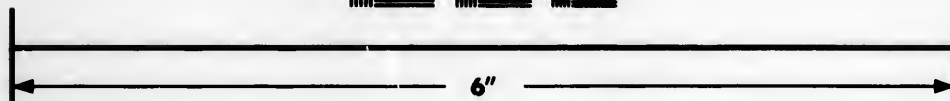
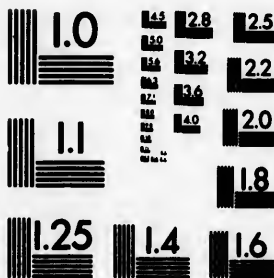


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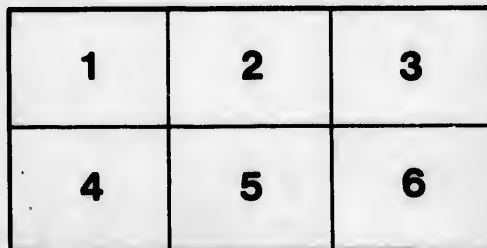
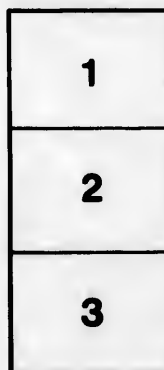
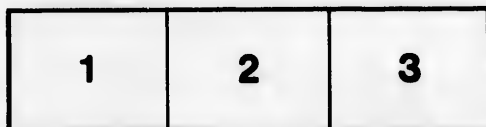
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To the Honorable the House of Assembly of the Province of Upper Canada in Provincial Parliament Assembled.

The Petition of the undersigned Freeholders of the Incorporated Counties of Lenox and Addington,

Humbly Sheweth,

That by virtue of a Writ of Election, issued in the usual form, and directed to John McLean, Esq. as Returning Officer, the Freeholders of these Counties were required to elect a Person to serve in the present House of Assembly as a Representative of the said Counties, and the Election was appointed to be held at Adolphustown, on Monday the eleventh day of February, in the Year of our Lord one thousand eight hundred and twenty-two; when and where the said Returning Officer, having read the said Writ of Election, called upon the electors to nominate their Candidates.

Whereupon Marshall Spring Bidwell, Esquire, was nominated by one of the Electors; and his nomination was seconded by another of the Electors, and taken down by the Poll Clerk, by direction of the said Returning Officer, who declared to the Electors that the said Marshall S. Bidwell was nominated as a Candidate, and requested them to nominate any other Candidates, if they pleased.—Matthew Clark, Esquire, and Thomas Williams, Esquire, were then respectively nominated.

The said Thomas Williams objected to the said Marshall S. Bidwell's being a Candidate, upon the ground of his having been born in the United States, and therefore being ineligible, as well as incapable of holding the necessary freehold property. In reply it was stated to the Returning Officer, that although the said Marshall S. Bidwell was born in the United States; yet he was

in truth and in fact, within the provisions of the Naturalization Acts of the British Parliament, by which, in the language of Sir William Blackstone, "All children born out of the King's allegiance, whose fathers, (or grandfathers by the father's side) were natural born subjects, are now deemed to be natural born subjects themselves to all intents and purposes; unless their said Ancestors were attainted or banished beyond sea for high treason, or were, at the birth of such children, in the service of a Prince at enmity with Great Britain;" that, at the birth of the said Marshall S. Bidwell, his father, who was born a British subject, was not, nor had he ever been in the Service of a Prince at enmity with Great Britain; nor had he taken any oath of foreign allegiance containing words of abjuration to the British Allegiance; and that the said Marshall S. Bidwell was therefore a natural born subject himself, within the express terms of these Acts of Naturalization; that such had been the practical construction put upon the law in this Province, in regard to the eligibility of persons born in the United States of America, of British born parents; and that it was a fact well known, that there were in the present House of Assembly, as there have been in former Houses, Members who were thus born in the said United States; that if freeholders were, on that ground, ineligible, after seven years' residence here, they were also incapable of voting at elections, the qualifications of Members and Electors, in this respect, being defined by the same Statute and in the

