Select Committee, appointed to try the validity of such election by themselves or their agents, deliver to the Chairman of such Select Committee lists of the voters intended to be objected to, giving in the said lists the several heads of objection, and distinguishing the same against the names of the voters excepted to, and the said Chairman shall cause such lists to be filed amongst the proceedings of such Committee, open to the inspection of all parties concerned.

Lists of voters objected to, to be delivered and filed.

LXXX. And be it enacted, That when not otherwise directed by order of such Select Committee, the said lists shall and may be so delivered to the said Chairman at any time before six o'clock in the afternoon of the day on which by order of the House such Select Committee shall have been first appointed to meet, provided the said Committee shall have actually met and proceeded with the case on such day, or by the like hour of the first day on which such Committee shall actually meet, and so proceed with the case.

Within what time such lists must be delivered.

LXXXI. And be it enacted, That it shall be lawful for any such Select Committee, by an order to be made by them for that purpose, on the first day on which they shall meet and proceed with the case referred to them, or on any day to which the consideration of any application for such an order shall be adjourned, to require the delivery of such lists, in such other manner, at such other place, and to such other person as in their judgment may be more convenient to the parties concerned, or more conducive to the ends of justice, and any such order having been so made by such Select Committee, it shall and may be lawful for the said Committee, upon the subsequent consent in writing of the parties to such Election Petition to such Committee varying, altering or modifying such order or the directions therein contained, from time to time to vary, alter or modify the directions contained in such order, either as to time, place or person, as to such Select Committee shall or may from time to time appear more convenient to the parties concerned or more conducive to the ends of justice, and every such order made under the authority of this section shall, for information only, be reported by the said Committee to the House, by the second meeting of the House next after such order shall have been made by such Select Committee, with their reasons for having made the same.

Select Committee may make other order as to delivery of such lists.

Such order to be reported.

LXXXII.

Evidence restricted to votes on the lists.

LXXXII. And be it enacted, That no evidence shall be given before the Select Committee, or before any Commission issued by such Committee, against the validity of any vote not included in one of the lists of voters delivered as aforesaid, or upon any head of objection to any voter included in any such list, other than one of the heads specified against him in such list.

Members not to be absent without leave from the House.

LXXXIII. And be it enacted, That no Member of any such Select Committee shall absent himself from the same, without leave obtained from the House, or an excuse, allowed by the House at the next sitting thereof, for the cause of sickness, verified upon the oath of his medical attendant, or for other special cause shewn and verified upon oath, and in every such case the Member to whom such leave is granted or excuse allowed shall be discharged from attending, and shall not be entitled again to sit or vote on such Committee; and such Select Committee shall never sit until all the Members to whom such leave has not been granted nor excuse allowed are met; and in case all such Members do not meet within one hour after the time appointed for the first meeting of such Committee, or within one hour after the time to which such Committee has been adjourned, a further adjournment shall be made and reported to the House by their Chairman, with the cause thereof.

Committee not to sit during absence of any Member without leave, &c.

Report.

Members absent without leave, how punishable.

LXXXIV. And be it enacted, That every Member whose absence without leave or excuse is so reported, shall be directed to attend the House at its next sitting, and shall then be ordered to be taken into the custody of the Sergeant at Arms attending the House, for such neglect of his duty, and shall be otherwise punished or censured at the discretion of the House, unless it appear to the House by facts specially stated and verified upon oath, that such Member was by a sudden accident or by necessity prevented from attending the said Select Committee.

Committee not dissolved by death, &c., of—Members: new Chairman in certain cases.

LXXXV. And be it enacted, That an Election Committee shall not be dissolved by reason of the death or necessary absence of one Member or two Members thereof only, but the remaining Members shall thenceforward constitute the Committee, and if there ever be occasion for electing a new Chairman on the death or necessary absence of the Chairman first appointed, the remaining Members of the Committee shall elect one of themselves to be Chairman, and if in that election there be an equal number of voices, the Member whose name stands foremost in the list of the Committee as reported to the House, shall have a second or casting vote.

Committee reduced to less than three, to be dissolved, and another appointed.

LXXXVI. And be it enacted, That if the number of Members able to attend any such Select Committee be, by death or otherwise, unavoidably reduced to less than three, and so continue for the space of three sitting days, such Select Committee shall be dissolved, (except in the case hereinafter provided,) and another shall be appointed to try the Petition referred to such Committee; and the General Committee and Members of the Chairmen's Panel shall meet for that purpose as soon as conveniently may be after the occasion arises, at a day and hour to be appointed by the General Committee, and notice of such meeting shall be published with the votes; and all the proceedings of such former Committee shall be void and of no effect except only any Order that may have been made by them for a Commission for the examination of witnesses and the proceedings under such Order and Commission, which shall be as valid and effectual as if the dissolution of such Committee had not taken place, and shall be made use of by any other Select Committee that may be appointed to try such Election Petition, as if such Order and Commission had been made and issued under their own authority according to the provisions of this Act: Provided always, that if all the parties before the Committee consent thereto, the two remaining Members of the Committee, or the sole remaining Member, if only one, shall continue to act, and shall thenceforward constitute the Committee.

Proviso.

Committee may cause their room to be cleared.

LXXXVII. And be it enacted, That whenever any such Select Committee think it necessary to deliberate among themselves upon any question arising in the course of the trial, or upon the determination thereof, or upon any resolution concerning the matter of the Petition referred to them, as soon as they have heard the evidence and

Counsel



Counsel on both sides relative thereto, the room where they sit shall be cleared, if they think proper, whilst the Members of the Committee consider thereof.

LXXXVIII. And be it enacted, That all questions before the Committee, if for the time being consisting of more than one Member, shall be decided by a majority of voices, and whenever the voices are equal, the Chairman shall have a second or casting voice; and no Member of the Committee shall be allowed to refrain from voting on any question on which the Committee is divided.

Majority to decide; casting vote; every Member must vote.

LXXXIX. And be it enacted, That whenever the Select Committee is divided upon any question, the names of the Members voting in the affirmative, and in the negative, shall be entered in the Minutes of the said Committee, and shall be reported to the House, with the questions on which such divisions arose, at the same time with the final report of the Committee.

Yeas and Nays to be recorded.

XC. And be it enacted, That in case the parties or any of them shall desire it, and such parties or those so desiring it shall make such arrangements as in the opinion of the said Committee shall be proper and sufficient to secure such object and the payment of the necessary expense to be incurred thereby, the said Committee shall be attended by a short hand writer to be appointed by the Speaker of the Commons House of Legislative Assembly, and sworn by the Chairman of the said Select Committee faithfully and truly to take down the evidence given before such Committee, and from day to day, as occasion requires, to write or cause the same to be written in words at length for the use of the Committee.

Short hand writer, may be appointed on certain conditions, &c.

XCI. And be it enacted, That every such Select Committee may send for persons, papers and records, and may examine any person who had subscribed the Petition which such Select Committee are appointed to try, unless it otherwise appear to such Committee that such person is an interested witness, and they shall examine all the witnesses who come before them upon oath, which oath the Clerk attending such Select Committee may administer; and if any person summoned by such Select Committee, or by the Warrant of the Speaker of the Commons House of Legislative Assembly, (which Warrants the Speaker may issue from time to time as he thinks fit,) disobey such Summons, or if any witness before such Select Committee give false evidence or prevaricate, or otherwise misbehave in giving or refusing to give evidence, the Chairman of such Select Committee, by their direction, may, at any time during the course of their proceedings, report the same to the House for the interposition of the authority or censure of the House, as the case requires, and may by a Warrant under his hand directed to the Sergeant at Arms attending the Commons House of Legislative Assembly, or to his Deputy or Deputies, commit such person (not being a Legislative Councillor of the Province,) to the custody of the said Sergeant, without bail or mainprize, for any time not exceeding twenty-four hours, if the House be then sitting, and if not, then for a time not exceeding twenty-four hours after the hour to which the House stands adjourned.

Committee may send for persons, papers &c.

As to witnesses refusing to attend, misbehaving, &c.

XCII. And be it enacted, That where in this Act any thing is required to be verified on oath to the Commons House of Legislative Assembly, it shall be lawful for the Chief Clerk of the said House to administer an oath for that purpose, or an Affidavit for such purpose may be sworn before any Justice of the Peace; and that where for any incidental purpose connected with the conduct of any such trial before any such Election Committee, an Affidavit is required to be taken, to be used before such Election Committee, either by the provisions of this Act, or any Regulations that may be made by such General Committee of Elections for the better ordering of trials before such Election Committees, every such Affidavit may be taken before the said Chief Clerk of the said Commons House of Legislative Assembly, or before the Clerk of the Select Election Committee, or before a Justice of the Peace.

How witnesses shall be sworn, affidavits received, &c.

XCIII. And be it enacted, That every such Select Committee shall try the merits of the return or election complained of in the Election Petition referred to them, and shall determine by a majority of voices, if for the time being consisting of more than one Member, whether the sitting Members or either of them, or any and what other person

What points the Committee shall decide.



Decision to be final,  
and entered on  
Journals, &c.

Committee may  
report resolutions on  
other points for  
consideration of the  
House.

Proviso.

Committee not  
dissolved by  
prorogation: but shall  
proceed during the  
next session.

Committee may order  
the appointment of a  
commission to take  
evidence.

Notice of application  
for commission.

Provisions as to the  
appointment of a  
commissioner.

person were duly returned or elected, or whether the election be void, or whether a new Writ ought to issue, which determination shall be final between the parties to all intents and purposes, and the House, on being informed thereof by the Committee, shall order such report to be entered on their Journals, and shall give the necessary directions for confirming or altering the Return, or for ordering a Return to be made, or for issuing a Writ for a new Election, or for carrying the said determination into execution, as the case may require.

XCIV. And be it enacted, That if any such Select Committee come to any resolution other than the determination above mentioned, they shall, if they think proper, report the same to the House for their opinion, at the same time that they inform the House of such determination, and the House may confirm or disagree with such resolution, and make such orders thereon as to them seems proper: Provided always, and it is hereby expressly declared, that the power conferred by this section upon the said House shall not extend or be construed to extend to the order or orders, resolution or resolutions, containing or declaring such determination of such Select Committee, or to any orders or resolutions of such Select Committee touching the delivery of lists of objected voters or the objections to such voters, the issue of Commissions for the examination of witnesses, or other matters arising in the course of the trial of such election, and relating merely to the conduct of such trial.

XCV. And be it enacted, That if the Parliament be prorogued after the appointment of any Select Committee for the trial of any Election Petition, and before they have reported to the House their determination thereon, such Committee shall not be dissolved by such prorogation, but shall be thereby adjourned to twelve o'clock on the day immediately following that on which Parliament meets again for the despatch of business (Sunday and all other Statutory Holidays always excepted), and all proceedings of such Committee and on any Commission to take evidence issued under the authority of such Committee, shall be of the same force and effect as if Parliament had not been so prorogued, and such Committee shall meet on the day and hour to which they are so adjourned, and shall thenceforward continue to sit from day to day in the manner hereinbefore provided, until they have reported to the House their determination on the merits of such Petition.

## 8. COMMISSION FOR THE EXAMINATION OF WITNESSES.

XCVI. And be it enacted, That upon its appearing to any such Select Election Committee, from the nature of the case and the number of witnesses to be examined relative to any particular allegation or allegations in the said Petition, that the same cannot be effectually inquired into before such Committee, without great expense and inconvenience to the parties or either of them, it shall and may be lawful for the said Election Committee, upon application of any of the parties before the said Committee, at any period during the course of their proceedings upon such Petition, to make an order for the nomination and appointment of a Commission in manner herein directed.

