

ANNO TRICESIMO PRIMO & TRICESIMO SECUNDO

VICTORIÆ REGINÆ.

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CAP. CXXV.

An Act for amending the Laws relating to Election Petitions, and providing more effectually for the Prevention of corrupt Practices at Parliamentary Elections. [31st *July* 1868.]

WHEREAS it is expedient to amend the Laws relating to Election Petitions, and to provide more effectually for the Prevention of corrupt Practices at Parliamentary Elections:

Be it 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, as follows:

Preliminary.

Short Title of Act.

1. This Act may be cited for all Purposes as "The Parliamentary Elections Act, 1868."

Definition and Jurisdiction of Court.

2. The Expression "the Court" shall, for the Purposes of this Act, in its Application to *England* mean the Court of Common Pleas at *Westminster*, and in its Application to *Ireland* the Court of Common Pleas at *Dublin*, and such Court shall, subject to the Provisions of this Act, have the same Powers, Jurisdiction, and Authority with reference to an Election Petition and the Proceed-

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ings thereon as it would have if such Petition were an ordinary Cause within their Jurisdiction.

Interpretation of Terms.

3. The following Terms shall in this Act have the Meanings herein-after assigned to them, unless there is something in the Context repugnant to such Construction; (that is to say,)

"Metropolitan District:"

"Metropolitan District" shall mean the City of *London* and the Liberties thereof, and any Parish or Place subject to the Jurisdiction of the Metropolitan Board of Works:

"Election:"

"Election" shall mean an Election of a Member or Members to serve in Parliament:

"County:"

"County" shall not include a County of a City or County of a Town, but shall mean any County, Riding, Parts, or Division of a County returning a Member or Members to serve in Parliament:

"Borough:"

"Borough" shall mean any Borough, University, City, Place, or Combination of Places, not being a County as herein-before defined, returning a Member or Members to serve in Parliament:

"Candidate:"

"Candidate" shall mean any Person elected to serve in Parliament at an Election, and any Person who has been nominated as or declared himself a Candidate at an Election:

"Corrupt Practices:"

"Corrupt Practices" or "Corrupt Practice" shall mean Bribery, Treating, and undue Influence, or any of such Offences, as defined by Act of Parliament, or recognized by the Common Law of Parliament:

"Rules of Court:"

"Rules of Court" shall mean Rules to be made as herein-after mentioned:

"Prescribed."

"Prescribed" shall mean "prescribed by the Rules of Court."

Provision as to Speaker.

4. For the Purposes of this Act "Speaker" shall be deemed to include Deputy Speaker; and when the Office of Speaker is vacant, the Clerk of the House of Commons, or any other Officer for the Time being performing the Duties of the Clerk of the House of Commons, shall be deemed to be substituted for and to be included in the Expression "the Speaker."

Presentation and Service of Petition.

To whom and by whom Election Petition may be presented.

5. From and after the next Dissolution of Parliament a Petition complaining of an undue Return or undue Election of a Member to serve in Parliament for a County or Borough may be presented to the Court of Common Pleas at *Westminster*, if such County or Borough is situate in *England*, or to the Court of Common Pleas at *Dublin*, if such County or Borough is situate in *Ireland*, by any One or more of the following Persons:

1. Some Person who voted or who had a Right to vote at the Election to which the Petition relates; or,

2. Some

2. Some Person claiming to have had a Right to be returned or elected at such Election; or,
3. Some Person alleging himself to have been a Candidate at such Election:

And such Petition is herein-after referred to as an Election Petition.

Regulations as to Presentation of Election Petition.

6. The following Enactments shall be made with respect to the Presentation of an Election Petition under this Act:

1. The Petition shall be signed by the Petitioner, or all the Petitioners if more than One:
2. The Petition shall be presented within Twenty-one Days after the Return has been made to the Clerk of the Crown in Chancery in *England*, or to the Clerk of the Crown and Hanaper in *Ireland*, as the Case may be, of the Member to whose Election the Petition relates, unless it question the Return or Election upon an Allegation of corrupt Practices, and specifically alleges a Payment of Money or other Reward to have been made by any Member, or on his Account, or with his Privity, since the Time of such Return, in pursuance or in furtherance of such corrupt Practices, in which Case the Petition may be presented at any Time within Twenty-eight Days after the Date of such Payment:
3. Presentation of a Petition shall be made by delivering it to the prescribed Officer or otherwise dealing with the same in manner prescribed:
4. At the Time of the Presentation of the Petition, or within Three Days afterwards, Security for the Payment of all Costs, Charges, and Expenses that may become payable by the Petitioner—
   (*a.*) to any Person summoned as a Witness on his Behalf, or,
   (*b.*) to the Member whose Election or Return is complained of (who is herein-after referred to as the Respondent),

   shall be given on behalf of the Petitioner:
5. The Security shall be to an Amount of One thousand Pounds; it shall be given either by Recognizance to be entered into by any Number of Sureties not exceeding Four, or by a Deposit of Money in manner prescribed, or partly in one way and partly in the other.

Copy of Petition after Presentation to be sent to Returning Officer.

