

Hon. Mr. Johnston.

Corrupt Practices Prevention.

ANALYSIS.

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A BILL INTITULED

AN ACT for the Prevention of Corrupt Practices at Elections of Members of the House of Representatives. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Corrupt Practices Prevention Act, 1881." Short Title.

Interpretation.

2. In this Act, if not inconsistent with the context,—
- “Electoral district,” or “district,” means a division of the colony in respect of which one or more members are returned to serve in the House of Representatives :
- “Registrar” means the Registrar for an electoral district, appointed under “The Registration of Electors Act, 1879 :” 5
- “Roll” means a roll of electors formed for an electoral district :
- “Election” means the election of a member or members to serve in the House of Representatives :
- “Election petition” means a petition presented in pursuance of “The Election Petitions Act, 1880 :” 10
- “Election Court” means the Judges for the time being presiding at the trial of an election petition :
- “Elector” means, in relation to any electoral district, any person whose name is for the time being on the roll of electors for that district :
- “Candidate” means any person who shall have declared his intention of offering himself as a candidate for a seat in the House of Representatives for an electoral district :
- “Public office” means any office under the Acts or Ordinances relating to counties, boroughs, or highway districts, or “The Education Act, 1877,” “The Public Health Act, 1876,” “The Harbours Act, 1878,” or under any Acts amending the above-mentioned Acts, or under any other Act or Ordinance relating to local government, whether the office is that of Mayor, Councillor, or member of any Board, or is the office of town clerk, clerk, or other officer under a Council or Board, or is any other office to which a person is elected or appointed under any of the said Acts : 25
- “Judicial office” includes the office of a Justice of the Peace : 30
- “Payment” includes any pecuniary or other reward ; and the expressions “pecuniary reward” and “money” shall be deemed to include any valuable security or other equivalent for money, and any valuable consideration.

CORRUPT PRACTICES.

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What is “corrupt practice.”

3. The expression “corrupt practice” as used in this Act means treating, bribery, undue influence, or personation, as defined by this Act, or as recognized by the common law or the law of Parliament, and every offence which is a corrupt practice within the meaning of this Act shall be a corrupt practice within the meaning of “The Election Petitions Act, 1880.” 40

Bribery defined. 1858, No. 57, s. 1.

4. The following persons shall be deemed guilty of bribery, and shall be punishable accordingly :—

- (1.) Every person who shall directly or indirectly, by himself or by any other person on his behalf, give, lend, or agree to give or lend, or shall offer, promise, or promise to procure or to endeavour to procure, any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, or to or for any other person, in order to induce any elector to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of such elector having voted or refrained from voting at any election : 45
- (2.) Every person who shall directly or indirectly, by himself or by any other person on his behalf, give or procure or agree to give or procure, or offer, promise, or promise to procure or to endeavour to procure, any office or place of employment to or for any elector, or to or for any person on behalf of any elector, or to or for any other person, in 55

order to induce such elector to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of any elector having voted or refrained from voting at any election :

- 5 (3.) Every person who shall directly or indirectly, by himself or by any other person on his behalf, make any such gift, loan, offer, promise procurement, or agreement as aforesaid, to or for any person, in order to induce such person to procure or endeavour to procure the return of any person to serve in the General Assembly, or the vote of any elector at any election :
- 10 (4.) Every person who shall, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procure, or engage, promise, or endeavour to procure, the return of any person to serve in the General Assembly, or the vote of any elector at any election :
- 15 (5.) Every person who shall advance or pay, or cause to be paid, any money to or to the use of any other person, with the intent that such money or any part thereof shall be expended in bribery at any election, or who shall knowingly pay, or cause to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.
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5. The following persons shall also be deemed guilty of bribery, and shall be punishable accordingly :—

Bribery further defined.

- 25 (1.) Every elector who shall, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receive, agree, or contract for any money, gift, loan, or valuable consideration, office, place, or employment for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting, at any election.
- 30 (2.) Every person who shall, after any election, directly or indirectly, by himself or by any other person on his behalf, receive any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or to refrain from voting, at any election.
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1858, No. 57, s. 2.

6. Every candidate at any election who shall corruptly by himself, or by or with any person, or by any other ways or means on his behalf, at any time either before, during, or after any election, directly or indirectly, give or provide, or cause to be given or provided, or shall be accessory to the giving or providing, or shall pay wholly or in part any expenses incurred for any meat, drink, entertainment, or provision to or for any person in order to be elected or for being elected, or for the purpose of corruptly influencing such person or any other person to give or refrain from giving his vote at such election, or on account of such person having voted or refrained from voting, or being about to vote or refrain from voting, at such election, shall be deemed guilty of the offence of treating.