XCVII. And be it enacted, That every party intending to apply for the issue of such Commission, shall give to the opposite party or parties two full days' notice in writing exclusive of any intervening Sunday or other Statutory Holiday, (as on Monday for Thursday, or on Saturday for Wednesday,) of his intention to apply to the said Committee for such Commission as aforesaid.

XCVIII. And be it enacted, That whenever any such Select Election Committee shall think fit to make an order for the appointment of a Commission as aforesaid, it shall and may be lawful for such Committee, if they shall think fit so to do, to appoint such person to be such Commissioner as may be mutually agreed upon in writing by all the parties interested or concerned in such Election Petition, their Counsel or Agents, upon the written consent of such person to serve as such Commissioner, with an Affidavit of the due execution thereof, being laid before such Select Committee; or in the event of all such parties not so agreeing as to the person to be appointed such

Commissioner,

Commissioner, or of the said Select Committee not thinking fit to appoint the person who may be so agreed upon by such parties for that purpose, the said Select Election Committee shall appoint some one of the Circuit Judges of Lower Canada, if the election shall have been one in Lower Canada, or some one of the County Judges of Upper Canada, if the election shall have been one in Upper Canada, to be such Commissioner, and such Commissioner shall be appointed in manner herein mentioned, that is to say, on the next sitting day of such Select Committee after the said order shall have been made by the said Committee, at the time previously appointed by the said Committee for that purpose, in the presence of all the parties interested or concerned in such Election Petition, their Counsel or Agents, if they shall choose to attend, the said select Committee shall proceed to select from the list of Circuit or County Judges, as the case may require, such person as it may then appear to them to be most desirable to appoint as such Commissioner, and shall openly announce the name of such person for the information of the parties, and thereupon, either then or at such future day as the said Select Committee may allow for that purpose, any of such parties may submit to the consideration of the said Select Committee any grounds that he may have to urge against the appointment of such person as such Commissioner, and in the event of such Committee being of opinion that upon the grounds so laid before them, such person ought not to be so appointed, they shall, so soon as they have come to a resolution declaratory of the same, proceed to select and announce some other of the said Circuit or County Judges, as the case may require, for that purpose, and in like manner to hear and dispose of any grounds of objection that the parties or any of them may have to urge against the appointment of such person, and so on until they shall have selected and announced some one of such Circuit or County Judges as aforesaid against whose appointment no objection shall have been urged as aforesaid, or with respect to whom the objections so urged have been over-ruled by the said Select Committee, and thereupon such person shall by the said Committee be appointed to be such Commissioner; and in all cases of such appointment, a Warrant in the nature of a Commission, under the hand and seal of the Chairman of such Select Committee, shall be issued to such Commissioner, empowering him to examine all such matters and things as shall for that purpose be referred to him by the said Select Committee, by any order made or to be made by the said Committee for that purpose, and commanding such Commissioner under the penalty of One Hundred Pounds to repair to the County, Riding, City, Town, Borough or place in and for which the Election or Return complained of, or other subject matter of the Petition, arose or happened, on a day certain to be named in the said Warrant, and which day shall not be less than fourteen days nor more than twenty-one days distant from the day on which the said Commissioner was appointed by the said Select Committee in manner aforesaid, and in case the said Commissioners shall neglect or refuse to obey the injunction of the said Warrant, he shall forfeit the sum of One Hundred Pounds; and every such Warrant shall and may, as nearly as may be, be in the form set forth in the Schedule to this Act annexed marked B. (1) with such alteration as may be necessary to adapt such form to the circumstances of the case.

Circuit or County Judges may be appointed.

Manner of appointment.

Objections how heard and disposed of,

Warrant to issue to Commissioner.

Form of warrant.

New Commissioner may be appointed in certain cases.

XCLIX. And be it enacted, That in every case in which any such Commissioner shall have been so appointed as aforesaid, it shall and may be lawful for the said Select Committee by whom such appointment was made, or in case of their dissolution as provided for by this Act, then for the new Select Committee appointed in their stead, in the event of such Commissioner dying or becoming incompetent or unable to act under such Commission, to supersede such Commissioner and appoint another as hereinbefore provided, and with similar powers; in every which case such new Commissioner shall have the like powers as the person first appointed, and shall and may complete the takings of any evidence that may have been only partially taken by the said former Commissioner, or take the whole anew, as by order of such Select Committee he shall be directed or required; and in every such case the Warrant for the appointment of such new Commissioner shall and may as nearly as may be in the form

set forth in the Schedule to this Act annexed marked B. (2) with such alteration as may be necessary to adapt such form to the circumstances of the case.

Power of a Judge,  
Commissioner in cases  
of contempt.

C. And be it enacted, That every such Commissioner when engaged in the execution of the duties of his office as such Commissioner, shall have the like power and authority to commit for contempt against him and his orders, as by law is or shall be vested in a Circuit or County Court respectively, for the like contempts against it or its orders, subject always nevertheless to an Appeal from the decision of such Commissioner, in every such case, to the Select Committee for the time being charged with the disposal of such Election Petition.

Appeal given.

Circuit or County  
Judge appointed a  
Commissioner may  
appoint a proper  
person to act for him  
as Judge while he is  
executing the  
Commission.

CI. And be it enacted, That upon the issue of any Commission to any Circuit or County Judge appointing him a Commissioner for the examination of witnesses under this Act, it shall and may be lawful for such Judge, by an Instrument in writing under his hand and seal, to name any other Circuit Judge, if the Judge so appointed such Commissioner shall himself be a Circuit Judge, or any other County Judge if such Judge shall himself be a County Judge, or to name any other person of the degree of Barrister at Law of that section of the Province to the judiciary of which such Circuit or County Judge shall belong, to sit for him as such Circuit or County Judge, and in every other capacity, whether judicial or otherwise, belonging or attached to the Office of such Circuit or County Judge as such Judge, during the time that such Commission for the examination of witnesses under this Act shall be in force unreturned, and for twenty days after the same shall have been superseded or returned by the Judge to whom the same shall be directed.

Instrument of  
appointment to be in  
triplicate; and where  
such triplicates shall  
be deposited, &c.

CII. And be it enacted, That every such Instrument of nomination shall contain a recital of the Commission which shall have rendered such nomination necessary, and shall be executed in triplicate, one of which triplicate originals shall, by the Judge making the same, be filed in the Office of the Clerk of such Circuit or County Court, or with any Clerk of such Court if there be more than one, another of them be delivered or sent to the person so named to sit for such Judge, and the third be transmitted to the Provincial Secretary, for the information of the Governor of the Province.

Governor may annul  
appointment and  
appoint another  
person.

CIII. And be it enacted, That in the case of every such nomination, it shall and may be lawful for the Governor of the Province, by an Instrument under his Privy Seal, to annul such nomination, and if he shall think fit so to do, to name by the same or any other Instrument under his Privy Seal, some other person legally qualified to have been named by such Judge himself, to sit for such Judge instead of the person so named by such Judge as aforesaid.

Powers of persons  
appointed to act  
instead of Circuit or  
County Judges.

CIV. And be it enacted, That in every such case the person so nominated to sit for such Judge shall, so long as his nomination shall be unannulled, and the said Commission for the examination of witnesses under this Act shall remain in force unreturned, and for twenty days after such Commission shall have been either superseded or returned, have full power and authority to sit for such Judge as such Circuit or County Judge, and in any other capacity whether judicial or otherwise belonging or attached to the office of such Circuit or County Judge, in all Courts and on all occasions wherein such Judge by or under his Commission as such Judge, or otherwise according to Law, may be required or have occasion to sit or hold any Court whatsoever, or any Sittings or Sessions of any such Court or any other Court, or otherwise to act either singly or with others, and either at Chambers or elsewhere, in the discharge of any of the duties, whether judicial or of any other character, which by the Commission of such Judge as such Circuit or County Judge belong or by law attach to his office as such Circuit or County Judge; and all judgments, decisions, decrees and acts pronounced, given, made or done by such person during such time, shall be as valid and effectual in law to all intents and purposes whatsoever, as if the same had been so pronounced, given, made or done by such Judge himself: Provided always nevertheless, firstly, That in all cases in which the Governor shall annul any such nomination as aforesaid, all such judgments, decisions, decrees and acts pronounced, given, made or done by the person whose nomination shall have been so annulled previous to his receiving notice of such nomination

Proviso.

having

having been so annulled, shall be and remain as valid and effectual in Law to all intents and purposes whatsoever, as if such nomination had not been so annulled as aforesaid : And provided also, secondly, That it shall and may be lawful for such Judge notwithstanding any such nomination, whether made by himself or the Governor of this Province as aforesaid, while the same shall be in force and without thereby annulling or superseding the same, to perform himself, if the execution of such Commission for the examination of witnesses under this Act shall not prevent his doing so, either the whole or any part of the duties of his said office of Circuit or County Judge, as if such nomination had not been made as aforesaid.

Proviso:

CV. And be it enacted, That in the case of every such nomination as aforesaid, whenever from illness of the person so nominated to sit for such Judge, or from any casualty, it may happen that such person shall not arrive in time, or shall not be able to open any Court or any Sittings or Sessions of any Court on the day appointed for that purpose, it shall and may be lawful for the Clerk or Deputy Clerk of such Court, Sittings or Sessions, after the hour of eight o'clock in the afternoon of such day, to adjourn by proclamation any such Court, Sittings or Sessions which shall be appointed to be held on that day to an early hour on the following day, not being a Sunday or Statutory Holiday, to be by him named, and so from day to day, adjourning over such Sundays and Statutory Holidays, until such person or the Judge for whom he was named to sit shall arrive to open the same, or until he shall receive other directions from such Judge, or the person so appointed to sit for such Judge as aforesaid.

Power of Clerk to adjourn the Court in case of non-arrival of the person appointed to sit for the Judge.

CVI. And be it enacted, That every person who shall have sat for any such Circuit or County Judge, by virtue of any such nomination so made under the authority of this Act as aforesaid, shall for every day that he shall have so sat for such Judge, be entitled to receive the sum of Fifty Shillings, and also in every case in which he shall be obliged to travel from the place of his usual residence to perform such duty, such further sum as shall be sufficient to cover the amount of his reasonable travelling expenses in going to, remaining at, and returning from the same, the account of every such person for such service to be rendered, taxed and allowed in the same manner as other accounts for professional services rendered to the Government. And the amount of every such account so taxed and allowed shall be paid to such person, or his personal representative, out of the Consolidated Revenue Fund of this Province, by Warrant to be issued for that purpose, in the like manner as other moneys, payable out of such Fund are, or, for the time being, may be payable according to Law.

Allowance to persons so acting for any Judge.

CVII. And be it enacted, That for the taking down in writing Minutes of all the proceedings of such Commissioner in executing the duties imposed upon him by this Act, and of all such evidence as shall be given or produced before him, in as accurate a manner as may be, and for the proper and orderly conduct of his proceedings in this behalf, every such Commissioner shall have full power to appoint one or more Clerks, and such and so many Bailiffs and other Officers as he may deem requisite or necessary for that purpose, subject always nevertheless to the control and direction of the said Select Committee charged for the time being with the trial and disposal of such Election Petition, and which Clerks and other Officers shall respectively take before such Commissioner the oaths set forth for that purpose in the Schedule to this Act annexed marked B. (4) (5).

How paid.

Commissioner may employ Clerks and Bailiffs, &c.

