

which the Petition relates, if practicable, and if not, then by any Judge in Chambers.

39. The Clerk of the Circuits shall attend at the Trial in the like manner as in the case of Trials at Circuits, and shall in respect of such Trial perform all the functions and have all the powers incident to the office of the Clerk of the Circuits.

WITNESSES.

40. Witnesses shall be subpoenaed and sworn in the same manner as nearly as circumstances admit, as in a Trial at Nisi Prius.

41. On the Trial of an Election Petition under this Act, the Judge may by Order or Warrant under his hand, in Forms D or E in Schedule, as the Judge may see fit, compel the attendance of any person as a witness, who appears to him to have been concerned in the Election to which the Petition relates: Such Warrant may be directed and made out to the Sheriff or other person having the execution of process of the Supreme Court, and to all constables and officers of the Peace of the County where the person may be found; and such warrant shall or may be executed by the persons to whom it is directed, or any or either of them.

42. The Judge may examine any witness so compelled to attend, or any person in Court, although such witness is not called and examined by any party to the Petition: After the examination of a witness as aforesaid, by a Judge, such witness may be examined by or on behalf of the Petitioner and Respondent, or either of them.

43. The reasonable expenses incurred by any person in appearing to give evidence at the Trial of an Election Petition under this Act, according to the scale allowed to witnesses on the Trial of Civil Actions at Nisi Prius, may be allowed to such person, by a certificate under the hand of the Judge, or of the Clerk of the Pleas; and such expenses shall be deemed to be costs of the Petition.

WITHDRAWAL AND ABATEMENT OF ELECTION PETITION.

44. An Election Petition under this Act shall not be withdrawn without the leave of the Court or Judge, upon special application in writing, signed by the Petitioners or their Agent.

45. The notice of application may be in Form F in Schedule, and shall be left at the Office of the Clerk of the Pleas; and notice of such application, and of the intention of the Petitioner to apply for leave to withdraw his Petition, shall be given by the Petitioner to the Respondent, by service, as in the case of the Petition, or in such manner as may be prescribed, and also to the Sheriff, who shall make it public in the County to which it relates; and such notice may be of the Form G in Schedule hereto.

46. No application shall be made for the withdrawal of a Petition until such notice shall have been given.

47. On the hearing of the application for withdrawal, any person who might have been a Petitioner, in respect to the Election to which the Petition relates, may apply to the Court or Judge to be substituted as a Petitioner for the Petitioner so desirous of withdrawing the Petition.

48. Any person who might have been a Petitioner in respect to the Election to which the Petition relates, may, within seven days after such notice is published by the Sheriff, give notice in writing, signed by him, or on his behalf, to the Clerk of the Pleas, of his intention to apply at the hearing to be substituted for the Petitioner; but the want of such notice shall not defeat such application if in fact made at the hearing.

49. The time and place for hearing the application for withdrawal shall be fixed by a Judge, but shall not be less than ten days after the notice of the intention to apply has been given to the Clerk of the Pleas; and notice of the time and place appointed for the hearing shall be given to such person or persons, if any, as shall have given notice, or may within the time limited for the same give notice as aforesaid of an intention to apply to be substituted as Petitioner, or by public notice, or otherwise, in such manner as the Judge directs.

50. The Judge may, if he thinks fit, substitute as a Petitioner any such applicant as aforesaid, and may order that the original Petitioner and his sureties pay the cost of the proceedings up to the time of such substitution, and the substituted Petitioner shall give such reasonable security as the Judge may direct, for the subsequent costs of the proceedings; provided, that if the proposed withdrawal of the original Petitioner is, in the opinion of the Judge, induced by any corrupt bargain or consideration, he may order the costs of the subsequent proceedings to be paid by the original Petitioner, but his sureties, unless cognizant of and consenting to such corrupt bargain or consideration, shall not be liable to such subsequent costs; further, if the proposed withdrawal is, in his opinion, induced by any corrupt bargain or consideration, by order direct that the security given on behalf of the original Petitioner shall remain as security for any costs that may be incurred by the substituted Petitioner, and that to the extent of such security the original Petitioner shall be liable to pay the costs of the substituted Petitioner.

51. If no such order is made with respect to the security given on behalf of the original Petitioner, security of the same kind and to the same amount as would be required in the case of a new Petition, and subject to the like conditions, shall be given on behalf of the substituted Petitioner before he proceeds with his Petition, and within such time not exceeding ten days, as the Court or a Judge may direct.

52. Subject as aforesaid, a substituted Petitioner shall stand in the same position as nearly as may be, and be subject to the same liabilities, as the original Petitioner. If a Petition is withdrawn, the Petitioner shall be liable to pay the costs of the Respondent.

53. Where there are more Petitioners than one to the same Petition, no application to withdraw a Petition shall be made, except with the consent of all the Petitioners.

54. In every case of the withdrawal of any Election Petition under this Act, the Judge shall report to the Speaker whether in his opinion the withdrawal of such Petition was the result of any corrupt arrangement, and if so, the circumstances attending the withdrawal.

55. An Election Petition under this Act shall be abated by the death of a sole Petitioner, or of the survivor of several Petitioners, or by the death of the Respondent.

56. The abatement of a Petition by the death of the Petitioner as aforesaid, shall not affect the liability of the Petitioner or his representatives, or his sureties, to the payment of costs previously incurred.

57. Notice of abatement of a Petition by death of the Petitioner, or surviving Petitioner, shall be given by his representatives, or by either of the sureties named in his Recognizance, in the same manner as notice of an application and intention to withdraw a Petition; and on such notice having been given, and within ten days thereafter,