7. On Presentation of the Petition the prescribed Officer shall send a Copy thereof to the Returning Officer of the County or Borough to which the Petition relates, who shall forthwith publish the same in the County or Borough, as the Case may be.

8. Notice

Recognizance may be objected to.

8. Notice of the Presentation of a Petition under this Act, and of the Nature of the proposed Security, accompanied with a Copy of the Petition, shall, within the prescribed Time, not exceeding Five Days after the Presentation of the Petition, be served by the Petitioner on the Respondent; and it shall be lawful for the Respondent, where the Security is given wholly or partially by Recognizance, within a further prescribed Time, not exceeding Five Days from the Date of the Service on him of the Notice, to object in Writing to such Recognizance, on the Ground that the Sureties, or any of them, are insufficient, or that a Surety is dead, or that he cannot be found or ascertained from the Want of a sufficient Description in the Recognizance, or that a Person named in the Recognizance has not duly acknowledged the same.

Determination of Objection to Recognizance.

9. Any Objection made to the Security given shall be heard and decided on in the prescribed Manner. If an Objection to the Security is allowed it shall be lawful for the Petitioner, within a further prescribed Time, not exceeding Five Days, to remove such Objection, by a Deposit in the prescribed Manner of such Sum of Money as may be deemed by the Court or Officer having Cognizance of the Matter to make the Security sufficient.

If on Objection made the Security is decided to be insufficient, and such Objection is not removed in manner herein-before mentioned, no further Proceedings shall be had on the Petition; otherwise, on the Expiration of the Time limited for making Objections, or, after Objection made, on the Sufficiency of the Security being established, the Petition shall be deemed to be at issue.

List of Petitions at issue to be made.

10. The prescribed Officer shall, as soon as may be, make out a List of all Petitions under this Act presented to the Court of which he is such Officer, and which are at issue, placing them in the Order in which they were presented, and shall keep at his Office a Copy of such List, herein-after referred to as the Election List, open to the Inspection in the prescribed Manner of any Person making Application.

Such Petitions, as far as conveniently may be, shall be tried in the Order in which they stand in such List.

Trial of a Petition.

Mode of Trial of Election Petitions.

11. The following Enactments shall be made with respect to the Trial of Election Petitions under this Act:

1. The Trial of every Election Petition shall be conducted before a Puisne Judge of One of Her Majesty's Superior Courts of Common Law at *Westminster* or *Dublin*, according as the same

same shall have been presented to the Court at *Westminster* or *Dublin*, to be selected from a Rota to be formed as hereinafter mentioned.

2. The Members of each of the Courts of Queen's Bench, Common Pleas, and Exchequer in *England* and *Ireland* shall respectively, on or before the Third Day of *Michaelmas* Term in every Year, select, by a Majority of Votes, One of the Puisne Judges of such Court, not being a Member of the House of Lords, to be placed on the Rota for the Trial of Election Petitions during the ensuing Year.

3. If in any Case the Members of the said Court are equally divided in their Choice of a Puisne Judge to be placed on the Rota, the Chief Justice of such Court (including under that Expression the Chief Baron of the Exchequer) shall have a Second or Casting Vote.

4. Any Judge placed on the Rota shall be re-eligible in the succeeding or any subsequent Year.

5. In the event of the Death or the Illness of any Judge for the Time being on the Rota, or his Inability to act for any reasonable Cause, the Court to which he belongs shall fill up the Vacancy by placing on the Rota another Puisne Judge of the same Court.

6. The Judges for the Time being on the Rota shall, according to their Seniority, respectively try the Election Petitions standing for Trial under this Act, unless they otherwise agree among themselves, in which Case the Trial of each Election Petition shall be taken in manner provided by such Agreement.

7. Where it appears to the Judges on the Rota, after due Consideration of the List of Petitions under this Act for the Time being at issue, that the Trial of such Election Petitions will be inconveniently delayed unless an additional Judge or Judges be appointed to assist the Judges on the Rota, each of the said Courts (that is to say), the Court of Exchequer, the Court of Common Pleas, and Court of Queen's Bench, in the Order named, shall, on and according to the Requisition of such Judges on the Rota, select, in manner hereinbefore provided, One of the Puisne Judges of the Court to try Election Petitions for the ensuing Year; and any Judge so selected shall, during that Year, be deemed to be on the Rota for the Trial of Election Petitions:

8. Her Majesty may, in manner heretofore in use, appoint an additional Puisne Judge to each of the Courts of Queen's Bench, the Common Pleas, and the Exchequer in *England*:

9. Every Election Petition shall, except where it raises a Question of Law for the Determination of the Court, as herein-after

 mentioned,

mentioned, be tried by One of the Judges herein-before in that Behalf mentioned, herein-after referred to as the Judge sitting in open Court without a Jury.

10. Notice of the Time and Place at which an Election Petition will be tried shall be given, not less than Fourteen Days before the Day on which the Trial is held, in the prescribed Manner.