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Treating defined. Ib., s. 3.

7. Every person who shall directly or indirectly, by himself or by any other person on his behalf, make use of or threaten to make use of any force, violence, or restraint, or inflict or threaten the

Undue influence defined. Ib., s. 4.

ILLEGAL PRACTICES.

12. (1.) No person shall, for the purpose of promoting or procuring the election of a candidate at any election, be engaged or employed for payment or promise of payment—

Certain employment to be illegal practice.

- 5 (a.) To act as agent, clerk, or messenger, except as in the First Schedule to this Act mentioned; or
- (b.) To act as committee-man, canvasser, watcher, guard, detective, or torch-bearer; or
- 10 (c.) To act or render service in any capacity whatever, except one for which payment is authorized by the First or Second Schedule to this Act; or
- (d.) To act, if an elector, as clerk or messenger.

First Schedule.
Second Schedule.

(2.) If any person is engaged or employed in contravention of this section, the person engaging or employing him shall be guilty of an illegal practice, and the person so engaged or employed shall also be guilty of an illegal practice ~~if he knew that he was engaged or employed in contravention of this section.~~

13. (1.) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made—

Certain expenditure to be illegal practice.

- 20 (a.) On account of the conveyance of electors to or from the poll, whether for the hiring of carriages, for railway fares, or otherwise; or
- 25 (b.) For bands, torches, flags, banners, cockades, ribbons, or other marks of distinction; or
- (c.) For exhibiting bills, addresses, or notices, or for the use of any house, building, erection, place, board, or thing for the purpose of any such exhibition; or
- 30 (d.) With the exceptions authorized by the First and Second Schedules to this Act, in respect of any matter whatever.

First Schedule.
Second Schedule.

(2.) If any payment or contract for payment is made in contravention of this section either before, during, or after an election, the person making such payment shall be guilty of an illegal practice, and any person being a party to any such contract, or receiving such payment, shall also be guilty of an illegal practice ~~if he knew that the same was made in contravention of this Act.~~

14. Any premises licensed for the sale by retail of any intoxicating liquor, or any part of such premises, shall not be used as a committee-room for the purpose of promoting or procuring the election of a candidate at an election, and, if any person hires or uses any such premises or any part thereof for a committee-room, he shall be guilty of an illegal practice, and the person letting such room, ~~if he knew that the room was intended to be used as a committee-room,~~ shall also be guilty of an illegal practice.

Use of Committee-room in public-house to be illegal practice.

45 15. Any person who knowingly provides money for the purpose of any payment or expenditure, or for the repayment of any money so paid or expended, shall, where the person who made such payment or incurred such expenditure was thereby guilty of an illegal practice, be also guilty of an illegal practice.

Providing of money for illegal practice.

50 16. If any person induces or procures any person to vote at any election whom at the time he knows to be disqualified or prohibited, whether under this Act or otherwise, from voting at such election, he shall be guilty of an illegal practice.

Procurement of voting by unqualified voters to be illegal practice.

55 17. A person guilty of an illegal practice shall, on summary conviction, be liable to a fine not exceeding *one hundred pounds*, and be not capable during a period of ~~five~~ *three* years from the date of his conviction—

Punishment of illegal practice on conviction.

- 60 (a.) Of being registered as an elector or voting at any election in New Zealand, whether it be a parliamentary election or an election for a public office within the meaning of this Act; or
- (b.) Of holding any public or judicial office within the meaning of this Act; and if he holds any such office the office shall be vacated

Provision as to report of Election Court respecting illegal practice, and punishment of candidate found guilty by such report.

