

TUESDAY, 5th FEBRUARY, 1828.

that time; with the travelling charges already allowed: which being seconded and put, and the House dividing thereon, there appeared, for the motion, Twenty-three; against it, five.

## For the motion,

Mr. Bishop,  
Mr. Dimock,  
Mr. Harris,  
Mr. Young,  
Mr. Harthorne,  
Mr. Fairbanks,  
Mr. Poole,  
Mr. Stewart,  
Mr. Hurlburt,  
Mr. J. B. Morton,  
Mr. Ruggles,  
Mr. B. Dewolf,

Mr. J. Morton,  
Mr. Lovell,  
Mr. R. Smith,  
Mr. Cross,  
Mr. Archibald,  
Mr. Homer,  
Mr. Dill,  
Mr. Beckman,  
Mr. Shey,  
Mr. G. Smith,  
Mr. Barry,

## Against the motion,

Mr. Rudolf,  
Mr. McKinnon,  
Mr. Uniacke,  
Mr. Lawson,  
Mr. Murdoch,

So it passed in the affirmative.

Mr. Fairbanks, Chairman of the Committee of Privileges, to whom was referred the report of the Select Committee appointed to try and determine the merits of the Petition of William O'Brien, against the election and return of Richard Smith, as a Member of the General Assembly, reported from the Committee of Privileges; and he read the report in his place, and afterwards delivered it in at the Clerk's Table, where it was read, and is as follows:

Report of Committee of Privileges respecting Hants Election

**T**HAT in obedience to the order of this Honorable House, the Committee of Privileges have examined Precedents upon the subject referred to them, and considered thereof.

Some of the difficulties reported by the Select Committee, arising from the absence of three of its Members, have been removed by the arrival of two of those Gentlemen; and with respect to the anticipated inconvenience to result from the indisposition of another Member, the Committee of Privileges find the same sufficiently provided for by the existing Law.

The main impediment to the proceedings of the Select Committee, arises from the Prorogation of the House of Assembly, since the Select Committee was first constituted, and as the Law which regulates the Trial of Contested Elections has not provided expressly for this case, the Committee of Privileges, think it necessary to refer to the law and practice of Parliament, for information on this point, which the Select Committee have justly considered of serious importance. In 2d Hatsell, page, 317, the different effects of a prorogation, and adjournment are stated to be,---“that the first, namely the “*Prorogation*, concluding the Session, all Bills, or other *Proceedings*, depending in “either House of Parliament, in whatever state they are, are entirely put an end to, and “must in the next Session be instituted again, as if they had never been begun.--- “*Whereas*, upon an *adjournment* every proceeding remains entire, and may at the “meeting after the recess be taken up in the state, and at the period, where it was left.”

This appears to be the ancient and established usage of Parliament, and the only exceptions formerly admitted, were the continuance of Impeachments and Writs of Error before the House of Lords, notwithstanding the Prorogation of Parliament.

When the Granville Act, 10th Geo. 3, Chapter 16, was passed in England, for the trial of Controverted Elections and Returns, many points were omitted, which a short practise under its provisions shewed to be expedient. The Provincial Law on this subject is in many respects a counterpart of this English Statute; and both being enacted for the regulation of a proceeding necessarily to be conducted by Members present, during a Session of the Representatives, seem alike to be dependant for their construction on the Established Custom of Parliament, and without express provisions incapable of bearing a more extended operation.

Subsequent