11. The Trial of an Election Petition in the Case of a Petition relating to a Borough Election shall take place in the Borough, and in the Case of a Petition relating to a County Election in the County: Provided always, that if it shall appear to the Court that special Circumstances exist which render it desirable that the Petition should be tried elsewhere than in the Borough or County, it shall be lawful for the Court to appoint such other Place for the Trial as shall appear most convenient: Provided also, that in the Case of a Petition relating to any of the Boroughs within the Metropolitan District, the Petition may be heard at such Place within the District as the Court may appoint.

12. The Judge presiding at the Trial may adjourn the same from Time to Time and from any one Place to any other Place within the County or Borough, as to him may seem expedient.

13. At the Conclusion of the Trial the Judge who tried the Petition shall determine whether the Member whose Return or Election is complained of, or any and what other Person, was duly returned or elected, or whether the Election was void, and shall forthwith certify in Writing such Determination to the Speaker, and upon such Certificate being given such Determination shall be final to all Intents and Purposes.

14. Where any Charge is made in an Election Petition of any corrupt Practice having been committed at the Election to which the Petition refers, the Judge shall, in addition to such Certificate, and at the same Time, report in Writing to the Speaker as follows:

(*a.*) Whether any corrupt Practice has or has not been proved to have been committed by or with the Knowledge and Consent of any Candidate at such Election, and the Nature of such corrupt Practice:

(*b.*) The Names of all Persons (if any) who have been proved at the Trial to have been guilty of any corrupt Practice:

(*c.*) Whether

(*c.*) Whether corrupt Practices have, or whether there is Reason to believe that corrupt Practices have, extensively prevailed at the Election to which the Petition relates.

15. The Judge may at the same Time make a special Report to the Speaker as to any Matters arising in the course of the Trial an Account of which in his Judgment ought to be submitted to the House of Commons.

16. Where, upon the Application of any Party to a Petition made in the prescribed Manner to the Court, it appears to the Court that the Case raised by the Petition can be conveniently stated as a Special Case, the Court may direct the same to be stated accordingly, and any such Special Case shall, as far as may be, be heard before the Court, and the Decision of the Court shall be final; and the Court shall certify to the Speaker its Determination in reference to such Special Case.

Applications to the Court respecting Trials.

12. Provided always, that if it shall appear to the Judge on the Trial of the said Petition that any Question or Questions of Law as to the Admissibility of Evidence or otherwise require further Consideration by the Court of Common Pleas, then it shall be lawful for the said Judge to postpone the granting of the said Certificate until the Determination of such Question or Questions by the Court, and for this Purpose to reserve any such Question or Questions in like Manner as Questions are usually reserved by a Judge on a Trial at Nisi Prius.

House of Commons to carry out Report.

13. The House of Commons, on being informed by the Speaker of such Certificate and Report or Reports, if any, shall order the same to be entered in their Journals, and shall give the necessary Directions for confirming or altering the Return, or for issuing a Writ for a new Election, or for carrying the Determination into execution, as Circumstances may require.

House of Commons may make Order on special Report.

14. Where the Judge makes a special Report the House of Commons may make such Order in respect of such special Report as they think proper.

Report of the Judge as to corrupt Practices.

15. If the Judge states in his Report on the Trial of an Election Petition under this Act that corrupt Practices have, or that there is Reason to believe that corrupt Practices have, extensively prevailed in any County or Borough at the Election to which the Petition relates, such Statement shall for all the Purposes of the Act of the Session of the Fifteenth and Sixteenth Years of the Reign of Her

present.

present Majesty, Chapter Fifty-seven, intituled *An Act to provide for more effectual Inquiry into the Existence of corrupt Practices at Elections of Members to serve in Parliament*, have the same Effect and may be dealt with in the same Manner as if it were a Report of a Committee of the House of Commons appointed to try an Election Petition, and the Expenses of any Commission of Inquiry which may be issued in accordance with the Provisions of the said Act shall be defrayed as if they were Expenses incurred in the Registration of Voters for such County or Borough.

Report of Judge equivalent to Report of Election Committee.

16. The Report of the Judge in respect of Persons guilty of corrupt Practices shall for the Purpose of the Prosecution of such Persons in pursuance of Section Nine of the Act of the Twenty-sixth Year of the Reign of Her present Majesty, Chapter Twenty-nine, have the same Effect as the Report of the Election Committee therein mentioned that certain Persons have been guilty of Bribery and Treating.

Evidence of corrupt Practices how received.

17. On the Trial of an Election Petition under this Act, unless the Judge otherwise directs, any Charge of a corrupt Practice may be gone into and Evidence in relation thereto received before any Proof has been given of Agency on the Part of any Candidate in respect of such corrupt Practice.

Acceptance of Office not to stop Petition.

18. The Trial of an Election Petition under this Act shall be proceeded with notwithstanding the Acceptance by the Respondent of an Office of Profit under the Crown.

Prorogation of Parliament.

19. The Trial of an Election Petition under this Act shall be proceeded with notwithstanding the Prorogation of Parliament.

Proceedings.

Form of Petition.

20. An Election Petition under this Act shall be in such Form and state such Matters as may be prescribed.

Service of Petition.

21. An Election Petition under this Act shall be served as nearly as may be in the Manner in which a Writ or Summons is served, or in such other Manner as may be prescribed.

Joint Respondents to Petition.