How paid.

They shall be sworn.

CVIII. And be it enacted, That no person shall be appointed by such Commissioner under this Act to be a Clerk, Bailiff or other Officer to assist such Commissioner as aforesaid, who shall have voted at the Election in question, or who shall have or claim any right or title to vote for the County, Riding, City, Town, Borough or place, respecting which the Election or Return complained of, or other subject matter of such Petition arose or happened, without the consent and approbation in writing of all the parties interested or concerned in such Election Petition : Provided always nevertheless, that any objection to the appointment of such Clerk, Bailiff or other Officer, shall be made at the time of his being appointed, or at the first sitting of the Commissioners after such appointment shall have been made, otherwise any such objection

Certain persons not to be Clerks, Bailiffs, &c.

Proviso : when the objection must be made.

objection shall be invalid and of none effect, and such appointment shall be valid and effectual to all intents and purposes.

Such appointments to be entered on minutes.

CIX. And be it enacted, That a note of the appointment of every such Clerk, Bailiff or other Officer by such Commissioner, shall be made in the Minutes of such Commission, and be open at all reasonable times to the inspection of all parties interested or concerned in such Election Petition.

What documents shall be transmitted to the Commissioner, by the Chairman of Committee.

CX. And be it enacted, That the Chairman of the said Select Committee shall address to the said Commissioner a true copy of the Petition which shall have been referred to the said Committee, and of the said lists and disputed votes and statements of the several parties which shall have been delivered according to the provisions of this Act, together with a true copy of the Order made by the said Committee, specially assigning and limiting the facts or allegations, matters and things respecting which the said Commissioner is required and directed to examine evidence and to report the same, together with all such other documents and papers as the said Select Committee shall think proper, all which Warrants, Petitions, Orders and Papers, shall be conveyed to such Commissioner through the Post Office, in the manner hereinafter prescribed for the transmission to the proper Court of Recognizances taken and estreated, or otherwise proceeded upon under this Act.

Committee may be adjourned during the execution of the Commission.

CXI. And be it enacted, That immediately after the completion of the proceedings aforesaid, the said Chairman of the said Select Committee shall thereupon report the proceedings of the said Committee to the House, and shall ask permission of the House for the said Committee to adjourn until such time as the Speaker shall by his Warrant in manner herein mentioned, direct the said Committee to re-assemble, and upon such permission being granted, it shall and may be lawful for the said Committee to adjourn accordingly; any thing herein contained to the contrary thereof in any wise notwithstanding.

Commissioner to open his Court at the time assigned, &c.; proceedings.

CXII. And be it enacted, That on the day appointed in and by the Warrant appointing such Commissioner, and at such place as he shall have appointed for that purpose, between the hours of ten in the forenoon and four in the afternoon, the said Commissioner shall proceed to open his Court or commence his proceedings by reading the Warrant of the said Chairman of the said Select Committee, and also the copy of the Petition and other papers transmitted by the said Chairman, and the said Commissioner shall, before further proceeding on the business of his said Commission, take and subscribe the oath set forth in the Schedule to this Act annexed, marked B (3), which said Oath the said Commissioner shall take and subscribe in the presence of the parties interested or concerned in such Election Petition, or their Agents, or such of them as shall attend, and the taking of the same shall be noted in the Minutes of such Commission, and if any person shall act as a Commissioner in the execution of this Act without having first taken and subscribed such Oath, he shall for such offence forfeit and pay the sum of One Hundred Pounds.

He shall be sworn.

Penalty for acting before taking oath.

Sittings of the Commissioner.

As to adjournments of such sittings.

CXIII. And be it enacted, That the said Commissioner shall sit every day, Sundays and Statutory Holidays only excepted, from the hour of ten in the morning till four in the afternoon, and shall never adjourn except by the consent in writing of all the parties to such Election Petition or their Agents, or by permission of the Select Committee appointed for the trial of such Election Petition, or in the case provided for by the next section of this Act, for a longer time than twenty-four hours, unless Sunday or some other Statutory Holiday or Holidays shall intervene, and in case of such intervention, every sitting or adjournment shall be within twenty-four hours from the time of appointing or fixing the same, exclusive of such Sunday or other Holiday or Holidays as aforesaid.

In case of sickness, accident, &c., report to be made to the Committee, and verified by affidavit.

CXIV. And be it enacted, That the said Commissioner shall not, except as before excepted, omit such daily sittings except in cases of sudden accident or necessity, or in case of illness; and that such cases of sudden accident or necessity shall forthwith be specially reported to the said Select Committee by such Commissioner, and be verified upon the Oath of the said Commissioner, and also in case of sickness by the

Oath



Oath of the Physician, if any there be attending such Commissioner, or if there be no Physician in attendance, then by the Oath of some third party who shall be cognizant of the fact, which Oaths shall be made before one of Her Majesty's Justices of the Peace; and that any Commissioner who shall so omit such daily sittings without such lawful excuse, shall for every day on which he shall so absent himself, forfeit and pay the sum of Twenty-five Pounds.

Penalty for omitting to sit without lawful excuse.

CXV. And be it enacted, That upon every such Special Report from such Commissioner, the said Select Committee shall be ordered to meet as is provided upon the transmission of his final Report and Return, and the said Select Committee shall thereupon proceed to hear the parties interested or concerned in such Election Petition, or such of them as shall choose to attend for that purpose, their Counsel or Agent, upon such Special Report, and if it appear to such Select Committee upon the facts laid before them upon Affidavit, either in such Special Report, or by the parties or any of them, either that the Commissioner is dead, or that he will be unable to complete the duties imposed upon him by the said Commission within a reasonable time for that purpose, such Select Committee shall and may proceed to supersede the same, and to appoint another Commissioner thereupon as hereinbefore provided for that purpose: Provided always nevertheless, that notwithstanding any thing herein contained to the contrary, in the event of the death of any such Commissioner, the Clerk employed by him in keeping the Minutes of his proceedings under the same, shall and may, either by the consent of all the parties interested or concerned in such Election Petition, their Counsel or Agent, or by direction of such Select Committee, make a Report and Return of all the proceedings had and taken by such Commissioner, which Report and Return shall in such case be equally available for all the purposes of this Act as if made by such Commissioner himself.

Proceedings to be had by the Committee on such report.

Proviso.

CXVI. And be it enacted, That if any such Commissioner shall be prevented from attending at the day and place appointed as aforesaid by any sudden accident, necessity or illness, to be verified upon Oath in manner herein directed, he shall not be liable to the said penalty of Twenty-five Pounds; any thing herein contained to the contrary notwithstanding.

Commissioner to be excused in case of sickness, &c.

CXVII. And be it enacted, That it shall and may be lawful for the said Commissioner from time to time to adjourn to any place within the County or Riding, City, Town, Borough or place in which the Election was held different from that in which such Commissioner shall in the first place have opened his Court or commenced his proceedings under such Warrant, in all cases where it shall appear to him expedient or necessary so to do.

Commissioner may adjourn to other places.

CXVIII. And be it enacted, That the said Commissioner shall have power at all times by Warrant under his hand and seal, to send for all persons, papers and records, and shall examine all witnesses who shall come before him, upon Oath or Affirmation, as the case may require, and shall examine all matters referred to him, and shall in all respects have the same powers and authorities for examining the said matters so referred to him as Select Committees of the Commons House of Legislative Assembly for the trial of Election Petitions have for examining the matters and things referred to such Select Committees, and the said Commissioner shall proceed in examining all and every witness or witnesses who shall come before him, and in scrutinizing the rights of any voter or voters, and in all matters and things whatsoever referred to him in the same course and manner, and according to the same Rules, as Select Committees of the Commons House of Legislative Assembly for the trial of Election Petitions ought and are empowered to proceed in like cases, and the Clerk appointed by the said Commissioner shall from time to time make or cause to be made true copies of the Minutes of all the proceedings before the said Commissioner, and of all such evidence as shall be given or produced before him, and shall give one such copy to each of the parties interested, or his or their agent, or to such of them as shall demand the same, on being paid, for each folio of the said copy consisting of one hundred words, the sum of Six Pence: and within

Power of Commissioner to send for persons, papers, &c.

Other powers.

His Clerk to make copies of evidence, minutes, &c.

Fee.

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ten days after the evidence before the said Commissioner shall be closed, touching the matters and things referred to him, the said Commissioner shall cause copy of the Minutes of all his proceedings to be made, and shall examine the same with the said Minutes, and shall sign and seal the said copy, and shall transmit the same by his Clerk, through the Post Office, in the manner hereinafter prescribed for the transmission to the proper Court of Recognizances taken and estreated or otherwise proceeded upon under this Act, to the Speaker of the Commons House of Legislative Assembly of this Province, who shall accordingly communicate the same to the said House, and upon the transmission of the said copy, the said Commissioner shall adjourn in order to receive such further orders from the Select Committee upon the Petition in question, as such Committee may from time to time think requisite and necessary.

CXIX. And be it enacted, That the said Commissioner shall not permit or suffer any Barrister or Counsel to plead before him, or to examine or cross-examine any of the witnesses, but that the said Commissioner shall himself examine and cross-examine all the witnesses that shall be produced before him.

CXX. And be it enacted, That in case at any time in the course of the said proceedings before the said Commissioner, any of the said parties shall tender or offer to produce to the said Commissioner any witness or evidence to, of or concerning any matter or thing whatsoever in issue before the said Commissioner, which witness or evidence the said Commissioner shall be of opinion ought not to be examined, heard or received, the said Commissioner shall state in writing the reasons and grounds upon which he has rejected the said evidence, and enter the same upon the Minutes of his proceedings, and it shall and may be lawful to and for the party tendering or offering to produce such witness or evidence, to require of the said Commissioner that the said witness or evidence shall be examined, heard and received by and before him *de bene esse*, and the testimony of such witness or the purport of such evidence shall accordingly be taken down in writing by the Clerk to the said Commissioner, separately and apart from all other evidence before the said Commissioner, and a copy thereof, with a statement of the purpose to or for which the said witness or evidence was produced, and by whom the same was produced, shall be signed and sealed by the said Commissioner in the nature of a Bill of exceptions to evidence, and the same shall be transmitted by the said Commissioner, together with all the other proceedings before him in manner herein mentioned; and if the Select Committee for the trial of such Election Petition shall be of opinion that the tendering and offering of such witness or evidence was frivolous or vexatious, or that the testimony of such witness or the purport of such evidence was impertinent or irrelevant to the matter at issue before the said Commissioners, the said Committee shall report such their opinion to the House, together with their opinion on the other matters relating to the said Petition, and the party who shall before the said Commissioner have opposed the examining, hearing or receiving of such witness or evidence shall be entitled to receive from the person or persons who shall have produced such witness or evidence, the full costs and expenses which such party or parties shall have incurred in opposing the same, or by reason of the same being received in manner aforesaid, which costs and expenses shall be ascertained and recovered in the same manner as by this Act is or hereafter may be provided by law for the recovery of costs and expenses in case of frivolous or vexatious Petitions, or frivolous or vexatious opposition to such Petitions.

CXXI. And be it enacted, That within two days after the copy of the said proceedings before the said Commissioner shall be received by the Speaker of the Commons House of Legislative Assembly, the said Speaker shall issue a Warrant under his hand and seal, directing the Select Committee upon the Petition in question to re-assemble and to meet again on some day within the space of fourteen days from the date of such Warrant, provided Parliament shall be then sitting, and in case Parliament shall not be then sitting to meet on some day within one month after the commencement of the next Session of Parliament; and that the said Select Committee shall accordingly re-assemble and meet again, and shall take the proceedings of the said Commissioner into consideration,

Return to be made by Commissioner to the Speaker.