18. Subsection seven of section seven and section eight of "The Election Petitions Act, 1880," shall apply as if they were herein re-enacted with the substitution of "illegal practice" for "corrupt practice;" and, upon the trial of an election petition respecting an election, the Election Court shall report to the Speaker in writing as directed by the said subsection, and shall also report whether the candidate at such election has been guilty by his agents of any illegal practice in reference to such election; and the following consequences shall ensue upon the report by the Election Court to the Speaker, that is to say,—

(a.) If the report is that any illegal practice has been proved to have been committed in reference to such election by or with the knowledge and consent of any candidate, that candidate shall not be capable of ever being elected to or sitting in the House of Representatives for the said district, or of being elected to or of sitting in the House of Representatives during the ~~five~~ *three* years next after the date of the report, and his election, if he has been elected, shall be void; and he shall further be subject to the same incapacities as if at the date of the report he had been convicted of such illegal practice; and

(b.) If the report is that a candidate at such election has been guilty by his agents of any illegal practice in reference to such election, that candidate shall not be capable of being elected to or sitting in the House of Representatives for the said district during the Parliament for which the election was held, and his election, if he has been elected, shall be void.

Court may order costs of prosecution to be paid to prosecutor.
Ib., s. 11.

19. Every indictment for corrupt practices shall be tried before the Supreme Court only, and the said Court may order payment to the prosecutor of such costs and expenses as to the said Court shall appear to have been reasonably incurred in and about the conduct of such prosecution.

In case of private prosecution, defendant may recover costs.
Ib., s. 12.

20. In case of any indictment or information by a private person for any offence against the provisions of this Act, if judgment shall be given for the defendant, he shall be entitled to recover from the prosecutor the costs, to be taxed by the proper officer of the Court, which the defendant shall have sustained by reason of such indictment or information.

Prosecutor not to be entitled to costs unless he shall have entered into recognizance.
Ib., s. 13.

21. It shall not be lawful for the said Court to order payment of the costs of a prosecution for any offence against the provisions of this Act unless the prosecutor shall, before or upon the finding of the indictment, or the granting of the information, enter into a recognizance with two sufficient sureties to be approved of by the Registrar or Deputy Registrar of the Supreme Court, in the sum of *one hundred* pounds, to be acknowledged before a Judge of the Supreme Court, with the condition following—that is to say, that the prosecutor shall conduct the prosecution with effect, and shall pay to the defendant or defendants, in case he or they shall be acquitted, his or their costs.

Limitations of actions and prosecutions.
1858, No. 57, s. 14.

22. No person shall be liable to any penalty or forfeiture hereby imposed, unless some prosecution, action, or suit for the offence committed shall be commenced against such person within the space of ~~one year~~ *six months* next after such offence against this Act shall have been committed, and unless such person shall be summoned or otherwise served with writ or process within the same space of time, so as such summons or service of writ or process shall not be prevented by such person absconding or withdrawing out of the jurisdiction of the Court out of which such writ or other process shall have issued; and in case of any prosecution, suit, or process as aforesaid, the same shall be proceeded with and carried out without any wilful delay.

Struck out.

ELECTION EXPENSES.

23. (1.) On or before the day of nomination at an election, a person shall be named by or on behalf of each candidate as his agent for such election (in this Act referred to as the election agent).

5 (2.) The person so named shall be a solicitor of the Supreme Court, or if not, he shall be appointed with the previous sanction of the Returning Officer.

10 (3.) On or before the day of nomination the name and address of the election agent of each candidate shall be declared in writing to the Returning Officer, and the Returning Officer shall, on or before such day, give public notice of the name and address of every election agent so declared.

15 (4.) One election agent only shall be appointed for each candidate, but in the event of his refusal to act, or his death, illness, or other incapacity for acting, whether before, during, or after the election, then forthwith another election agent shall be appointed, and his name and address declared in writing to the Returning Officer, who shall forthwith give public notice of the same.

20 24. (1.) The election agent of a candidate shall appoint every scrutineer, clerk, and messenger employed for payment on behalf of the candidate at an election, and shall hire every committee room hired on behalf of the candidate.

25 (2.) A contract whereby any expenses are incurred on account of or in connection with or incidental to an election shall not be enforceable against a candidate at such election unless made by the candidate himself or his election agent.

30 25. (1.) Except as by this Act permitted, no payment and no advance or deposit shall be made by a candidate at an election or any agent on behalf of the candidate, whether before, during, or after such election, in respect of any expenses incurred on account of or in connection with or as incidental to such election, otherwise than by or through the election agent of the candidate, and all money provided by any person other than the candidate for any expenses incurred on account of or in connection with or as incidental to the election, whether as gift, loan, advance, or deposit, shall be paid to the candidate or his election agent, and not otherwise.

35 (2.) A person who makes any payment, advance, or deposit in contravention of this section, or pays in contravention of this section any money so provided as aforesaid, shall be guilty of an illegal practice.