22. Two or more Candidates may be made Respondents to the same Petition, and their Case may for the sake of Convenience be tried at the same Time, but for all the Purposes of this Act such Petition shall be deemed to be a separate Petition against each Respondent.

Provision in Cases where more than One Petition is presented.

23. Where, under this Act, more Petitions than One are presented relating to the same Election or Return, all such Petitions shall in

in the Election List be bracketed together, and shall be dealt with as One Petition, but such Petitions shall stand in the Election List in the Place where the last of such Petitions would have stood if it had been the only Petition presented, unless the Court shall otherwise direct.

Shorthand Writer to attend Trial of Election Petition.

24. On the Trial of an Election Petition under this Act the Shorthand Writer of the House of Commons or his Deputy shall attend and shall be sworn by the Judge faithfully and truly to take down the Evidence given at the Trial, and from Time to Time as Occasion requires to write or cause the same to be written in Words at Length; and it shall be the Duty of such Shorthand Writer to take down such Evidence, and from Time to Time to write or cause the same to be written at Length, and a Copy of such Evidence shall accompany the Certificate made by the Judge to the Speaker; and the Expenses of the Shorthand Writer shall be deemed to be Part of the Expenses incurred in receiving the Judge.

Jurisdiction and Rules of Court.

Rules to be made by Court.

25. The Judges for the Time being on the Rota for the Trial of Election Petitions in *England* and *Ireland* may respectively from Time to Time make, and may from Time to Time revoke and alter, General Rules and Orders (in this Act referred to as the Rules of Court), for the effectual Execution of this Act, and of the Intention and Object thereof, and the Regulation of the Practice, Procedure, and Costs of Election Petitions, and the Trial thereof, and the certifying and reporting thereon.

Any General Rules and Orders made as aforesaid shall be deemed to be within the Powers conferred by this Act, and shall be of the same Force as if they were enacted in the Body of this Act.

Any General Rules and Orders made in pursuance of this Section shall be laid before Parliament within Three Weeks after they are made, if Parliament be then sitting, and if Parliament be not then sitting, within Three Weeks after the Beginning of the then next Session of Parliament.

Practice of House of Commons to be observed.

26. Until Rules of Court have been made in pursuance of this Act, and so far as such Rules do not extend, the Principles, Practice, and Rules on which Committees of the House of Commons have heretofore acted in dealing with Election Petitions shall be observed so far as may be by the Court and Judge in the Case of Election Petitions under this Act.

Performance of Duties by prescribed Officer.

27. The Duties to be performed by the prescribed Officer under this Act shall be performed by such One or more of the Masters

Masters of the Court of Common Pleas at *Westminster* as may be determined by the Chief Justice of the said Court of Common Pleas, and by the Master of the Court of Common Pleas at *Dublin*, and there shall be awarded to such Masters respectively, in addition to their existing Salaries, such Remuneration for the Performance of the Duties imposed on them in pursuance of this Act as the Chief Justices of the said Courts of Common Pleas at *Westminster* and *Dublin* may respectively, with the Consent of the Commissioners of the Treasury, determine.

Reception, Expenses, and Jurisdiction of Judge.

Reception of Judge.

28. The Judge shall be received at the Place where he is about to try an Election Petition under this Act with the same State, so far as Circumstances admit, as a Judge of Assize is received at an Assize Town; he shall be received by the Sheriff in the Case of a Petition relating to a County Election, and in any other Case by the Mayor, in the Case of a Borough having a Mayor, and in the Case of a Borough not having a Mayor by the Sheriff of the County in which the Borough is situate, or by some Person named by such Sheriff.

The travelling and other Expenses of the Judge, and all Expenses properly incurred by the Sheriff or by such Mayor or Person named as aforesaid in receiving the Judge and providing him with necessary Accommodation and with a proper Court, shall be defrayed by the Commissioners of the Treasury out of Money to be provided by Parliament.

Power of Judge.

29. On the Trial of an Election Petition under this Act the Judge shall, subject to the Provisions of this Act, have the same Powers, Jurisdiction, and Authority as a Judge of One of the Superior Courts and as a Judge of Assize and Nisi Prius, and the Court held by him shall be a Court of Record.

Attendance on Judge.

30. The Judge shall be attended on the Trial of an Election Petition under this Act in the same Manner as if he were a Judge sitting at Nisi Prius, and the Expenses of such Attendance shall be deemed to be Part of the Expenses of providing a Court.

Witnesses.

Summons of Witnesses.

31. Witnesses shall be subpœnaed and sworn in the same Manner as nearly as Circumstances admit as in a Trial at Nisi Prius, and shall be subject to the same Penalties for Perjury.

32. On

Judge may summon and examine Witnesses.

32. On the Trial of an Election Petition under this Act the Judge may, by Order under his Hand, compel the Attendance of any Person as a Witness who appears to him to have been concerned in the Election to which the Petition refers, and any Person refusing to obey such Order shall be guilty of Contempt of Court. 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 cross-examined by or on behalf of the Petitioner and Respondent, or either of them.

Indemnity to Witnesses.