No Barrister or Counsel allowed to plead, &c., before Commissioner.

Evidence tendered before Commissioner, may be received by him conditionally, if he doubts whether it ought to be taken.

Committee to determine as to relevancy of such evidence.

As to costs, if the evidence be rejected.

When the return of the Commissioner is received, Speaker to direct the Committee to re-assemble.

Their proceedings when so re-assembled.

consideration, and shall proceed to try and determine the merits of the said Petition, but such Select Committee shall not call for or receive any other or further evidence written or parole respecting any matters or things which shall have been tried and examined by the said Commissioner in manner aforesaid, except when the power to do so shall have been specially reserved and the points to which such new evidence should be directed shall have been specially set forth in the order for the issue of such Commission, but, except as aforesaid, the said Committee shall determine on all such matters and things from the written Minutes of the evidence and proceedings before the said Commissioner, and the Certificates of the said Commissioner so signed, sealed and transmitted as aforesaid: Provided always, that the said Committee shall and may be at liberty to hear Counsel as to the effect of the said evidence in like manner as they may do respecting any other matter in question before them; and that the said Select Committee shall report their own opinion to the House upon the whole merits of the said Election or other matter of the said Petition.

Effect of evidence returned.

Proviso.

CXXII. And be it enacted, That if the Speaker of the Commons House of Legislative Assembly shall receive a copy of such proceedings when the said House shall be adjourned for a longer period than one month from the day on which the said Speaker is directed to issue his Warrant for the re-assembling and meeting of any such Committee, then and in such case the said Speaker shall in such Warrant direct such Committee to re-assemble and meet on some day within one month next after the day to which the House may be adjourned, and if the said Speaker shall have directed the Committee to meet on any day, and if the said House shall subsequently adjourn to a day beyond the day so appointed for the re-assembling and meeting of such Committee, then and in such case, the said Speaker shall issue another Warrant directing such Committee to re-assemble and meet on some day within one month next after the day to which the said House may be adjourned, instead of on the day first appointed in pursuance of the provisions of this Act.

Provision if, when the return is received, the House be adjourned for more than one month.

CXXIII. And be it enacted, That the Speaker of the said House, upon issuing any such Warrant for the re-assembling of any such Select Committee, shall cause a notice of the issue of such Warrant, and of the day therein fixed for such re-assembling, to be published in the Government Official Gazette of the Province, and to be also inserted in the votes from thenceforth until the day so appointed for the re-assembling of such Select Committee as aforesaid.

Notice of such direction to re-assemble to be published.

CXXIV. And be it enacted, That, as it may be impracticable in some instances, on account of the quantity of evidence taken under such Commission, for such Commissioner to transmit a copy of the Minutes of his proceedings to the Speaker of the said House, within ten days after the evidence before him shall be closed, it shall and may be lawful for such Commissioner in such cases to transmit such copy with all convenient despatch, and at the same time assign the reasons for such delay, which reasons the Select Committee upon the Petition in question are hereby directed to investigate, and report their opinion thereupon to the House at the time they make their report on the merits of such Petition.

Provision if the Commissioner cannot transmit his return within the time prescribed.

CXXV. And be it enacted, That the said Select Committee shall from time to time during the continuance of the said Commission, and at any time before reporting their final opinion to the House on the merits of the Petition in question, have full power and authority to direct any further or other Warrant to the said Commissioner, under the hand and seal of the Chairman of the said Committee, ordering and directing the said Commissioner to resume his sittings as such Commissioner for such purposes as shall be in the said Warrant specified, and that such and the like proceedings shall be had upon such further Warrant of the Chairman of the said Committee as are herein directed with respect to the said Warrant of the Chairman of the said Committee herein first above mentioned.

Committee may direct, further proceedings before the Commissioner.

CXXVI. And be it enacted, That when any such Select Committee shall re-assemble to try and determine the merits of any such Election Petition, after any proceedings shall have been had by or before any Commissioner appointed for examining any matters

Committee may send for books, &c. produced before Commissioner.

matters which shall have been referred to him by such Select Committee, it shall and may be lawful for such Select Committee to send for all or any such Books, Papers and Records, or other written Documents, as were produced in evidence before such Commissioner, in like manner as such Select Committee, might have done if no such proceedings had been had by or before such Commissioner, and without directing any Warrant to the said Commissioner, and without ordering or directing the said Commissioner to resume his sittings as aforesaid; Provided always, nevertheless, that such Select Committee shall in all other respects proceed to try the merits of such Election Petition, in the manner directed by this Act, and shall determine on all such matters and things as shall have been tried and examined by the said Commissioner from the written Minutes of the evidence and proceedings before the said Commissioner, and from the inspection of such Books, Papers, Records and Documents, so far only as may relate to such evidence and proceedings; but such Select Committee shall not call for or receive in evidence any extracts from such Books, Papers, Records or Documents other than such as were received and produced before such Commissioner, nor to any point or matter not in issue before such Commissioner.

CXXVII. And be it enacted, That it shall and may be lawful for every such Commissioner as well before as after he shall have held his first Sitting under his Commission, or taken the oath of Office herein prescribed for him as such Commissioner, and he is hereby authorized and empowered by Warrant under his hand and seal, directed to any one or more Constable or Constables, or to any of his Bailiffs in that behalf, or to any other person or persons specially appointed by such Commissioner, to summon and require the attendance of any witness or witnesses or other person or persons before him at the day and place to be mentioned in such Warrant.

CXXVIII. And be it enacted, That if any person so summoned as a witness as aforesaid, shall neglect or refuse to attend without lawful excuse to be determined by the said Commissioner, or if any witness before such Commissioner shall prevaricate or shall otherwise misbehave in giving or refusing to give evidence, or if any person shall be guilty of any contempt or misbehaviour whatsoever of or towards the said Commissioner while sitting and acting in the execution of his said Commission, the said Commissioner shall, and he is hereby empowered, by a Warrant under his hand and seal, and directed to the Gaoler of the Common Gaol, of the County, City or place in which the said Commissioner shall sit, to commit such person, not being a Legislative Councillor of this Province, to the custody of the Gaoler, without bail or mainprize, for any time not exceeding Six Calendar months.

CXXIX. And be it enacted, That in case it shall be requisite to summon any Member of either House of Parliament who shall be then attending his duty in Parliament, to give evidence before the said Commissioner, in such case the Commissioner shall certify the same to the Speaker of the Commons House of Legislative Assembly, who shall report the same to the House for its direction thereupon.

CXXX. And be it enacted, That every Commissioner so to be appointed in manner aforesaid shall, immediately after the Select Committee on the Petition in question shall have made their final Report to the House on the merits of the said Petition, be entitled to demand and receive from the party or parties interested or concerned in such Election Petition, upon whose application to such Select Committee such Commissioner shall have been appointed, Fifty Shillings for every day which such Commissioner shall have been necessarily engaged on the said Commission, and also his travelling expenses at the rate of One Shilling for every mile which such Commissioner shall have travelled from and to his usual place of abode in his attendance on the execution of such Commission; and that the Clerk to the said Commissioner shall also, upon his transmitting the said copy of such proceedings in manner aforesaid, be entitled to demand and receive from such party or parties as aforesaid, such sum or sums for his attendance on the execution of the said Commission as the said Commissioner shall under his hand certify to be reasonable, not exceeding the amount of Twenty Shillings for each day of his

Proviso.

Commissioner may issue summons to witnesses, and when.

Penalty on witness as failing to attend when summoned.

As to summoning any Member of Parliament.

Remuneration of Commissioner.

Travelling expenses.

Remuneration of Clerk.



his attendance on the execution of the said Commission, together with such sum for the copy of the evidence transmitted to the Speaker of the House in manner aforesaid, as the said Commissioner shall think fit, not exceeding the sum of Six Pence for every folio consisting of one hundred words which the said copy shall contain.

CXXXI. And be it enacted, That the Clerk to be appointed by any such Commissioner shall from time to time make, or cause to be made, true copies of the Minutes of all proceedings before such Commissioner, and of all such evidence as shall be given or produced before him, and shall give one such copy to each of the parties interested, or to his or their Agent, or to such of them as shall demand the same, on being paid, for each folio of the said copy consisting of one hundred words, the sum of Six Pence, and no more; and that for copies of the said Minutes and evidence to be transmitted to the Speaker of the Commons House of Legislative Assembly, in manner directed by this Act, such Clerk shall receive from the party or parties interested or concerned in such Election Petition, upon whose application to such Select Committee such Commissioner shall have been appointed, such sum as the said Commissioner whose Clerk he was shall think fit, not exceeding in any case the sum of Six Pence for every folio, consisting of one hundred words which such copy shall contain, and no more; any thing herein contained to the contrary notwithstanding.

Clerk to furnish copies of minutes, &c.

Remuneration.

CXXXII. And be it enacted, That the Bailiffs and other Officers employed by such Commissioner in and about the execution of such Commission, shall receive from the party or parties interested or concerned in such Election Petition, the sum of Ten Shillings per day, while in actual attendance on the sittings of such Commissioner, and at the rate of Six Pence per mile for every such mile travelled in performing any of the duties properly belonging to them under this Act: Provided always, nevertheless, firstly, that for the service of any Summons on any witness requiring him to attend before the Commissioner, such Bailiff or other Officer, unless the same be specially directed by the said Commissioner in writing under his hand to be served at the expense of all the parties interested or concerned in such Election Petition, shall be entitled to receive his fees for the service thereof, only from the party who shall employ such Bailiff or other Officer to serve the same: And provided also, secondly, that such Commissioner shall not require the daily attendance of any such Bailiff or other Officer upon him at the time of his holding such sittings, unless he shall find it necessary to do so, in every which case he shall in his Report state the grounds upon which he acted in so requiring the attendance of such Bailiff or other Officer as aforesaid.

Remuneration of bailiffs and other officers employed by commissioner.

Proviso.

Proviso.

CXXXIII. And be it enacted, That every such Commissioner and Clerk, Bailiff or other Officer, shall have the like remedy upon the Recognizance required to be entered into by every Petitioner under this Act, for their services in the execution of such Commission as is hereby given to any persons summoned as witnesses by such Petitioner.

Commissioner, &c., to have remedy on recognizance.

## 9. COSTS.

CXXXIV. And be it enacted, That whenever any Select Committee appointed to try any Election Petition reports to the House that such Petition was frivolous or vexatious, the parties, if any, who have appeared before the Committee in opposition to such Petition, shall be entitled to recover from the persons, or any of them, who signed such Petition, the full costs and expenses which such parties have incurred in opposing the same, such costs and expenses to be ascertained in the manner hereinafter directed.

As to costs on frivolous or vexatious petition.

CXXXV. And be it enacted, That whenever such Committee reports to the House that the opposition made to any such Petition by any party appearing before them was frivolous or vexatious, the persons who signed such Petition shall be entitled to recover from the party with respect to whom such report is made, the full costs and expenses which such Petitioners have incurred in prosecuting their Petition; such costs and expenses to be ascertained in the manner hereinafter directed.

As to costs on frivolous or vexatious opposition.

As to costs where there is no opposition.