40 26. (1.) Every payment made by an election agent in respect of any expenses incurred on account of or in connection with or as incidental to an election, shall, except where less than *twenty* shillings, be vouched for by a bill stating the particulars, and by a receipt.

45 (2.) Every claim against a candidate in respect of any such expenses as aforesaid which is not sent in within the time limited by this Act shall be barred and shall not be paid, and an election agent who pays a claim in contravention of this provision shall be guilty of an illegal practice.

50 (3.) Except as by this Act permitted, the time limited by this Act for sending in claims shall be *twenty* days after the day on which the candidates returned are declared elected.

55 (4.) All expenses incurred by or on behalf of the candidate, which are incurred on account of or in connection with or incidental to the election, shall be paid within the time limited by this Act, and not otherwise, and an election agent who makes a payment in contravention of this enactment shall be guilty of an illegal practice.

60 (5.) Except as by this Act permitted, the time limited by this Act for the payment of such expenses as aforesaid shall be *thirty* days from the day on which the candidates returned are declared elected.

(6.) If the election agent in the case of any claim sent in to him within the time limited by this Act disputes it, or refuses or fails to pay it within the said period of *thirty* days, such claim shall be deemed to be a disputed claim.

(7.) A disputed claim may be referred in a summary manner to the Supreme Court; or the claimant may, if he thinks fit, bring an action for the same in any competent Court.

(8.) Payment of the sum found to be due on any such reference or in any such action may, after the expiration of the said period of *thirty* days, be made by the candidate as well as his election agent, and payment of such sum, whether by the candidate or his election agent, shall be deemed to be a payment within the time limited by and in accordance with the provisions of this Act.

(9.) On cause shown to the satisfaction of the Supreme Court, such Court may by order allow a candidate or his election agent to pay a claim, although sent in after the time in this section mentioned for sending in claims, or although having been sent in before that time it was not paid before the expiration of the time in this section mentioned for the payment of claims, and any sum paid by the candidate or his election agent in pursuance of such order shall be deemed to be paid within the time limited by and in accordance with the provisions of this Act.

27. The candidate may pay any personal expenses incurred by him at the election to an amount not exceeding *twenty* pounds, but any further personal expenses incurred by him shall be paid by his election agent.

The candidate shall render to his election agent, before the time at which that agent is by this Act required to make a return respecting election expenses, an account of the personal expenses so paid by such candidate.

28. The remuneration of an election agent shall, so far as circumstances admit, be dealt with in like manner as if the election agent were any other creditor, and if any difference arises respecting the amount of such remuneration, the claim for such remuneration shall be dealt with in manner provided by this Act with respect to disputed claims.

29. (1.) Within *forty* days from the day of the return the election agent of a candidate shall transmit to the Returning Officer a return (in this Act referred to as a return respecting election expenses) containing as respects that candidate,—

(a.) A statement of all payments made by the election agent, accompanied with the bills and receipts;

(b.) A statement of the amount of personal expenses, if any, paid by the candidate;

(c.) A statement of all dispute delaims of which the election agent is aware;

(d.) A statement of all the unpaid claims, if any, of which the election agent is aware, allowed by the Supreme Court to be sent in after the expiration of the ordinary period limited for sending in claims;

(e.) A statement of all money, securities, and equivalent of money received by the election agent from the candidate or any other person in respect of expenses incurred on account of or in connection with or as incidental to the election, with a statement of the name of every person from whom the same have been received.

(2.) The return so transmitted to the Returning Officer shall be accompanied by a declaration made by the election agent before a Justice of the Peace in the form in the *Third* Schedule to this Act (which declaration is in this Act referred to as a declaration respecting election expenses).

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(3.) At the same time as the agent transmits the said return, the candidate shall transmit or cause to be transmitted to the Returning Officer a declaration made by him before a Justice of the Peace, in the form in the *Third* Schedule to this Act (which declaration is in this Act referred to as a declaration respecting election expenses.)

(4.) If in the case of any election the said return and declarations are not transmitted before the expiration of the time limited for the purpose, the candidate shall not sit or vote in the House of Representatives as member for the district for which he has been elected until either such return and declarations have been transmitted, or until the date of the allowance of such an authorized excuse for failing to transmit the same, as is provided by this Act, and if he sits or votes in contravention of this enactment, he shall forfeit *five hundred* pounds for every day on which he so sits or votes to any person who sues for the same.