33. The Provisions of the Seventh Section of the Act of the Session of the Twenty-sixth and Twenty-seventh Years of the Reign of Her present Majesty, Chapter Twenty-nine, relating to the Examination and Indemnity of Witnesses, shall apply to any Witness appearing before a Judge on the Trial of an Election Petition under this Act, in the same Manner as in the Case of a Trial before a Committee of the House of Commons before the passing of this Act, and the Certificate shall be given under the Hand of the Judge.

Expenses of Witnesses.

34. 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 the Assizes, may be allowed to such Person by a Certificate under the Hand of the Judge or of the prescribed Officer, and such Expenses if the Witness was called and examined by the Judge shall be deemed Part of the Expenses of providing a Court, and in other Cases shall be deemed to be Costs of the Petition.

Withdrawal and Abatement of Election Petitions.

Withdrawal of Petition and Substitution of new Petitioners.

35. An Election Petition under this Act shall not be withdrawn without the Leave of the Court or Judge upon special Application, to be made in and at the prescribed Manner, Time, and Place.

No such Application shall be made for the Withdrawal of a Petition until the prescribed Notice has been given in the County or Borough to which the Petition relates of the Intention of the Petitioner to make an Application for the Withdrawal of his Petition.

On the Hearing of the Application for Withdrawal any Person who might have been a Petitioner in respect of 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.

The Court or Judge may, if it or he think fit, substitute as a Petitioner any such Applicant as aforesaid; and may further, if the

proposed

proposed Withdrawal is in the Opinion of the Court or Judge 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 the Sum named in such Security the original Petitioner shall be liable to pay the Costs of the substituted Petitioner.

If no such Order is made with respect to the Security given on behalf of the original Petitioner, Security 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 the prescribed Time after the Order of Substitution.

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.

Where there are more Petitioners than One, no Application to withdraw a Petition shall be made except with the Consent of all the Petitioners.

Court to report to the Speaker Circumstances of Withdrawal.

36. In every Case of the Withdrawal of an Election Petition under this Act the Court or Judge shall report to the Speaker whether in its or his Opinion the Withdrawal of such Petition was the Result of any corrupt Arrangement, or in consideration of the Withdrawal of any other Petition, and if so the Circumstances attending the Withdrawal.

Abatement of Petition.

37. An Election Petition under this Act shall be abated by the Death of a sole Petitioner or of the Survivor of several Petitioners.

The Abatement of a Petition shall not affect the Liability of the Petitioner to the Payment of Costs previously incurred.

On the Abatement of a Petition the prescribed Notice of such Abatement having taken place shall be given in the County or Borough to which the Petition relates, and within the prescribed Time after the Notice is given, any Person who might have been a Petitioner in respect of the Election to which the Petition relates may apply to the Court or Judge, in and at the prescribed Manner, Time, and Place, to be substituted as a Petitioner.

The Court or Judge may, if it or he think fit, substitute as a Petitioner any such Applicant who is desirous of being substituted and on whose Behalf Security to the same Amount is given as is required in the Case of a new Petition.

38. If

Admission in certain Cases of Voters to be Respondents.

38. If before the Trial of any Election Petition under this Act any of the following Events happen in the Case of the Respondent; (that is to say,)

(1.) If he dies:

(2.) If he is summoned to Parliament as a Peer of *Great Britain* by a Writ issued under the Great Seal of *Great Britain*:

(3.) If the House of Commons have resolved that his Seat is vacant:

(4.) If he gives in and at the prescribed Manner and Time Notice to the Court that he does not intend to oppose the Petition:

Notice of such Event having taken place shall be given in the County or Borough to which the Petition relates, and within the prescribed Time after the Notice is given any Person who might have been a Petitioner in respect of the Election to which the Petition relates may apply to the Court or Judge to be admitted as a Respondent to oppose the Petition, and such Person shall on such Application be admitted accordingly, either with the Respondent, if there be a Respondent, or in place of the Respondent; and any Number of Persons not exceeding Three may be so admitted.

Respondent not opposing not to appear as Party or to sit.

39. A Respondent who has given the prescribed Notice that he does not intend to oppose the Petition shall not be allowed to appear or act as a Party against such Petition in any Proceedings thereon, and shall not sit or vote in the House of Commons until the House of Commons has been informed of the Report on the Petition, and the Court or Judge shall in all Cases in which such Notice has been given in the prescribed Time and Manner report the same to the Speaker of the House of Commons.

Provisions for Cases of double Return where the Member complained of declines to defend his Return.

40. Where an Election Petition under this Act complains of a double Return and the Respondent has given Notice to the prescribed Officer that it is not his Intention to oppose the Petition, and no Party has been admitted in pursuance of this Act to defend such Return, then the Petitioner if there be no Petition complaining of the other Member returned on such double Return, may withdraw his Petition by Notice addressed to the prescribed Officer, and upon the Receipt of such Notice the prescribed Officer shall report the Fact of the Withdrawal of such Petition to the Speaker, and the House of Commons shall thereupon give the necessary Directions for amending the said double Return by taking off the File the Indenture by which the Respondent so declining to oppose the Petition was returned, or otherwise as the Case may require: Provided always, that this Section shall not apply to *Ireland*.

Costs.

General Costs of Petition.