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same words; yet no one had ever questioned the votes of such freeholders; and even the said Thomas Williams himself, declared he was willing that their votes should be received at this Election, (and they were in fact so received). It was further stated to the said Returning Officer, that the said Marshall S. Bidwell came into this Province to reside, in the year 1812, before the late War with the United States, and had resided here ever since, a term of more than seven years: that after a regular Clerkship, according to the rules of the Law Society, he had been called and admitted to the profession and practice of Law in this Province, as a Barrister and Attorney, and had taken the Oaths of Office, of Allegiance, Supremacy and Abjuration, and the declaration of belief in the Christian Religion, before His Majesty's Court of King's Bench; that he was seized and possessed in his own right of the requisite estate in fee simple, and was legally qualified as a Candidate for the election.—Wherefore in his behalf, and in behalf of the electors who nominated him, and those who intended and were ready to vote for him, the said Returning Officer was desired not to assume upon himself to reject the votes aforesaid for the said Marshall S. Bidwell, yet he the said Returning Officer expressed his determination to reject them; declaring that his only reason for so doing was that, in his opinion, the said Marshall S. Bidwell, having been born in the United States, was an alien.

The Oath of Office was then administered to the said John McLean as Returning Officer; he not having taken the same until after he had sworn and declared his determination to reject all votes for the said Marshall S. Bidwell; It was stated to the said Returning Officer, that the said Marshall S. Bidwell was willing to take the oath of qualification prescribed by the Provincial Statute to be taken by Candidates, if required; and several of the Electors then present requested and demanded of the said Returning Officer, that he should receive the Votes which might be polled for the said Marshall S. Bidwell, whose name had already been entered by the Poll Clerk as a Candidate; but the said Returning Officer persisted in declaring that he would receive no Votes for him. Whereupon the said Marshall S. Bidwell, and the Electors by whom he had been nominated, and other Electors who intended and were ready to vote for him, objected and protested against the proceedings and conduct aforesaid of the said Returning Officer, and against the election about to be proceeded in, as arbitrary, illegal, and subversive of the constitutional rights of the Electors.

Lenox and Addington,

1822.

The Poll, however, was opened, and several of the Electors then came forward and offered and declared their Votes for the said Marshall S. Bidwell, but the said Returning Officer refused to suffer them to be entered on the Poll Book. He was thereupon requested to permit a person as Clerk to sit by the Poll, and take down the names of the Electors who had thus offered and might offer their Votes for the said Marshall S. Bidwell, which he the said Returning Officer refused to permit; but received the Votes for Messrs. Clark and Williams; and, at the close of the Poll, declared the said Matthew Clark elected, and accordingly returned him as the Member elect.

Twelve of the freeholders present protested against the said election and return, on the grounds above stated,

Upon these facts, which can be verified by satisfactory evidence, and will not, it is believed, be denied by the sitting Member the undersigned freeholders of the said Counties of Lenox and Addington respectfully submit to your Consideration, that the proceedings and conduct aforesaid of the said Returning Officer, were a transgression of his duty as a Returning Officer, an usurpation of the proper authority of Your Honorable House to judge of the qualifications of the Members thereof, and to decide all contested or doubtful points either of law or fact relating thereto, an infringement upon the constitutional rights of the Electors, and an example dangerous and in its tendency fatal to the freedom and security of Elections; and though the said Matthew Clark himself did not object to the said Marshall S. Bidwell as a Candidate, nor require the Votes tendered for him to be rejected; yet, as they were rejected, although at the instance of another Candidate, it does not, and cannot appear that the said Matthew Clark was elected by the majority of the Electors qualified and claiming to vote in the said election: On the contrary, it is believed, that a great majority of them were in favor of the election of the said Marshall S. Bidwell, and would have voted for him, if they had not been deprived of the privilege of voting for the Candidate of their own free choice, for which reason many of them went home without voting at all.

Wherefore the Petitioners humbly pray your Honorable House to adjudge and declare, that the said Matthew Clark was not duly elected, ought not to have been returned, and is not entitled to a seat in the House, as a Representative of these Counties, And as in duty bound will pray.

