

No. 151.

1st Session, 4th Parliament, 16 Victoria, 1852

BILL.

**An Act to remove certain doubts, as to
the Law for the Trial of controverted
Elections.**

Received and read a first time, Monday, 4th
October, 1852.

Second reading, Monday, 11th October, 1852.

(Corrected Edition.)

MR. LAURIN.

QUEBEC :

PRINTED BY JOSEPH LOVELL, MOUNTAIN STREET

BILL.

An Act to remove certain doubts, as to the Law for the Trial of controverted Elections.

WHEREAS a petition has been presented to the Legislative Assembly, complaining of an undue Election or Return of a Member for the County of Richelieu, to serve in Parliament; And whereas such petition is endorsed by a certificate under the hand of the Speaker of the Legislative Assembly, to the effect that the recognizance required by an Act passed in the Session held in the 14th and 15th years of Her Majesty's Reign, intituled, "*An Act to repeal several Acts of the Parliaments of Upper and Lower 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 Parliamentary Election Petitions,*" had been entered into and received by him, with the proper affidavit thereunto annexed; And whereas objections have been made as to the validity of the recognizance so entered into as aforesaid; And whereas such objections relate to a mere discrepancy in the name and signature of one of the sureties, in no degree attributable to the neglect or laches of the petitioners, or their agents; And whereas such recognizance has been held invalid, and the ends of justice have thereby been defeated, and the petitioners deprived of all remedy; And whereas reasonable doubts exist as to the validity of such recognizance, and such doubts ought to be removed; And whereas justice and equity require that relief should be afforded to the petitioners, and that a mode of proceeding should be prescribed with respect to the determination of the before mentioned petition; Be it therefore enacted, &c.,

That the recognizance and affidavit of sufficiency entered into on behalf of the petitioners against the election and return of the sitting Member for the County of Richelieu, shall be amended, by making the same conformable to the requirements of the above recited Act; and such amendment shall be made by executing at full length a new instrument containing the alterations, substitutions or additions necessary to make such recognizance and affidavit of sufficiency, conformable to the above recited Act; or it shall be lawful for the said petitioners to enter into a new recognizance, with sufficient sureties as required by the said recited Act, or to pay in the hands of the Clerk of the Legislative Assembly the sum of two hundred pounds, currency, in lieu of such recognizance.

Preamble.

Recognizance and affidavit in the case of the petition concerning the election for the County of Richelieu may be amended and how.

II. And be it enacted, That such amendment of recognizance and affidavit of sufficiency, new recognizance and affidavit of sufficiency, or payment of money as aforesaid, shall be made and executed in the manner prescribed by the above recited Act, within ten days from the passing of this Act, and shall be made and deposited in the hands of the Clerk of the

Within what time such amendment shall be made, and proceedings consequent thereupon.

Legislative Assembly, whether during the Session or out of the Session of this Parliament, and shall be subject to the same objections, to be made in the manner prescribed by the above recited Act, within ten days after the filing of such amendment or new recognizance and affidavit of sufficiency or payment of money, if the Parliament be then sitting 5 and continue to sit for ten days after the filing thereof, or within the first ten days of the next following Session of Parliament, if filed or made in vacation or within the ten days next preceding the prorogation of Parliament, and to be tried and determined in the manner provided by the said Act and under the provisions thereof; And when such amendment 10 or new recognizance or payment of monies shall have been, by the said Speaker, reported to have been entered into, or to have been made, and to be unobjectionable, the said Election Petition shall be referred to the then General Committee of Elections, in which case it shall be proceeded upon the said petition and to try the merits of the said return 15 or election as aforesaid, according to the provisions of the above recited Act.

Provisions for the legal effect of the amended recognizance or payment of money.

III. And be it enacted, That all and every recognizance which shall be amended as aforesaid shall, after such amendment, have and shall be held and taken in all Courts to have had from the time when the same were or was entered into, the same force or effect for all intents and 20 purposes whatsoever, as if the same, when entered into, had been in the words and figures in which the same shall be when so amended as aforesaid; and any new recognizance or recognizances which shall be entered into under the authority of this Act, shall have, and shall be taken 25 to have had, from before the receiving of the petition to which the same shall relate, the same force and effects to all intents and purposes, as if the same had been duly entered into under the said recited Act before the receiving of such petition, and as if the Speaker had reported to the House that the recognizance or recognizances were unobjectionable, that 30 the payment of the sum of two hundred pounds, currency shall have and shall be held to have the same effect as if made before the receiving of the said petition; and the decision of the Speaker, that any recognizance or recognizances, or that any amended recognizance recognizances or payments of money is or are good and regular, shall be final and conclusive 35 against all parties, and the validity of any such recognizance or recognizances shall not be called in question in any Court upon any ground or pretence whatever.

The said Act and this Act to be read as one Act.

IV. And be it enacted, That the said recited Act and this Act shall be read and constructed together as one Act. 40