41. All Costs, Charges, and Expenses of and incidental to the Presentation of a Petition under this Act, and to the Proceedings consequent thereon, with the Exception of such Costs, Charges, and Expenses as are by this Act otherwise provided for, shall be defrayed by the Parties to the Petition in such Manner and in such Proportions as the Court or Judge may determine, regard being had to the Disallowance of any Costs, Charges, or Expenses which may, in the Opinion of the Court or Judge, have been caused by vexatious Conduct, unfounded Allegations, or unfounded Objections on the Part either of the Petitioner or the Respondent, and regard being had to the Discouragement of any needless Expense by throwing the Burden of defraying the same on the Parties by whom it has been caused, whether such Parties are or not on the whole successful.

The Costs may be taxed in the prescribed Manner but according to the same Principles as Costs between Attorney and Client are taxed in a Suit in the High Court of Chancery, and such Costs may be recovered in the same Manner as the Costs of an Action at Law, or in such other Manner as may be prescribed.

Recognizance, when to be estreated, &c.

42. If any Petitioner in an Election Petition presented under this Act neglect or refuse for the Space of Six Months after Demand to pay to any Person summoned as a Witness on his Behalf, or to the Respondent any Sum certified to be due to him for his Costs, Charges, and Expenses, and if such Neglect or Refusal be, within One Year after such Demand, proved to the Satisfaction of the Court of Elections, in every such Case every Person who has entered into a Recognizance relating to such Petition under the Provisions of this Act shall be held to have made default in his said Recognizance, and the prescribed Officer shall thereupon certify such Recognizance to be forfeited, and the same shall be dealt with in *England* in manner provided by the Act of the Third Year of the Reign of King *George* the Fourth, Chapter Forty-six, and in *Ireland* in manner provided by "The Fines Act (*Ireland*), 1851."

Punishment of corrupt Practices.

Punishment of Candidate guilty of Bribery.

43. Where it is found, by the Report of the Judge upon an Election Petition under this Act, that Bribery has been committed by or with the Knowledge and Consent of any Candidate at an Election, such Candidate shall be deemed to have been personally guilty of Bribery at such Election, and his Election, if he has been elected, shall be void, and he shall be incapable of being elected to and of sitting in the House of Commons during the Seven Years next

next after the Date of his being found guilty; and he shall further be incapable during the said Period of Seven Years—

(1.) Of being registered as a Voter and voting at any Election in the United Kingdom; and

(2.) Of holding any Office under the Act of the Session of the Fifth and Sixth Years of the Reign of His Majesty King *William* the Fourth, Chapter Seventy-six, or of the Session of the Third and Fourth Years of the Reign of Her present Majesty, Chapter One hundred and eight, or any Municipal Office; and

(3.) Of holding any Judicial Office, and of being appointed and of acting as a Justice of the Peace.

Penalty for employing corrupt Agent.

44. If on the Trial of any Election Petition under this Act any Candidate is proved to have personally engaged at the Election to which such Petition relates as a Canvasser or Agent for the Management of the Election, any Person knowing that such Person has within Seven Years previous to such Engagement been found guilty of any corrupt Practice by any competent Legal Tribunal, or been reported guilty of any corrupt Practice by a Committee of the House of Commons, or by the Report of the Judge upon an Election Petition under this Act, or by the Report of Commissioners appointed in pursuance of the Act of the Session of the Fifteenth and Sixteenth Years of the Reign of Her present Majesty, Chapter Fifty-seven, the Election of such Candidate shall be void.

Disqualification of Persons found guilty of Bribery.

45. Any Person, other than a Candidate, found guilty of Bribery in any Proceeding in which after Notice of the Charge he has had an Opportunity of being heard, shall, during the Seven Years next after the Time at which he is so found guilty, be incapable of being elected to and sitting in Parliament; and also be incapable—

(1.) Of being registered as a Voter and voting at any Election in the United Kingdom; and

(2.) Of holding any Office under the Act of the Session of the Fifth and Sixth Years of the Reign of His Majesty King *William* the Fourth, Chapter Seventy-six, or of the Session of the Third and Fourth Years of the Reign of Her present Majesty, Chapter One hundred and eight, or any Municipal Office; and

(3.) Of holding any Judicial Office, and of being appointed and of acting as a Justice of the Peace.

Amendment of the Law relating to the Disqualification of Candidates for corrupt Practices.

46. For the Purpose of disqualifying, in pursuance of the Thirty-sixth Section of "The Corrupt Practices Prevention Act, 1854," a Member guilty of corrupt Practices, other than personal Bribery within the Forty-third Section of this Act, the Report of the Judge on the Trial of an Election Petition shall be deemed to be substituted

tuted for the Declaration of an Election Committee, and the said Section shall be construed as if the Words "reported by a Judge "on the Trial of an Election Petition" were inserted therein in the Place of the Words "declared by an Election Committee."

Removal of Disqualification on Proof that Disqualification was procured by Perjury.