(5.) If without such authorized excuse as in this Act mentioned, a candidate or an election agent fails to comply with the requirements of this section he shall be guilty of an illegal practice :

Provided that such failure on the part of the election agent shall not render the candidate liable to any greater incapacity than that to which he is liable for an illegal practice committed by his agent without his knowledge or consent.

(6.) If any candidate or election agent knowingly makes the declaration required by this section falsely, he shall be guilty of perjury, and such perjury shall be deemed to be a corrupt practice within the meaning of this Act :

Provided that a false declaration by the election agent shall not render the candidate liable to any other incapacity, than that of being elected to or sitting in the House of Representatives for the district for which the election was held during the Parliament for which the election was held.

(7.) Where the candidate is out of the colony at the time of the election, the declaration required by this section may be made by him within *seven* days after his return to the colony, and in that case shall be forthwith sent to the Returning Officer; but the delay hereby authorized in making such declaration shall not exonerate the election agent from complying with the provisions of this Act as to the return and declaration respecting election expenses.

~~30.~~ (1.) Where the return and declaration respecting election expenses required to be made and transmitted by the election agent, and the declaration required to be made and transmitted by the candidate, or any of them, have not been so transmitted in the case of any election for a county or borough—

(a.) If a candidate at the election applies to the Supreme Court and shows that the failure to make and transmit such return and declarations, or any of them, has arisen by reason of his illness, or of the absence, death, illness, or misconduct of his election agent or of any clerk or officer of such agent, or by reason of inadvertence or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant; or

(b.) If the election agent of a candidate at the election applies to the Supreme Court and shows that the failure to make and transmit the return and declaration which he was required to make and transmit arose by reason of his illness or of the death or illness of any prior election agent of the candidate or of the absence, death, illness, or misconduct of any clerk or officer of the applicant, or of inadvertence or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant,—

the Court may, after such notice in the said district, and on production of such evidence of the grounds stated in the application, and of the good faith of the application, and otherwise, as to the Court seems fit, make such order for allowing the excuse and for the making of the return and declarations (including any modifications in the particulars of the return and in the form of declaration) as to the Court seems best calculated for carrying into effect the objects of this Act. 5

And the applicant, upon the order being made and upon compliance with the conditions and requisitions (if any) of such order, shall be deemed to have an authorised excuse for failing to make and transmit the return or declaration specified in the order, and where the applicant is the candidate, the order may, if it seems to the Court just, relieve such candidate from the consequences of a breach on the part of his election agent of the provisions of this Act with respect to the return and declaration respecting election expenses. 10 15

(2.) The date of the order, or if conditions and requisitions are to be complied with, the date at which the applicant fully complies with them, is referred to in this Act as the date of the allowance of the excuse. 20

~~31.~~ (1.) The Returning Officer at an election as soon as possible after he receives from the election agent of a candidate a return respecting election expenses shall publish a summary of the return in not less than *two* newspapers circulating in the district for which the election was held, accompanied by a notice of the time and place at which the return, bills, receipts, and declarations can be inspected. 25

(2.) The return, bills, receipts, and declarations sent to the Returning Officer by an election agent shall be kept at the office of the Returning Officer, or some convenient place appointed by him, and shall at all reasonable times during *twelve* months next after they are received by the Returning Officer be open to inspection by any person on payment of a fee of *one shilling*, and the Returning Officer shall on demand furnish copies thereof or any part thereof at the price of *two-pence* for every *seventy-two* words. 30 35

(3.) After the expiration of the said *twelve* months the Returning Officer may cause the said returns, bills, receipts, and declarations to be destroyed.

DISQUALIFICATION OF ELECTORS.

Prohibition of certain electors to vote.

~~32.~~ 23. The following persons are prohibited from voting at an election, that is to say,— 40

(1.) All persons guilty of a corrupt or illegal practice at the election; and

~~(2.) All persons letting committee rooms for the purposes of the election, or beneficially interested in the proceeds of such letting;~~ 45

and, if any such person votes, his vote shall be void.

Punishment for disqualified person voting.

~~33.~~ 24. If any person, while he is, in consequence of conviction or of the report of any Election Court, not capable, in pursuance of the provisions of this Act, of voting at any election, whether a parliamentary election or an election to any public office, votes or applies for a ballot-paper at any such election, he shall, notwithstanding his name is on the register of electors or of persons entitled to vote at the said election to any public office, be liable on summary conviction to a fine not exceeding *one hundred pounds*, and his vote shall be void. 50 55

Hearing a person before he is reported guilty of corrupt or illegal practice, and incapacity of person reported guilty.

