

If there be more than one contestant.

office : And if there be more than one contestant joining in the notice to the member returned, then such notice shall state some place at which the answer of the member may be validly served on all the contestants by leaving one copy only of such answer at such place for all of them ; and if the notice contain no such statement it shall be void and deemed not to have been given. 5

Application to a County or Circuit Judge to take evidence on facts alleged in notice and answer.

IV. When any such contestant shall be desirous of obtaining testimony respecting the facts alleged in such notice or answer, it shall be lawful for him to make application to any County or Circuit Judge, residing or having jurisdiction within the Electoral Division in which such controverted election was held ; but such application on the part of the contestant shall not be received by any such Judge as aforesaid, unless it be made within 10 days of the time when the answer of the returned member shall have been served on such contestant, or within                    days from the expiration of the time allowed for serving such answer, if none be served within the 15 said time, nor unless at the time of such application such contestant shall produce and file with such Judge, a recognizance and the affidavit or affidavits of sufficiency on the part of the sureties, required by the Election Petitions Act of 1851, of persons presenting Election 20 Petitions ; and such Judge shall dismiss such application forthwith, if at any time while the examination is pending, it shall be proved to his satisfaction that the said sureties or any of them are or is insufficient, or that such recognizance is void for any matter of form or substance, and his powers shall extend to all evidence required to prove or disprove the sufficiency of 25 such recognizance ; but if the member returned does not allege and prove such insufficiency before such Judge, or if the recognizance be declared valid by the Judge, it shall not be subject to objection before the Speaker, but the Election Petition may be at once referred to a Select Committee as if the Speaker had declared the recognizance unobjectionable.

Objections to recognizance.

Copy of intended Petition to be filed with the recognizance and notice, at the time of application to the Judge.

V. With such recognizance as aforesaid, there shall also be delivered to 30 the Judge to whom such application as aforesaid shall be made, a copy of the Election Petition which such contestant shall intend to present to the Legislative Assembly in the case, and to this Petition the recognizance shall be held to refer and no other shall be received by the Legislative 35 Assembly in the case ; and unless such copy of the intended Petition be so filed the application shall not be deemed to have been validly made, and shall be void : and in the condition of such recognizance as aforesaid, the word "Commissioner" shall be understood to include and apply to the Judge to whom such application as aforesaid is made as well as to any Commis- 40 sioner appointed under the said Election Petitions Act ; and such recognizance shall avail and may be estreated or enforced accordingly, in default of payment by the contestant of any costs incurred by reason of such application as aforesaid : and such recognizance and copy of Petition as aforesaid shall, by the Judge to whom such application shall be made, be 45 forthwith transmitted by mail to the Chief Clerk of the Legislative Assembly, to be by him kept among the records of his office, and for the purposes of this Act and of the said Election Petitions Act, and being so transmitted, the recognizance shall be annexed to the Petition when presented and shall avail accordingly.

Copy of answer of Member to be also filed.

VI. When the said application is made there shall also be filed with the 50 Judge to whom it is made, the copy of the answer of the returned member served upon the contestant (if any such answer has been so served) and if such answer (if any) be not so filed, the application shall not be deemed to have been validly made, and shall be void.