47. If at any Time after any Person has become disqualified by virtue of this Act, the Witnesses, or any of them, on whose Testimony such Person shall have so become disqualified, shall, upon the Prosecution of such Person, be convicted of Perjury in respect of such Testimony, it shall be lawful for such Person to move the Court to order, and the Court shall, upon being satisfied that such Disqualification was procured by reason of Perjury, order, that such Disqualification shall thenceforth cease and determine, and the same shall cease and determine accordingly.

Miscellaneous.

Returning Officer may be sued for neglecting to return any Person duly elected.

48. If any Returning Officer wilfully delays, neglects, or refuses duly to return any Person who ought to be returned to serve in Parliament for any County or Borough, such Person may, in case it has been determined on the Hearing of an Election Petition under this Act that such Person was entitled to have been returned, sue the Officer having so wilfully delayed, neglected, or refused duly to make such Return at his Election in any of Her Majesty's Courts of Record at *Westminster*, and shall recover double the Damages he has sustained by reason thereof, together with full Costs of Suit; provided such Action be commenced within One Year after the Commission of the Act on which it is grounded, or within Six Months after the Conclusion of the Trial relating to such Election.

Calculation of Time.

49. In reckoning Time for the Purposes of this Act, *Sunday*, *Christmas Day*, *Good Friday*, and any Day set apart for a Public Fast or Public Thanksgiving shall be excluded.

Controverted Elections to be tried under Act.

50. From and after the next Dissolution of Parliament no Election or Return to Parliament shall be questioned except in accordance with the Provisions of this Act, but until such Dissolution, Elections and Returns to Parliament may be questioned in manner heretofore in use.

Returning Officer if complained of to be Respondent.

51. Where an Election Petition under this Act complains of the Conduct of a Returning Officer, such Returning Officer shall for all the Purposes of this Act, except the Admission of Respondents in his Place, be deemed to be a Respondent.

Petition complaining of no Return.

52. A Petition under this Act complaining of no Return may be presented to the Court, and shall be deemed to be an Election Petition

Petition within the Meaning of this Act, and the Court may make such Order thereon as they think expedient for compelling a Return to be made, or may allow such Petition to be heard by the Judge in manner herein-before provided with respect to ordinary Election Petitions.

Recrimination when Petition for undue Return.

53. On the Trial of a Petition under this Act complaining of an undue Return and claiming the Seat for some Person, the Respondent may give Evidence to prove that the Election of such Person was undue in the same Manner as if he had presented a Petition complaining of such Election.

Repeal of Acts.

54. From and after the next Dissolution of Parliament the Acts contained in the Schedule hereto are repealed so far as relates to Elections and Petitions to the Extent therein mentioned; provided that such Repeal shall not affect the Validity or Invalidity of anything already done or suffered, or any Offence already committed, or any Remedy or Proceeding in respect thereof, or the Proof of any past Act or Thing.

Provision as to Payment of additional Judges and Remuneration of Judges for Duties to be performed under this Act.

55. The additional Puisne Judges appointed under this Act to each of the Courts of Queen's Bench, the Common Pleas, and the Exchequer in *England* shall, as to Rank, Salary, Pension, Attendant Officers, Jurisdiction, and all other Privileges and Duties of a Judge, stand in the same Position as the other Puisne Judges of the Court to which he is attached.

Any Puisne Judge of the said Courts appointed in pursuance of or after the passing of this Act shall be authorized to sit, and shall, when requested by the Lord Chancellor, sit as Judge of the Court of Probate and Court of Marriage and Divorce or of the Admiralty Court.

Commissions of Inquiry into corrupt Practices.

56. If upon a Petition to the House of Commons, presented within Twenty-one Days after the Return to the Clerk of the Crown in Chancery in *England*, or to the Clerk of the Crown and Hanaper in *Ireland*, of a Member to serve in Parliament for any Borough or County, or within Fourteen Days after the meeting of Parliament, and signed by any Two or more Electors of such Borough or County, and alleging that corrupt Practices have extensively prevailed at the then last Election for such Borough or County, or that there is Reason to believe that corrupt Practices have there so prevailed, an Address be presented by both Houses of Parliament, praying that such Allegation may be inquired into, the Crown may appoint Commissioners to inquire into the same, and if such Commissioners in such Case be appointed, they shall inquire in the same Manner and with the same Powers and subject to all the Provisions of the

Statute of the Fifteenth and Sixteenth of *Victoria*, Chapter Fifty-seven.

Rules as to Agents practising in Cases of Election Petitions.

57. Any Person who at the Time of the passing of this Act was entitled to practise as Agent, according to the Principles, Practice, and Rules of the House of Commons, in Cases of Election Petitions and Matters relating to Election of Members of the House of Commons, shall be entitled to practise as an Attorney or Agent in Cases of Election Petitions and all Matters relating to Elections before the Court and Judges prescribed by this Act: Provided, that every such Person so practising as aforesaid shall, in respect of such Practice and everything relating thereto, be subject to the Jurisdiction and Orders of the Court as if he were an Attorney of the said Court: And further, Provided, that no such Person shall practise as aforesaid until his Name shall have been entered on a Roll to be made and kept, and which is hereby authorized to be made and kept, by the prescribed Officer in the prescribed Manner.

Application of Act to Scotland.