~~34.~~ 25. (1.) Before a person is reported by any Election Court to have been guilty of any corrupt or illegal practice at an election, the Court, as the case may be, shall cause notice to be given to such person, and, if he appears in pursuance of the notice, shall give him an oppor-

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tunity of making a statement to show cause why he should not be so reported.

(2.) Every person who is reported by any Election Court to have been guilty of any corrupt or illegal practice shall, whether he
5 obtained a certificate of indemnity or not, be subject to the same incapacity of being registered as an elector, and of voting and of holding office, as he would under this Act be subject to if he had at the date of the report been convicted of the corrupt or illegal practice of which he is reported to have been guilty.

10 (3.) Where a Justice of the Peace appears from the evidence given before any Election Court to have been guilty of or privy to any misconduct in reference to an election, it shall be the duty of the Minister of Justice to report the case to the Governor, with such evidence as may have been given of such misconduct.

15 (4.) Where a person who is a barrister or solicitor, or who belongs to any profession the admission to which is regulated by law, appears from the evidence given before an Election Court to have been guilty of or privy to any misconduct in reference to an election, it shall be the duty of the Attorney-General to bring the matter before the
20 tribunal having power to take cognizance of any misconduct of such person in his profession, and such tribunal may deal with such person in like manner as in any case of misconduct by such person in his profession.

25 ~~35.~~ 26. (1.) The election agent of a candidate shall, where a poll is to be held, send to the Returning Officer, before the day of the poll, a list, printed or written, stating the name of every scrutineer appointed on behalf of such candidate, and specifying whether such scrutineer is paid or not, and also stating the name of every person who is a clerk or messenger appointed on behalf of the candidate, or from whom any
30 committee room has been hired on behalf of the candidate, with the addition of the address of every such person, and, if he is an elector and is not an unpaid scrutineer, of his number on the electoral roll.

Provision to prevent paid scrutineers &c., voting.

(2.) The Returning Officer shall furnish to every Deputy Returning Officer a list of the names and addresses and numbers on the roll of
35 electors of every person in such list who is an elector and is entitled to vote at the polling-place at which the Deputy Returning Officer presides, and, where the election agent is entitled so to vote, shall add his name.

(3.) If any person named in the list so furnished to the Deputy
40 Returning Officer as a paid scrutineer, or as a clerk or messenger, or as a person from whom a committee room has been hired, applies for a ballot-paper, or attempts to vote, it shall be the duty of such officer to warn him that he is not permitted to vote, and, if he marks and hands in a ballot-paper, to cause the words "disqualified by employment" to
45 be placed upon the paper so handed in; and any ballot-paper with those words so placed on it shall not be counted by the Returning Officer, but shall be dealt with by him as a rejected ballot-paper, and shall be specified in any report of rejected ballot-papers under a separate head, as rejected for disqualification.

50 (4.) Any election agent ~~candidate~~ who fails to comply with this section shall be liable on summary conviction to a fine not exceeding *fifty pounds*; and any scrutineer whose name is not sent to the Returning Officer as required by this section shall not be entitled to attend
55 in any polling-place.

PERSONATION.

36. 27. A person shall, for all the purposes of the laws relating to elections, be deemed guilty of the offence of personation who at any such election applies for a voting paper in the name of some other person living or dead, or of a fictitious person, or who, having voted
60 once at any such election, applies at the same election for a voting paper in his own name.

Definition of personation at elections.
35 and 36 Vict., c. 33, s. 24.

Definition of personation in relation to electoral rolls.

37. 28. A person shall also, for all the purposes of the laws relating to elections, be deemed guilty of the offence of personation who at any time, without a written authority to do so,—

- (1.) Sends in any claim to have the name of any other person inserted on any list of voters, or on any electoral list or roll ;
- (2.) Attaches or writes the name of any other person on any such claim, in order to make it appear as the claim of such person ;
- (3.) Procures the name of any other person to be inserted in any such list of voters or electoral list or roll.

Punishment of personation. 35 and 36 Vict., c. 33, s. 24.

38. 29. The offence of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, shall be a misdemeanour, and any person convicted thereof shall be punished by imprisonment for a term not exceeding two years, with or without hard labour, at the discretion of the Judge.