CXXXVI. And be it enacted, That whenever no party has appeared before any such Committee in opposition to such Petition, and such Committee reports to the House that the election or return, or the omission or insufficiency of a return complained of in such Petition was vexatious or corrupt, the persons who signed such Petition shall be entitled to recover from the sitting member (if any) whose election or return is complained of in such Petition, (such sitting Member not having given notice as aforesaid of his intention not to defend the same) or from any other persons admitted by the house as aforesaid to oppose such Petition, the full costs and expenses which such Petitioners have incurred in prosecuting their Petition; such costs and expenses to be ascertained in the manner hereinafter directed.

As to costs on frivolous or vexatious objections.

CXXXVII. And be it enacted, That if any ground of objection be stated against any voter in any list of voters intended to be objected to as hereinbefore provided, and if such Select Committee be of opinion that such objection was frivolous or vexatious, they shall report the same to the Commons House of Legislative Assembly, together with their opinion on the other matters relating to the said Petition, and the opposite party shall in such case be entitled to recover from the party on whose behalf any such objections were made, the full costs and expenses incurred by reason of such frivolous or vexatious objections; such costs and expenses to be ascertained in the manner hereinafter directed.

As to costs on unfounded allegations.

CXXXVIII. And be it enacted, That if either party make before the said Select Committee any specific allegation with regard to the conduct of the other party or his Agents, and either bring no evidence in support thereof, or such evidence that the Committee is of opinion that such allegation was made without any reasonable or probable ground, the Committee may make such orders as to them may seem fit for the payment by the party making such unfounded allegation to the other party, of all costs and expenses incurred by reason of such unfounded allegation; such costs and expenses to be ascertained in the manner hereinafter directed.

How the costs and expenses payable under this Act, shall be ascertained.

CXXXIX. And be it enacted, That the costs and expenses adjudged by any such Select Committee as aforesaid, to be paid, or which otherwise may become payable under the provisions of this Act, to any party prosecuting or opposing or preparing to oppose any Election Petition, or to any witness summoned to attend before any Committee, under the provisions of this Act, shall be ascertained in manner following, that is to say: on application made to the Speaker of the Commons House of Legislative Assembly, by any such Petitioner, Party or Witness, for ascertaining such costs and expenses, not later than three calendar months after the determination of the merits of such Petition, or after any Order of the House for discharging the order of reference of such Petition to the General Committee of Elections, or after the withdrawal of any Petition, as hereinbefore provided, the Speaker shall make an order that the same be taxed, and shall proceed to examine and tax such costs and expenses, and shall report the amount thereof, together with the name of the party liable to pay the same, and the name of the party entitled to receive the same, to the House, and shall also, upon application made to him, deliver to the party a certificate signed by him, expressing the amount of the costs and expenses allowed in such Report, with the name of the party liable to pay the same, and the name of the party entitled to receive the same, and such Certificate so signed by the Speaker shall be conclusive evidence for all purposes whatever, as well of the amount of the demand as of the title of the party therein named to recover the same from the party therein stated to be liable to the payment thereof; and the party claiming under the same shall, upon payment thereof, give a receipt at the foot of such certificate, which shall be a sufficient discharge for the same.

Speaker's certificate to be conclusive evidence of costs.

Speaker may examine persons on oath as to costs.

CXL. And be it enacted, That the Speaker may examine upon Oath any party claiming any such costs or expenses, and any witnesses tendered to him for examination, and may receive Affidavits, sworn before himself, or before any Justice of the Peace, relative to such costs and expenses.

CXLI. And be it enacted, That the party entitled to such taxed costs and expenses, or his or her personal representatives, may demand the whole amount thereof so certified as above, from any one or more of the persons liable to the payment thereof, and in case of non-payment thereof on demand, may recover the same by action of debt in any of Her Majesty's Courts which would have jurisdiction over the same, were it an ordinary debt of a similar amount; in which action it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the sum mentioned in the said Certificate, and the said Plaintiff shall, upon filing the said declaration, together with the said Certificate and Affidavit of such demand as aforesaid, be at liberty to sign judgment as for want of a plea by *nil dicit*, or otherwise, according to the course of the Court in which the action shall be pending, or to have judgment entered or rendered in his favor according to the same, and take out execution for the said sum so mentioned in the said Certificate, together with the costs of the said action according to due course of law: Provided always, nevertheless, firstly, that the validity of such Certificate (the handwriting of the Speaker thereunto being duly verified) shall not be called in question in any Court; and provided always also, secondly, that the party so impleaded may, if he think fit, put in any defence that he may have to such action, according to law and the practice of such Court.

In what manner costs may be recovered.

CXLII. And be it enacted, That in every case it shall be lawful for any person from whom the amount of such costs and expenses has been so recovered, to recover in like manner from the other persons, or any of them (if such there be) who are liable to the payment of the same costs and expenses, a proportionate share thereof according to the number of persons so liable, and according to the extent of the liability of each person.

Parties may recover from those jointly liable with them.

CXLIII. And be it enacted, That if any person having subscribed an Election Petition presented under this Act, or any sitting Member or any Petitioner admitted to defend such Petition instead of such sitting Member, neglect or refuse for the space of seven days after demand to pay to any witness summoned on his behalf before any Select Election Committee appointed under the provisions of this Act, or before any Commissioner appointed for taking evidence by such Committee, the sum so certified as aforesaid by the Speaker under the authority of this Act to be due to such witness, or if such Petitioner or other party neglect or refuse, for the space of six months after demand, to pay to any party opponent to him upon the trial of such Petition the sum so certified by the Speaker as aforesaid to be due to such party for his costs and expenses, and if such neglect or refusal be, within one year after the granting of such certificate, proved to the Speaker's satisfaction by Affidavit sworn before the said Speaker or before a Justice of the Peace, in every such case every person who has entered into a Recognizance on behalf of such Petitioner or other party, relating to such Petition under the provisions of this Act, shall be held to have made default in his said Recognizance, and the Speaker of the Commons House of Legislative Assembly shall thereupon certify such Recognizance into the Superior Court for Lower Canada, if such Recognizance shall have been taken in Lower Canada, or into the Court of Queen's Bench or Common Pleas for Upper Canada, if such Recognizance shall have been taken in Upper Canada, and shall also certify that such person has made default therein, and such certificate shall be conclusive evidence of the validity of such Recognizance and of such default, and the Recognizance, being so certified, shall be delivered by the Clerk of the Commons House of Legislative Assembly, or some person deputed by him for that purpose, into the hands of the Chief Justice, or one of the Judges of the Court into which the same shall be so certified by the said Speaker, or into the hands of some Officer of such Court appointed by such Court to receive the same, or shall be transmitted by such Clerk through the Post in manner hereinafter mentioned, to the Chief Justice or other Judge of such Court as the case may require, and in every such case such delivery or transmission of such Recognizance shall have the same effect as if the same were estreated or otherwise proceeded upon for the like purpose from or in a Court of Law, according to the Laws of that section of the Province in which such Recognizance shall have been so taken as aforesaid, and the course of the Court to which

Recognizances to be estreated if costs be not paid within certain periods.

the same shall have been so transmitted as aforesaid, and the validity of such certificate (the handwriting of the Speaker thereunto being duly verified,) shall not be called in question in any such Court upon the ground of any matter having arisen anterior to the date of such certificate.

Provision for the transmission of recognizances by post.

CXLIV. And be it enacted, That for the purpose of transmitting any such Recognizance through the Post as aforesaid, the Clerk of the Commons House of Legislative Assembly, or some other person appointed by the Speaker for that purpose, shall carry such Recognizance under a cover directed to the Chief Justice or one of the Judges of the Court into which the same shall be so certified as aforesaid, to the General Post Office of the place where such Recognizance shall then be with the other Records of the said House, and there deliver the same to the Post Master or Deputy Post Master of such place for the time being, or to the person discharging the duties of such Post Master or Deputy Post Master therein for the time being, who on receipt thereof shall give an acknowledgment in writing of such receipt to the person from whom the same is received, and shall keep a duplicate of such acknowledgment signed by the parties respectively to whom the same is so delivered, and the said Post Master or Deputy Post Master, or person performing the duties of such Post Master or Deputy Post Master, shall despatch all such Recognizances by the first Post or Mail after the receipt thereof, to the person to whom the same is directed, accompanied with proper directions to the Post Master or Deputy Post Master of the town or place to which the same is directed, or person performing the duties of such Post Master or Deputy Post Master at such place for the time being, requiring him forthwith to carry such Recognizance, and to deliver the same to the person to whom the same is directed, who (or some officer appointed by the Court for that purpose) is hereby required to give such Post Master or Deputy Post Master, or person performing the duties of such Post Master or Deputy Post Master, a Memorandum in writing under his hand, acknowledging the receipt of every such Recognizance, and setting forth the day and hour the same was delivered by him as aforesaid, which Memorandum shall also be signed by the person receiving the same, and be by him transmitted by the first or second Post afterwards to the said Post Master or Deputy Post Master of the office from which the same was so transmitted to him as aforesaid.

Course when proceedings are to be had in that part of the Province where the Recognizance was not taken.

CXLV. And be it enacted, That when it shall become necessary or desirable to proceed upon any such Recognizance in the other section of the Province in which the same was not taken, it shall and may be lawful, upon filing an exemplification of such Recognizance under the Seal of the Court into which the same shall have been so returned, as provided by the one hundred and forty-third Section of this Act, to proceed thereon as if such Recognizance had been taken in such other section of the Province and duly returned into the Court in which such exemplification thereof shall be so filed as aforesaid.

Application of moneys deposited instead of Recognizance.

CXLVI. And be it enacted, That if the costs and expenses intended to be secured by any Recognizance instead of which any moneys shall have been deposited in the hands of the Chief Clerk of the Commons House of Legislative Assembly of this Province, be not paid pursuant to the provisions of this Act, all such moneys, or so much thereof as may be necessary for that purpose, shall be applied in such order of payment as the Speaker of the said House for the time being in his discretion may think fit, in satisfaction of such costs and expenses, or so much thereof as can be thereby satisfied, and thereafter the residue of such moneys, if any, shall be paid to the party by whom or on whose account the same were so deposited as aforesaid.

Application of the proceeds of recognizances estreated.

CXLVII. And be it enacted, That all moneys which shall be received or recovered by reason or in pursuance of the estreating of or otherwise proceeding upon any such Recognizance as aforesaid, shall, after deducting all expenses incurred in respect thereof, be forthwith paid by the proper officer for that purpose into the hands of the Chief Clerk of the Commons House of Legislative Assembly of this Province, to the credit of the Speaker of the said Commons House of Legislative Assembly by his name of office, and shall be applied in manner hereinafter mentioned, in satisfaction,



so far as the same will extend, of the costs and expenses intended to be secured by such Recognizance.

CXLVIII. And be it enacted, That any person who has entered into any such Recognizance may, before the same has been estreated or otherwise proceeded upon as aforesaid, pay the sum of money for which he is bound by such Recognizance into the hands of the Chief Clerk of the Commons House of Legislative Assembly of this Province, to the credit of the said Speaker's account, and the Speaker, upon production to him of a receipt or certificate from the said Chief Clerk for the sum so paid in, shall endorse on the Recognizance in respect of which such money has been so paid in, a Memorandum of such payment, and thereupon such Recognizance shall, so far as regards the person by or on whose behalf such money has been so paid, be deemed to be vacated, and shall not afterwards be estreated or otherwise proceeded upon as aforesaid, as against him, but such Recognizance shall continue to be in force as regards any other person who has entered into the same.

Money may be paid in by any cognizor, in discharge of the recognizance.