58. The Provisions of this Act shall apply to *Scotland*, subject to the following Modifications:

1. The Expression "the Court" shall mean either Division of the Inner House of the Court of Session, and either of such Divisions shall have the same Powers, Jurisdiction, and Authority with reference to an Election Petition in *Scotland*, and the Proceedings thereon, which by this Act are conferred on the Court of Common Pleas at *Westminster* with respect to Election Petitions in *England*:
2. The Expression "County" shall not include a County of a City, but shall mean any County or Division of a County, or any Combination of Counties, or of Counties and Portions of Counties, returning a Member to serve in Parliament:
3. The Expression "Borough" shall mean any University or Universities, or any City, Town, Burgh, or District of Cities, Towns, or Burghs, returning a Member or Members to serve in Parliament:
4. "Recognizance" shall mean a Bond of Caution with usual and necessary Clauses:
5. The Trial of every Election Petition in *Scotland* shall be conducted before a Judge of the Court of Session, to be selected from a Rota to be formed as herein-after mentioned:
6. The Judges of the Court of Session shall, on or before the First Day of the Winter Session in every Year, select, by a Majority of Votes, Two of the Judges of such Court, not being Members of the House of Lords, to be placed on the Rota for the Trial of Election Petitions during the ensuing Year:

7. If

7. If in any Case the Judges of the said Court are equally divided in their Choice of a Judge to be placed on the Rota, the Lord President shall have a Second or Casting Vote:

8. Any Judge placed on the Rota shall be re-eligible in the succeeding or any subsequent Year:

9. In the event of the Death or Illness of any Judge for the Time being on the Rota, or his Inability to act for any reasonable Cause, the Judges shall fill up the Vacancy by placing on the Rota another Judge:

10. The Judges for the Time being on the Rota shall, according to their Seniority, respectively try the Election Petitions standing for Trial under this Act, unless they otherwise agree among themselves, in which Case the Trial of each Election Petition shall be taken in manner provided by such Agreement:

11. Where it appears to the Judges on the Rota, after due Consideration of the List of Petitions under this Act for the Time being at issue, that the Trial of such Election Petitions will be inconveniently delayed unless an additional Judge or Judges be appointed to assist the Judges on the Rota, the Judges of the Court of Session shall, on and according to the Requisition of such Judges on the Rota, select in manner herein-before provided, a Judge to try Election Petitions for the ensuing Year; and any Judge so selected shall during that Year be deemed to be on the Rota for the Trial of Election Petitions:

12. The Duties to be performed by the prescribed Officer under this Act with reference to Election Petitions in *Scotland* shall be performed by such One or more of the principal Clerks of Session as may be determined by the Lord President of the Court of Session; and there shall be awarded to such principal Clerk or Clerks, in addition to their existing Salaries, such Remuneration for the Performance of the Duties imposed on them in pursuance of this Act as the said Lord President may, with the Consent of the Commissioners of the Treasury, determine:

13. The Judge shall be received at the Place where he is about to try an Election Petition under this Act in the same Manner and by the same Authorities, as far as Circumstances admit, as a Judge of the Court of Justiciary is received at a Circuit Town, and he shall be attended by such Officer or Officers as shall be necessary:

14. The travelling and other Expenses of the Judge, and of the Officer or Officers in attendance upon him, and all Expenses properly incurred in providing the Judge with a proper Court,

Court, shall be defrayed by the Commissioners of the Treasury out of Money to be provided by Parliament:

15. On the Trial of an Election Petition under this Act, the Judge shall, subject to the Provisions of this Act, have the same Powers, Jurisdictions, and Authority as a Judge of the Court of Session presiding at the Trial of a Civil Cause without a Jury:

16. The Principles of Taxation of Costs as between Attorney and Client in a Suit in the High Court of Chancery shall in *Scotland* mean the Principles of Taxation of Expenses as between Agent and Client in the Court of Session:

17. Any of Her Majesty's Courts of Record at *Westminster* shall in *Scotland* mean the Court of Session in *Scotland:*

18. In lieu of the Provisions for the estreating of a Recognizance under an Election Petition, the prescribed Officer shall, when otherwise competent under the Provisions of this Act, certify that the Conditions contained in the Bond of Caution have not been fulfilled, and it shall then be competent for the Party or Parties interested to register the said Bond, and do Diligence upon it as accords of Law.

Duration of Act.

59. This Act shall be in force until the Expiration of Three Years from the passing of such Act, and to the End of the then next Session of Parliament.

SCHEDULE.

Date of Act.	Title of Act.	Extent of Repeal.
4 & 5 Vict. c. 57. -	An Act for the Prevention of Bribery at Elections.	The whole Act.
5 & 6 Vict. c. 102. -	An Act for the better Discovery and Prevention of Bribery and Treating at the Election of Members of Parliament.	The whole Act.
11 & 12 Vict. c. 98.	An Act to amend the Law for the Trial of Election Petitions.	The whole Act.
26 Vict. c. 29. -	An Act to amend and continue the Law relating to corrupt Practices at Elections of Members of Parliament.	Section 8.
28 Vict. c. 8. -	An Act to amend "The Election Petitions Act, 1848," in certain Particulars.	The whole Act.

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