Returning Officers may arrest person guilty of personation.

39. 30. Every Returning Officer has power and authority, without any other warrant than this Act, to cause to be arrested and taken before a Justice of the Peace any person reasonably suspected of committing or attempting to commit at a polling-place any act of personation.

All constables shall aid and assist the Returning Officer in the performance of his duty.

Returning Officer to prosecute. Ibid.

40. 31. It shall be the duty of the Returning Officer to institute a prosecution against any person whom he may believe to have been guilty of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, at the election for which he is Returning Officer.

Costs and expenses of prosecution to be allowed. Ibid.

41. 32. The costs and expenses of the prosecutor and the witnesses in such case, together with compensation for their trouble and loss of time, shall be allowed by the Court in the same manner in which the Supreme Court is empowered to allow the same in cases of felony.

Power and duty of Registrars.

42. 33. Every Registrar, in respect of any act of personation described in the *twenty-eighth* section committed within the district to which he is appointed, has the same power and authority and shall have the same duty, as is respectively granted and imposed upon the Returning Officer in respect of an act of personation committed at an election.

MISCELLANEOUS PROVISIONS.

Certain acts committed on licensed premises declared to be treating.

43. 34. (1.) Any holder of a license for the sale by retail of intoxicating liquor shall not be under any obligation to supply meat, drink, entertainment, or provision to any person in case the supply thereof is demanded for the purpose of treating, or any corrupt or illegal practice ; and, if such holder knowingly supplies any meat, drink, entertainment, or provision in the case aforesaid, he shall be guilty of treating.

(2.) Any holder of such a license who knowingly supplies any meat, drink, entertainment, or provision to any persons, whether electors or not, for the purpose of promoting or procuring the election of a candidate at an election, and supplies the same without receiving payment for the same at the time when the same is so supplied, shall be guilty of treating.

Persons charged with corrupt practice may be found guilty of illegal practice.

44. 35. Any person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice, and any person charged with an illegal practice may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt practice.

Who to be competent witnesses.

45. 36. On any prosecution under this Act, whether on indictment or summarily, and in any action for a pecuniary forfeiture under this Act, the person prosecuted or sued, and the husband or wife of such person,

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may, if he or she think fit, be examined as an ordinary witness in the case.

46. **37.** Where a person has become subject to any incapacity under this Act by reason of any conviction or any report of an Election Court, and any witness who gave evidence against such incapacitated person upon the proceeding for such conviction or report is convicted of perjury in respect of that evidence, the incapacitated person may apply to the Supreme Court, and the Court, if satisfied that the conviction or report so far as respects such person was based upon perjury, may order that such incapacity shall thenceforth cease, and the same shall cease accordingly.

Reversal of disqualification procured through perjury.

47. **38.** Where a candidate, on the trial of an election petition, claiming the seat for any person, is proved to have been guilty, by himself or by any person on his behalf, of bribery, treating, or undue influence in respect of any person who voted at such election, or, where any person retained or employed for reward by or on behalf of such candidate for all or any of the purposes of such election, as scrutineer, agent, clerk, messenger, or in any other employment, is proved on such trial to have voted at such election, there shall, on a scrutiny, be struck off from the number of votes appearing to have been given to such candidate one vote for every person who voted at such election and is proved to have been so bribed, treated, or unduly influenced, or so retained or employed for reward as aforesaid.

Vote to be struck off for corrupt or illegal practices. 35 and 36 Vict., 33, s. 25.

48. **39.** (1.) A person who is called as a witness respecting an election before any Election Court shall not be excused from answering any question relating to any offence at or connected with such election on the ground that the answer thereto may criminate or tend to criminate himself, or on the ground of privilege: Provided that—

Certificate of indemnity to witness.

(a.) A witness who answers all questions which he is required by the Election Court to answer shall be entitled to receive a certificate of indemnity stating that such witness has so answered; and

(b.) An answer by a person to a question put by or before any Election Court shall not, except in the case of an indictment for perjury in respect of such evidence, be admissible in evidence against him in any proceeding, civil or criminal.

(2.) If any legal proceeding is at any time instituted against any person who has received such a certificate of indemnity for any offence committed by him previously to the date of the certificate at or in relation to the said election, the Court having cognizance of the case shall on proof of the certificate stay the proceeding, and may in their discretion award to the said person such costs as he may have been put to in the proceeding.