CXLIX. And be it enacted, That in every case in which any money is paid into the hands of such Chief Clerk, to the credit of the said Speaker's account as hereinbefore provided, a receipt or certificate of the amount so paid in shall be delivered to the Speaker by the person paying in the same, and such money shall in the first place, and in such order of payment as the Speaker in his discretion may think fit, be applied in satisfaction of all the costs and expenses for securing payment of which such Recognizance was given, or so much thereof as can be thereby satisfied, and thereafter the residue (if any) shall be paid to the party by whom or on whose account the same was paid in.

Receipt for and application of money so paid in.

#### 10. MISCELLANEOUS PROVISIONS.

CL. And be it enacted, That if any Sheriff or other Returning Officer shall wilfully delay, neglect or refuse duly to return any person who ought to be returned to serve in Parliament for any County, Riding, City, Town, Borough or place in this Province, such person may, in case it have been determined by a Select Committee appointed in the manner hereinbefore directed, that such person was entitled to have been returned, sue the Sheriff or other Officer having so wilfully delayed, neglected or refused duly to make such return at his Election, in any of Her Majesty's Superior Courts of Record of original jurisdiction for Lower or Upper Canada, and shall recover double the damages he has sustained by reason thereof, together with full costs of suit, provided such action be commenced within one year after the commission of the act on which it is grounded, or within six months after the conclusion of any proceedings in the Commons House of Legislative Assembly relating to such Election.

Action against returning officer for not making return of person duly elected, or delaying such return, &c.

CLI. And be it enacted, That all pecuniary penalties in and by this Act imposed, shall and may be recovered, with full costs of suit, by any person or persons who shall sue for the same by action of debt in any Court in this Province having jurisdiction to the amount of such penalties respectively; and it shall be sufficient for the Plaintiff or Plaintiffs to declare that the Defendant or Defendants is or are indebted to him or them to the amount of the penalty sued for, by virtue of this Act.

Recovery of pecuniary penalties, under this act.

CLII. And be it enacted, That every indictment, information or action for any offence against this Act, or any forfeiture incurred under the same, shall be found, filed or commenced within one year after the commission of the fact on which such indictment, information or action shall be grounded, or within six months after the conclusion of the proceedings in the Commons House of Legislative Assembly, relating to the Election Petition on the trial of which such fact shall have arisen, and not afterwards.

Limitation of time for prosecuting offenders against this act.

CLIII. And be it enacted, That all Mayors and Aldermen of Cities, and all Mayors, Town Reeves and other Heads of any of the Municipal Corporations in this Province, and other the like persons, as well as all other persons having by Statute for the time being *ex officio* Magisterial power in any part of this Province, shall, within the limits of their jurisdiction in that respect, be and be held to be Justices of the Peace within the meaning of this Act.

Who shall be deemed a Justice of the Peace for the purposes of this Act.

Questions concerning the regularity of any proceedings to be decided solely by the Select Committee.

CLIV. And be it enacted, That all questions as to the sufficiency or regularity of any proceeding had, taken or followed, either by the Commons House of Legislative Assembly, or the Speaker, Clerk or other Officer thereof, or by the Select Committee appointed for the trial of any such Election Petition, or the Chairman, Clerk or other Officer thereof, or by any Commissioner appointed to take evidence upon any such trial, or any Clerk, Bailiff or other Officer acting under such Commissioner, or by any of the parties interested or concerned either in the prosecution or defense of such Election Petition, his Counsel or Agent in the conduct of the case of such party upon such Election Petition, shall, so far as the same regards the trial and disposal of such Election Petition by such Select Committee, and the action of the House upon the Report of such Select Committee, be wholly judged of and determined by such Select Committee, and not by the said House; and no order or resolution of the said House respecting the sufficiency or regularity of any such proceeding shall in any wise be binding upon such Select Committee as far as regards the trial and disposal of such Election Petition.

Omission to observe affirmative provisions not to be fatal, if declared by the Committee not to affect the substance of the question at issue.

CLV. And be it enacted, That the neglect or omission of any party interested or concerned either in the prosecution or defense of any such Election Petition, to observe strictly any of the directions contained in this Act respecting any proceeding or course of proceeding to be by him had or followed in the prosecution or defense of any such Election Petition, except only where by the use of negative as well as affirmative terms the intention of the Legislature shall have been manifested, that such proceeding or course of proceeding, and no other, as to time, place and circumstance, or any of them respectively, should be had or followed in such case, shall not render such proceeding, or course of proceeding, or the subsequent proceedings of such Select Committee in the trial and disposal of such Election Petition, necessarily void or of none effect, provided that such Select Committee shall thereupon come to a resolution to be reported to the Commons House of Legislative Assembly, with the reasons of such Committee for coming to the same, that such neglect or omission hath not so affected the position of the parties to such Election Petition, or any of them, or the proceedings before them in relation to the same, as to interfere with or prevent the disposal by such Select Committee of any of the substantial questions raised upon such Election Petition, upon the true merits thereof.

If such omission affects the merits of the case, the party in default to be considered as having abandoned his case, *quo ad* such cause.

CLVI. And be it enacted, That whenever any such neglect or omission as is referred to in the next preceding section of this Act shall, in the opinion of such Select Committee, affect the position of the parties to such Election Petition, or any of them, or the proceedings before them in relation to the same, so as to interfere with or prevent the disposal by such Committee of any of the substantial questions raised upon such Election Petition, upon the true merits thereof, the said Committee shall, by a resolution to be adopted by them and reported to the House, with the reasons therefor as aforesaid, declare the same, and thereupon the party in default shall not be thereafter received further to proceed with his case, so far as any such question is concerned, but shall be dealt with in every respect as if he had then voluntarily ceased further to prosecute his case as respects the same; except only, firstly, that it shall remain open to such party to contend, if he think fit, that his case as to any such question had been then already sufficiently established in respect of the same or any part thereof, to entitle him to the decision of the said Select Committee in his favor upon the same; And except, also, secondly, that such resolution shall not preclude such Select Committee from taking into consideration such neglect or omission, and all the circumstances attending the same, in coming to a conclusion as to whether the prosecution or defense of such party was or was not frivolous or vexatious, and reporting the same to the said House as aforesaid.

Exceptions.

Exceptions.

How the omission shall be dealt with, if declared not to affect the substance of the question.

CLVII. And be it enacted, That in every such case of neglect or omission as is referred to in the next preceding section of this Act but one, the default of the party guilty of such neglect or omission, shall and may in their discretion be dealt with by the Select Committee for the trial of such Election Petition, either by the imposition upon such party, for the benefit of the party or parties opponent, of such conditions in respect

of the future conduct of his case or any part thereof, or by granting time or other indulgence to such party or parties opponent for facilitating the conduct of their case or cases, or some part or parts thereof, or by the imposition of costs to be paid by the party in default to such party or parties opponent as aforesaid, or any or either of them, and by making the payment of such costs a condition precedent to permitting such party in default to proceed with his case or some part or parts thereof, or in such other manner as to such Select Committee shall or may under all the circumstances thereof appear just in that behalf.

CLVIII. And be it enacted, That the non-observance by the Commons House of Legislative Assembly, or the Speaker, Clerk, or other Officer thereof, or by the Select Committee appointed for the trial of any such Election Petition, or the Chairman, Clerk, or other Officer thereof, or by any Commissioner appointed to take evidence upon any such trial, or any Clerk, Bailiff, or other Officer acting under such Commissioner, of any of the directions contained in this Act respecting any proceeding or course of proceeding to be had or taken by them respectively, in the disposal of such Election Petition, or the trial thereof, except only where, by the use of negative as well as affirmative terms the intention of the Legislature shall have been manifested, that only such proceeding or course of proceeding, and no other, as to time, place and circumstance, or any of them respectively, should be had or taken in such case, shall not render such proceeding or course of proceeding, or the subsequent proceedings of such Select Committee in the trial and disposal of such Election Petition, necessarily void or of none effect, provided that such Select Committee shall thereupon come to a resolution, to be reported to the Commons House of Legislative Assembly, with the reasons of such Committee for coming to the same, that such neglect or omission hath not so affected the position of the parties to such Election Petition, or any of them, or the proceedings before them in relation to the same, as to interfere with or prevent the disposal by such Committee of any substantial question raised upon such Election Petition upon the true merits thereof; but in every such case where necessary, such non-observance shall be supplied, in the case of non-observance by the said House, or the Speaker, Clerk, or other Officer thereof, under the direction of the House itself, and in the case of such non-observance by the said Select Committee, or the Chairman, Clerk, or other Officer thereof, or by any such Commissioner for taking evidence as aforesaid, or any Clerk, Bailiff or other Officer acting under him as aforesaid, then under the direction of such Select Committee, so as to occasion to the parties prosecuting and defending such Election Petition as little inconvenience, delay or expense as may be.

CLIX. And be it enacted, That in all such cases of non-observance as are referred to in the next preceding section of this Act, where such non-observance shall have taken place on the part of the Speaker, Clerk or other Officer of the Commons House of Legislative Assembly, or on that of the Select Committee appointed for the trial of any such Election Petition, or the Chairman, Clerk, or other Officer thereof, or on that of any Commissioner appointed to take evidence upon any such trial, or any Clerk, Bailiff, or other Officer acting under such Commissioner, the persons guilty of such non-observance, may, by order of the said House in its discretion, be taken into the custody of the Sergeant at Arms attending such House, or his Deputy, for such non-observance, and be otherwise dealt with, at the like discretion of the said House, by censure or imprisonment, or by requiring them to make such satisfaction to the parties so interested or concerned in such Election Petition, or any of them, as to the said House may seem just, and by commitment of such persons, or any of them, in execution, for such period as the said House may deem proper, or until such satisfaction be made to such parties or any of them, according to the judgment come to by the said House in that behalf, or by all or any of such means as in the discretion of the said House shall seem just. Provided always nevertheless, that every such proceeding by the said House shall, in all cases except that of the Speaker of the said House, or in that of the said Select Committee or the Chairman or other Member thereof, be had and taken by the

Provision if the party omitting to comply with the directions of the Act, be it House, the Speaker, the Clerk, Committee, Chairman, &c.

How the Speaker, Clerk or other officer of the House, omitting to observe the directions of the Act, may be punished or dealt with.

Proviso.

the said House only upon a special report of such non-observance made by such Select Committee to the said House, and not otherwise.

As to cases where no express provision is made by this Act.

CLX. And be it enacted, That if with regard to any Election Petition, any case shall arise as to which no express provision is made by this Act, and in which if it were treated as a case wholly without the purview of this Act, there would be a manifest failure of justice, without any error, fault or neglect of any of the parties interested, then such case shall not be held to be omitted, but it shall be lawful for the House, Speaker, General Election Committee, Chairmen's Panel, Select Committee, or Commissioner, as the case may be, to adopt such proceeding as they or he shall deem most consonant to the express provisions, spirit and intent of this Act, and when such proceeding shall not be taken by the House, to report the same to the House, for the information thereof only, and such proceeding shall not be held illegal, unless it be inconsistent with some express provision of this Act, or some other existing provision of law.

Repeal of Acts inconsistent with this Act.

