ANNO UNDECIMO

VICTORIÆ REGINÆ.

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C A P. XVIII.

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

[5th *May* 1848.]

WHEREAS Petitions have been presented in several Cases to the House of Commons, complaining of an undue Election or Return of a Member or Members to serve in Parliament: And whereas such Petitions are endorsed by a Certificate under the Hand of the Examiner of Recognizances, to the Effect that the Recognizances required by an Act passed in the Eighth Year of the Reign of Her present Majesty, intituled *An Act to amend the Laws for the Trial of controverted Elections of Members to serve in Parliament*, have been entered into and received by him, with the Affidavits thereunto annexed: And whereas in some of such Cases Doubts have been entertained as to the Validity of the Recognizances so entered into as aforesaid: And whereas in some of the Cases wherein such Doubts have been entertained as aforesaid other Petitions have also been presented from the sitting Member or Members, complaining of the Invalidity of the Recognizances entered into in pursuance of the said recited Act, and praying for Relief in the Premises: And whereas it is desirable that the Doubts hereinbefore mentioned should be put an end to, and that a Mode of proceeding should be prescribed with respect to the Determination of

7 & 8 Vict. c. 103.

of the several before-mentioned Petitions: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

Sitting Members may, in all Cases of Election Petitions presented before the 1st of March, object to the Recognizance, on Grounds omitted to be specified in recited Act.

That in all Cases of Election Petitions which shall have been presented before the First of *March* in the present Year, and which shall after the passing of this Act be tried during the present Session of Parliament, it shall be lawful for all and every the sitting Members and Member against whose Return any such Petition shall have been presented, by themselves or himself, or their or his Agents or Agent, to deliver in to the Clerk of the General Committee of Elections, not later than Six of the Clock in the Afternoon on the Sixth Day next before the Day appointed for choosing the Committee to try the Petition complaining of such Election or Return, Notice in Writing that a preliminary Objection will be made before such Select Committee to the Form or Substance of the Recognizance or Recognizances entered into by or on behalf of the Petitioner or Petitioners against such Return, provided that the Ground or Grounds of such Objection be not such as would, under the said recited Act, have entitled any sitting Member petitioned against to object to the Sureties or any of them who shall have entered into such Recognizance or Recognizances, and that the Grounds of Objection be stated in such Notice.

Select Committee appointed to try Election Petition shall inquire first into such preliminary Objection, and if the Recognizance be good proceed to try the Merits of the Return.

II. And be it enacted, That in all Cases in which such Notice of Objection shall have been delivered in as aforesaid the Select Committee chosen to try the Election Petition or Election Petitions to which such Notice relates shall in the first instance inquire into and decide upon such preliminary Objection; and such Select Committee shall have, for the Purpose of such Inquiry and Decision, all the Powers given to Select Committees by the said recited Act for the Purpose of trying the Merits of the Return or Election petitioned against; and if such Select Committee shall be of opinion that such Recognizance or Recognizances is or are good and valid for all the Intents and Purposes of the said recited Act, such Committee shall decide that the same is or are good, and shall thereafter proceed to try the Merits of the Return or Election the Petition relating to which shall have been referred to them; and if such Committee shall be of opinion that the Recognizance or Recognizances objected to are void, and that such Invalidity is in any degree attributable to the Neglect or Laches of the Petitioner or Petitioners, or the Party or Parties entering into such Recognizance or Recognizances, or their or any of their Agents, then the Committee shall report to the House accordingly, and no further Proceeding shall be had upon such Petition or Petitions, and the Order referring the same to such Select Committee shall be discharged; and if such Select Committee shall be of opinion that such Recognizance or Recognizances are void, as herein-before mentioned, but that any such Invalidity as aforesaid is in no degree attributable to the Neglect or Laches of the Petitioner or Petitioners, or of the Party or Parties entering into such Recognizance or Recognizances, or their or any of their Agents, or shall be of opinion that the Validity of such Recognizance or Recognizances is doubtful, or that any Party for whose Security such

If Recognizances are invalid through the Neglect of the Petitioners, no further Proceedings to be had on the Petition.

If Recognizances are void, but not through the Neglect of the Petitioners, or if of doubtful Effect, Com-

Recognizance

Recognizance or Recognizances was or were intended might be embarrassed in enforcing the same, then the Committee shall (as the Case may be) decide accordingly, and in either Case that such Recognizance or Recognizances may be amended; and thereupon, if the Person or Persons who shall have entered into such Recognizance or Recognizances, or the Survivors or Survivor of them, shall consent thereto, in Writing signed by his or their Hand or Hands, the Committee shall forthwith, by their Chairman, amend such Recognizance or Recognizances, by making the same conformable to the Form of Recognizance contained in the Schedule to the said recited Act, and the Chairman shall write in the Margin of the same, against every Amendment, the Words "amended by Committee," and shall sign his Name to such Words; or it shall be lawful for the Petitioner or Petitioners forthwith, before the Examiner of Recognizances who shall for that Purpose attend the Committee, to enter into a new Recognizance or new Recognizances, with sufficient Sureties, (as required by the said recited Act,) previously approved of by the Committee, who shall have, for the Purpose of inquiring into the Sufficiency of such Sureties, all the said Powers given to Select Committees by the said recited Act, and the Committee shall also be satisfied that the new Recognizance or Recognizances is or are in due Form and valid; and the Committee, having made such Amendment, or being satisfied with such new Recognizance or Recognizances, shall decide that the Recognizance or Recognizances so amended or newly entered into is or are good, and shall proceed to try the Merits of the Return or Election as aforesaid; but if the Person or Persons who shall have entered into such Recognizance or Recognizances shall not consent in manner aforesaid to such Amendment, and if no new Recognizance or Recognizances shall be entered into as aforesaid, the Committee shall report to the House that such Recognizance or Recognizances ought to be amended, or new Recognizances entered into, but that the Parties have not consented to such Amendment or entered into new Recognizances, and thereupon no further Proceedings shall be had upon the Petition referred to such Committee, and the Order referring the same to them shall be discharged.

mittee may amend the same, or Petitioners may enter into new Recognizances.

III. And be it enacted, That all and every Recognizances and Recognizance which shall be amended by any Select Committee 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 and Effect for all Intents and 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 the marginal Words "amended by Committee," written against any Amendment in the same, and appearing to be signed as aforesaid, shall be Evidence in all Courts that such Amendment was duly made, and such marginal Words duly signed, under the Authority of this Act; and any new Recognizance or Recognizances which shall be entered into under the Authority of this Act shall have, and shall be taken to have had, from before the receiving of the Petition to which the same shall relate, the same Force and Effect to all Intents and Purposes as if the same had been duly entered into under the said recited Act before the receiving of

Amended or new Recognizances to have the same Effect as when originally entered into, and the Decision of the Committee that the same is good to be final.

of such Petition, and as if the Examiner of Recognizances had reported to the Speaker that the Sureties entering into the same are unobjectionable; and the Decision of every Select Committee that any Recognizance or Recognizances, or that any amended Recognizance or Recognizances, is or are good, shall be final and conclusive 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.

Recited Act and this Act to be read as one.

IV. And be it enacted, That the said recited Act and this Act shall be read and construed together as One Act.

Act may be amended, &c.

V. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

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