CLXI. And be it enacted, That the several Acts of the Parliaments of the late Provinces of Lower and Upper Canada, set forth in the Schedule to this Act annexed marked C, and containing a description of the Acts repealed by this Act, so far as the same shall be in force at the commencement of this Act, and all Acts continuing or making permanent any of the said Acts, or continued or made permanent by any of them, shall be and the same are hereby repealed: Provided always nevertheless, firstly, that no Act or part of an Act repealed by any of the Acts hereby repealed, shall be revived by the passing of this Act; and no Act or part of an Act perpetuated or continued by any of the Acts hereby repealed, (except such as are hereby expressly repealed,) shall be repealed by the passing of this Act; And provided also, secondly, that this repeal of the said Scheduled Acts, shall not extend or be construed to extend to any act done, or to be done, or to any proceeding had or to be had, as growing out of or as incident to any Election Petition presented during the present Session of Parliament, under the said Scheduled Acts, or any of them, all which acts and proceedings shall have effect, and shall and may be had, continued and completed as if this Act had not been passed, and the Recognizances entered into in respect of such Petitions shall be taken to be and remain in force, and shall take effect in all respects as if this Act had not been passed.

Proviso.

Proviso.

Short title.

CLXII. And be it enacted, That in citing this Act, it shall be sufficient in all cases to use the expression, "The Election Petitions Act of 1851."

SCHEDULES.

A (1.)—RECOGNIZANCE ON THE PART OF PETITIONER

(Referred to in the Tenth Section of this Act.)

CANADA, }  
TO WIT: }

Be it remembered, that on the \_\_\_\_\_ day of \_\_\_\_\_, in the year of Our Lord one thousand eight hundred and \_\_\_\_\_, Before me the Honourable A. M. Speaker of the Honourable the Commons House of Legislative Assembly of the Province of Canada, (or before me N. M. Esquire, one of Her Majesty's Justices of the Peace for &c., or Mayor, Alderman or Town Reeve of \_\_\_\_\_ in \_\_\_\_\_ Canada, as the case may be) at \_\_\_\_\_ in \_\_\_\_\_ came A. B. of &c., Esquire, (as the case may be) C. D. of &c., E. F. of &c., and G. H. of &c., and acknowledged himself (or severally acknowledged themselves) to owe to Our Sovereign Lady the Queen, the sum of Two Hundred Pounds, (or the following sums, that is to say: the said A. B. the sum of \_\_\_\_\_, the said C. D. the sum of \_\_\_\_\_, the said E. F. the sum of \_\_\_\_\_, and the said G. H. the sum of \_\_\_\_\_, to be levied on his (or their respective) Goods and Chattels, Lands and Tenements, to the use of Our said Sovereign Lady the Queen, Her Heirs and Successors.

The



The condition of this Recognizance is such, that if (*here insert the names of the Petitioner, and if more than one, add or any of them*) shall well and truly pay all sums of money, costs and expenses which shall become payable by him, (*or them*) in respect of the Election Petition signed by him, (*or them*) relating to the (*here insert the name of the County, Riding, City, Town, Borough or place*) which shall become payable by the said Petitioner (*or Petitioners*) under the Election Petitions Act of 1851, to any witnesses summoned in his (*or their*) behalf, or to the sitting Member (*or Members*) or other party complained of in the said Petition, or to any party who may be admitted to defend the same as provided by the said Act, or to any person who upon the application of such Petitioner (*or Petitioners*) for the issue of a Commission to take evidence on the trial of the said Election Petition, shall be appointed Commissioner for that purpose, or to any person who may be appointed Commissioner in the place of such first mentioned Commissioner under the provisions of the said Act, or to any Clerk, Bailiff or other Officer appointed by any of such Commissioners under the authority of the same, then this Recognizance to be void, otherwise to be of full force and effect.

Taken and acknowledged before me }  
 at the day and place aforesaid, }  
 in pursuance of the Election }  
 Petitions Act of 1851. }

A. B.  
 C. D.  
 E. F.  
 G. H.

A. N. Speaker,

or

N. M.

Justice of the Peace (Mayor, &c., *as the case may be*) for &c.

A (2.)—RECOGNIZANCE ON THE PART OF THE SITTING MEMBER.

(*Referred to in the Eleventh Section of this Act.*)

CANADA, }  
 TO WIT: }

Be it remembered, that on the \_\_\_\_\_ day of \_\_\_\_\_, in the year of Our Lord, one thousand eight hundred and \_\_\_\_\_, Before me the Honorable A. N. Speaker of the Honorable the Commons House of Legislative Assembly of the Province of Canada, (*or before me N. M. Esquire, one of Her Majesty's Justices of the Peace for &c., or Mayor, Alderman or Town Reeve of \_\_\_\_\_, in Canada, as the case may be*) at \_\_\_\_\_ in \_\_\_\_\_ came A. B. of &c. Esquire, (*or as the case may be*) C. D. of &c., E. F. of &c., and G. H. of &c., and acknowledged himself (*or severally acknowledged themselves*) to owe to Our Sovereign Lady the Queen the sum of One Hundred Pounds (*or the following sums, that is to say: the said A. B. the sum of \_\_\_\_\_ Pounds, the said C. D. the sum of \_\_\_\_\_ Pounds, the said E. F. the sum of \_\_\_\_\_ Pounds, and the said G. H. the sum of \_\_\_\_\_ Pounds*) to be levied on his (*or their respective*) Goods and Chattels, Lands and Tenements, to the use of Our said Sovereign Lady the Queen, Her Heirs and Successors.

The condition of this Recognizance is such, that if (*here insert the name of the sitting Member or Members,*) the sitting Member (*or Members*) for the County (Riding, City, Town, Borough, *or Place*) of \_\_\_\_\_ in Upper (*or Lower*) Canada, in this present Parliament, shall well and truly pay all sums of money, costs and expenses which shall become payable by him (*or them*) to any person who upon the application of such sitting Member (*or Members*) for the issuing of a Commission to take evidence on the Trial of an Election Petition, presented (*or to be presented*) to the Commons House of Legislative Assembly, under the Election Petitions Act of 1851, relating to the said County (Riding, &c., *as the case may be,*) shall be appointed Commissioner for that purpose, or to any person who may be appointed Commissioner, in the place of such first

first mentioned Commissioner, under the provisions of the said Act, or to any Clerk, Bailiff or other Officer appointed by any of such Commissioners under the authority of the same, then this Recognizance to be void, otherwise to be of full force and effect.

Taken and acknowledged before me } at the day and place aforesaid, } in pursuance of the Election } Petitions Act of 1851. }	A. B. C. D. E. F. G. H.
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A. N. Speaker,  
*or*  
 N. M.  
 Justice of the Peace, (Mayor, &c., *as the case may be,*) for &c.

**A (3.)—RECOGNIZANCE ON THE PART OF PETITIONER FOR PERMISSION TO DEFEND.**

*(Referred to in the Twenty-eighth Section of this Act.)*

CANADA, }  
 TO WIT: }

Be it remembered, that on the \_\_\_\_\_ day of \_\_\_\_\_, in the year of Our Lord, one thousand eight hundred and \_\_\_\_\_, before me the Honorable A. N., Speaker of the Honorable the Commons House of Legislative Assembly of the Province of Canada (*or before me N. M., Esquire, one of Her Majesty's Justices of the Peace for &c., or Mayor, Alderman or Town Reeve of* \_\_\_\_\_ in \_\_\_\_\_ Canada (*as the case may be,*) at \_\_\_\_\_ in \_\_\_\_\_ came A. B. of &c., Esquire, (*as the case may be,*) C. D. of &c., E. F. of &c., and G. H. of &c., and acknowledged himself (*or severally acknowledged themselves*) to owe to Our Sovereign Lady the Queen, the sum of One Hundred Pounds (*or the following sums, that is to say: the said A. B. the sum of \_\_\_\_\_ Pounds, the said C. D. the sum of \_\_\_\_\_ Pounds, the said G. H. the sum of \_\_\_\_\_ Pounds,* and the said G. H. the sum of \_\_\_\_\_ Pounds,) to be levied on his (*or their*) Goods and Chattels, Lands and Tenements, to the use of Our said Sovereign Lady the Queen, Her Heirs and Successors.

The condition of this Recognizance is such, that if (*here insert the name of the Petitioner for permission to defend,*) a Petitioner (*or Petitioners*) to the Commons House of Legislative Assembly of this Province, for permission to defend an Election Petition presented or to be presented to the said House, whereby the Seat (*or Seats*) of (*here insert the name of the sitting Member or Members*) the sitting Member (*or Members*) for the County, (Riding, City, Town, Borough or Place) of \_\_\_\_\_ in Lower (*or Upper*) Canada, (*as the case may be*) is (*or are*) or may be affected, and which said sitting Member (*or Members*) hath (*or have*) or is (*or are expected to decline defending such Seat (or Seats,*) shall well and truly pay all sums of money, costs and expenses, which shall become payable by him (*or them*) in respect of the Petition for permission to defend such Election Petition, which shall become payable by the said Petitioner (*or Petitioners,*) for permission to defend under the Election Petitions Act of 1851, to any Witness summoned on his (*or their*) behalf, or to the Petitioner (*or Petitioners*) in such Election Petition, or to any person who upon the application of such Petitioner (*or Petitioners*) for permission to defend for the issue of a Commission to take evidence on the trial of such Election Petition, shall be appointed Commissioner for that purpose, or to any person who may be appointed Commissioner in the place of such first mentioned Commissioner, or to any Clerk, Bailiff

Bailiff or other Officer appointed by any of such Commissioners under the authority of the same, then this Recognizance to be void, otherwise to be of full force and effect.

Taken and acknowledged before me } at the day and place aforesaid, in } pursuance of the Election Petitions } Act of 1851. }	A. B. C. D. E. F. G. H.
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A. N. Speaker,

*or*

N. M.

Justice of the Peace (Mayor, &c., *as the case may be*) for &c.

#### A (4.) AFFIDAVIT OF SUFFICIENCY OF SURETIES.

(*Applicable to any of the foregoing Recognizances, and referred to in the twelfth Section of this Act.*)

CANADA, }  
TO WIT: }

A. B. of &c., (*as in the Recognizance*) in the within (*or annexed*) Recognizance mentioned, maketh oath (*or affirmeth*) and saith that he, this Deponent, (*or affirmant*) is seized of Real Estate, (*or is possessed of Personal Estate,*) (*or is seized and possessed of Real and Personal Estate respectively, as the case may be*) over and above what will satisfy and discharge all his just debts to the amount of (*double the amount for which he is bound in the Recognizance.*)

Sworn by the said Deponent (*or*)  
affirmed by the said affirmant }  
at the time and place of his }  
entering into the said Recog- }  
nizance. }

A. B.

Before me,

A. N. Speaker,

*or*

N. M.

Justice of the Peace (Mayor, &c., *as the case may be*) for &c.

### SCHEDULES.

#### B 1. COMMISSION FOR THE EXAMINATION OF WITNESSES.

(*Referred to in the ninety-eighth Section of this Act.*)

CANADA, }  
TO WIT: }

To G. H. of &c., Esquire, one of Her Majesty's Circuit Judges in Lower Canada, (*or one of Her Majesty's County Judges in Upper Canada, or as the case may be*) and to all others whom it doth or may in any wise concern :

I, J. I. of &c., Esquire, Member of the Commons House of Legislative Assembly of the Province of Canada, and Chairman of the Select Committee appointed to try the merits of the Election Petition of C. D. and E. F. &c. (*setting out the names of the Petitioners*) against the election (*or return, or election and return*) of J. L., Esquire, the sitting Member (*or as the case may be*) for the County (Riding, City, Town, Borough *or* place) of \_\_\_\_\_ in \_\_\_\_\_ Canada in the said Legislative Assembly, send—Greeting :

Whereas upon the application of the said Petitioners (*or of C. D. one of the said Petitioners, or of the said sitting Member, or of K. L. a Petitioner or Petitioners who has or have been admitted to defend the said Election Petition, (or as the case may be,*)

to the said Select Committee, (*or otherwise, as the case may be,*) it has been ordered by the said Committee, in pursuance of the powers vested in them by the Election Petitions Act of 1851, that a Commission shall issue for the examination of witnesses on the trial of such Election Petition, and that you the said G. H. shall be appointed such Commissioner: These are therefore, in compliance with the said orders and in pursuance of the provisions of the said Act, to nominate, constitute and appoint you the said G. H. to be such Commissioner, to examine and enquire into all matters and things to you for that purpose referred or to be referred by the said Election Committee, or any other Election Committee that may be appointed in their place for the trial of such Election Petition according to the provisions of the said Act, with all such powers and authority as by law belong to the office of such Commissioner by virtue of the said Act, or otherwise howsoever; and you are hereby expressly commanded with all necessary speed to repair to the said County (Riding, City, Town, Borough or place) of \_\_\_\_\_, and there at such place therein as you shall for that purpose appoint, on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ next, to proceed with the examination and enquiry aforesaid: and all and whatsoever you shall do or cause to be done in the premises you are to return to the Honorable the Speaker of the said Commons House of Legislative Assembly for the time being, in the manner and within the time by the said Act for that purpose prescribed: and this you are in no wise to omit under a penalty of One Hundred Pounds, and such other penalties as you may by law incur by reason of any such omission or neglect.

Given under my hand and seal at \_\_\_\_\_, in \_\_\_\_\_ Canada, this \_\_\_\_\_ day of \_\_\_\_\_, in the year of Our Lord, one thousand eight hundred \_\_\_\_\_, and of Her Majesty's Reign the \_\_\_\_\_  
J. T. (L. S.)

(B 2.)—SIMILAR COMMISSION WHERE A NEW COMMISSIONER IS APPOINTED IN CONSEQUENCE OF THE ORIGINAL COMMISSIONER NOT BEING ABLE TO ACT.

(*Referred to in the Ninety-ninth Section of this Act.*)

CANADA, }  
TO WIT: }

To G. B., Esquire, of \_\_\_\_\_, one of Her Majesty's Circuit Judges in Lower Canada, (*or one of Her Majesty's County Judges in Upper Canada, as the case may be,*) and to all others whom it doth or may in any wise concern:

I, J. I. of &c., Esquire, a Member of the Commons House of Legislative Assembly of the Province of Canada, and Chairman of the Select Committee appointed to try the merits of the Election Petition of C. D. and E. F. &c., (*setting out the names of the Petitioners*) against the Election (*or Return, or Election and Return*) of J. L. Esquire, the sitting Member, (*or as the case may be*) for the County (Riding, City, Town, Borough, or place) of \_\_\_\_\_, in \_\_\_\_\_ Canada, in the said Legislative Assembly, send—Greeting:

Whereas upon the application of the said Petitioners, (*or of C. D., one of the said Petitioners, or of the said sitting Member, or of K. L., a Petitioner or Petitioners, who has or have been admitted to defend the said Election Petition, or as the case may be*) to the Select Election Committee (*or otherwise, as the case may be,*) it was ordered by the said Committee in pursuance of the powers vested in them by the Election Petitions Act of 1851, that a Commission should issue for the examination of Witnesses on the trial of such Election Petition, and that G. H. should be appointed such Commissioner; and thereupon, by Warrant under my Hand and Seal, pursuant to the said Act (*or under the Hand and Seal of L. M., the then Chairman of the Select Election Committee, to try the merits of such Election Petition, as the case may be,*) one G. H. was appointed such Commissioner to examine and enquire into all matters and things to him for that purpose referred or to be referred by the said Election Committee, or any other Election



Election Committee that might be appointed in their place, for the trial of such Election Petition, according to the provisions of the said Act; And whereas in consequence of the death of the said G. H. (*or of the incapacity of the said G. H. from illness, or as the case may be,*) it has become impossible that the said Commission should be executed (*or that the execution of the said Commission should be completed,*) according to the exigency thereof, and it hath therefore been further ordered by the said Select Election Committee, that a new Commissioner should be appointed in the place of the said G. H., and that you the said G. B. should be appointed such last mentioned Commissioner: These are therefore, in compliance with the said Orders, and in pursuance of the provisions of the said Act, to supersede the said Commission, and to nominate, constitute and appoint you the said G. B. to be such Commissioner as last aforesaid, for the purposes aforesaid, with all such powers and authority as by law belong to the office of such Commissioner, by virtue of the said Act, or otherwise howsoever; and you are hereby expressly commanded, with all necessary speed, to repair to the County (Riding, City, Town, Borough *or* Place) of \_\_\_\_\_, and there at such place therein, as you shall for that purpose appoint, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ next, to proceed with the examination and enquiry aforesaid, and all and whatsoever you shall do, or cause to be done, in the premises, you are to return to the Honorable the Speaker of the said Commons House of Legislative Assembly for the time being, in the manner and within the time by the said Act for that purpose prescribed. And this you are in no wise to omit under a penalty of One Hundred Pounds, and such other penalties as you may by law incur by reason of any such omission or neglect.

Given under my hand and seal, at \_\_\_\_\_, in \_\_\_\_\_ Canada,  
 this \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred \_\_\_\_\_,  
 and of Her Majesty's Reign the \_\_\_\_\_  
 I. J. (L. S.)

### B (3.)—COMMISSIONER'S OATH.

(*Referred to in the One Hundred and Twelfth Section of this Act.*)

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 try and examine all such matters and things as shall be brought before me, by virtue of a Warrant, dated the \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and fifty \_\_\_\_\_, under the hand and seal of the Chairman of the Select Committee of the Commons House of Legislative Assembly of this Province, on a Petition from (*here state the name or names of the Petitioner or Petitioners, and of the place to which the Petition relates*) and that I will in all things well and truly perform the duty of a Commissioner appointed to try the said matters and things, according to the Rules, Regulations and Directions contained in the Act of the Parliament of this Province, called the "Election Petitions Act of 1851." So help me God.

### B (4.)—CLERK'S OATH

(*Referred to in the One Hundred and Seventh Section of this Act.*)

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 take down in writing the Minutes of all the proceedings had before you, or any person who may be appointed Commissioner in your place, as Commissioner for taking evidence on the trial of the pending Election Petition, relating to the County (Riding, &c., *as the case may be*) of &c., in as accurate a manner and as nearly as may be in the exact words in which such evidence shall be delivered, and that I will in all things well and truly perform the duty of Clerk to you, and to any person who may be appointed Commissioner in your place as such Commissioner,

Commissioner, according to the Rules, Regulations and directions contained in the Act of Parliament of this Province, called the "Election Petitions Act of 1851," and such lawful directions as I shall or may receive from you, or such other Commissioner, under the authority thereof. So help me God.

**B (5.)—OATH OF THE BAILIFF OR OTHER OFFICER OF COMMISSION.**

*(Referred to in the One Hundred and Seventh Section of this Act.)*

I, A. B., do swear that I will, without favor, affection or malice, and according to the best of my skill and power in all things, well and truly perform the duty of Bailiff, (*or as the case may be*) to you, and to any person who may be appointed Commissioner in your place, as Commissioner for taking evidence on the trial of the pending Election Petition relating to the County (Riding, &c., *or as the case may be*) of &c., according to the Rules, Regulations and directions contained in the Act of the Parliament of this Province, called the "Election Petitions Act of 1851," and such lawful directions as I shall or may receive from you or such other Commissioner under the authority thereof. So help me God.

**SCHEDULE C.**

*Containing a description of the Acts and parts of Acts repealed by this Act.*

**FIRST DIVISION.**

**ACTS OF THE PARLIAMENT OF THE LATE PROVINCE OF LOWER CANADA.**

No.	DATE AND SUBJECT.	TITLE.	EXTENT OF REPEAL.
1	48 Geo. 3, Cap. 21,..... (Trial.)	An Act to regulate the trial of controverted Elections or Returns of Members to serve in the House of Assembly of Lower Canada.....	The Whole.
2	58 Geo. 3, Cap. 5,..... (Commissioners or Committees for Examination of witnesses.)	An Act to facilitate the trial of controverted Elections or Returns of Members to serve in the House of Assembly...	The Whole.
3	5 Geo. 4, Cap. 32,..... (Recognizances.)	An Act to continue for a further limited time, and amend certain Acts therein mentioned, relating to the trial of controverted Elections of Members to serve in the Assembly of this Province.....	The Whole.
4	9 Geo. 4, Cap. 61,..... (Qualifications of Petitioners and Securities.)	An Act to amend and further to continue for a limited time, an Act passed in the fifth year of His Majesty's Reign, intituled, <i>An Act to continue for a limited time, and amend certain Acts therein mentioned, relating to the trial of controverted Elections of Members to serve in the Assembly of this Province.</i> .....	The Whole.

SECOND DIVISION.

ACTS OF THE PARLIAMENT OF THE LATE PROVINCE OF UPPER CANADA.

No.	DATE AND SUBJECT.	TITLE.	EXTENT OF REPEAL.
1	4 Geo. 4, (2nd Session), Cap. 4,..... (Trial.)	An Act to repeal an Act passed in the forty-fifth year of His late Majesty's Reign, intituled, <i>An Act to regulate the trial of controverted Elections or Returns of Members to serve in the House of Assembly</i> , and to make more effectual Provision for such Trials.....	The Whole.
2	8 Geo. 4, Cap. 5,..... (Commissions for Examination of witnesses.)	An Act to continue and amend the laws now in force for the Trial of controverted Elections.....	The Whole.
3	3 Will. 4, Cap. 10,..... (Revival and continuation.)	An Act to revive and continue a certain Act passed in the fourth year of His late Majesty's Reign, intituled, <i>An Act to repeal an Act passed in the forty-fifth year of His late Majesty's Reign, intituled, '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</i> ; and also a certain other Act passed in the eighth year of His late Majesty's Reign, intituled, <i>An Act to continue and amend the law now in force for the Trial of controverted Elections</i> .....	The Whole.
4	2nd Victoria, Cap. 8, (Perpetuation.)	An Act to continue and make permanent a certain Act passed in the fourth year of the Reign of King George the Fourth, intituled, <i>An Act to repeal an Act passed in the forty-fifth year of His late Majesty's Reign, intituled, '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</i> ; and also a certain other Act passed in the eighth year of the Reign of King George the Fourth, intituled, <i>An Act to continue and amend the laws now in force for the Trial of controverted Elections</i> .....	The Whole.

CAP. II.

An Act for the better Management of the Provincial Penitentiary.

[2d August, 1851.]

**W**HEREAS it is expedient to repeal the Act now in force relative to the maintenance and government of the Provincial Penitentiary of Canada, and to make better provision for the government thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That upon, from and after the day when this Act shall come into force, the Act of the Parliament of this Province, passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to consolidate and amend the laws relative to the Provincial Penitentiary*, and all Acts or parts of Acts inconsistent with this Act, shall be and the same are hereby repealed: Provided always, that the repeal of the said Act shall not revive any Act or part of an Act thereby repealed; and that all contracts entered into, rules and regulations made, or other things lawfully done under the said Act, shall remain in force notwithstanding such repeal, as if entered into, made or done under this Act, and nothing herein contained shall invalidate the appointment of any Officer whose office is not hereby abolished,

Preamble.

X  
X  
X

Act 9 V. c. 4,  
repealed.

Proviso: Saving of  
certain contracts, ap-  
pointments, &c.