49. **40.** Where any Election Court report that certain persons named by them have been guilty of any corrupt or illegal practice, they shall report whether those persons have or not been furnished with certificates of indemnity; and such report shall be laid before the Attorney-General with a view to his instituting or directing a prosecution against such persons as have not received certificates of indemnity if the evidence should, in his opinion, be sufficient to support a prosecution.

Submission of report of Election Court to Attorney-General.

50. **41.** All offences under this Act punishable on summary conviction may be prosecuted in manner provided by "The Justices of the Peace Act, 1866."

Offences prosecuted summarily.

51. **42.** Every public officer required by this Act to do any matter or thing shall for every wilful misfeasance or wilful act of commission or omission, contrary to the provisions of this Act, forfeit and pay any sum not exceeding *one hundred pounds*.

Penalty on officer for misfeasance or wilful neglect.

And shall also be liable to pay as damages to the party aggrieved

such sum, not exceeding *one hundred* pounds, as a jury shall assess, with full costs of suit.

The action to recover such damages shall be brought in the Supreme Court of New Zealand, and the sum recovered shall be in full for all damages for such misfeasance or act of commission or omission.

Repeal.

~~52.~~ 43. "The Corrupt Practices Prevention Act, 1858," is hereby repealed.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

Secs. 12, 13.

PERSONS LEGALLY EMPLOYED FOR PAYMENT.

- ~~(1.) One election agent, and no more, who may or may not be an elector.~~
 2 (1.) One scrutineer for each ballot-box in each polling-place, and no more, who may or may not be an elector.
 3 (2.) A number of clerks and messengers for conducting business in the committee-rooms, ~~not being electors, and not exceeding one clerk and one messenger~~ for each polling-place in an electoral district.

Secs. 12, 13.

SECOND SCHEDULE.

LEGAL EXPENSES.

- (1.) The personal expenses of the candidate.
 (2.) The expenses of printing, and the expenses of advertising in newspapers.
 (3.) The expenses of stationery, postage, and telegrams.
 (4.) The expenses of holding public meetings.
 (5.) The expenses of a number of committee-rooms, not exceeding one committee-room for each polling-place in an electoral district.
 (6.) Expenses in respect of miscellaneous matters, not exceeding ~~ten~~ *twenty-five* pounds ~~for every thousand electors, and not exceeding in the whole one hundred pounds,~~ so nevertheless that such expenditure is not incurred under this head in respect of any matter constituting an offence under this Act, or in respect of any matter or thing payment for which is expressly prohibited by this Act.

Struck out.

THIRD SCHEDULE.

FORM OF DECLARATIONS AS TO EXPENSES.

Form for Candidate.

I, _____, having been a candidate at the election for the District of _____ on the _____ day of _____, do hereby solemnly and sincerely declare that I have examined the return of election expenses [about to be] transmitted by my election agent to the Returning Officer at the said election, a copy of which is now shown to me and marked _____, and to the best of my knowledge and belief that return is correct:

And I further do solemnly and sincerely declare that, except as appears from that return, I have not, and to the best of my knowledge and belief no person on my behalf has, made any payment or given any reward or valuable consideration, or incurred any liability on account of or in connection with or incidental to the said election:

And I further solemnly and sincerely declare that I have paid to my election agent the sum of _____ pounds, and no more, for the purpose of the said election, and that, except as specified in the said return, no money, security, or equivalent for money has to my knowledge or belief been paid, advanced, given, or deposited by any one to or in the hands of my election agent or any other person for the purpose of defraying any expenses incurred on my behalf on account of or in connection with or incidental to the said election:

And I further solemnly and sincerely declare that I will not, except so far as I may be permitted by law, at any future time make or be party to the making or giving of any payment or reward, or valuable consideration, for the purpose of defraying any such expenses as last mentioned, or provide or be party to the providing of any money, security, or equivalent of money for the purpose of defraying any such expenses.

(Signature of declarant) C.D.

Signed and declared by the above-named declarant on the _____ day of _____ before me.

E.F.

Justice of the Peace.

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Form for Election Agent.

I, _____, being election agent to _____, candidate at the election for the District of _____, on the _____ day of _____, do hereby solemnly and sincerely declare that I have examined the return of election expenses about to be transmitted by me to the Returning Officer at the said election, and now shown to me and marked _____, and to the best of my knowledge and belief that return is correct :

And I hereby further solemnly and sincerely declare that, except as appears from that return, I have not and to the best of my knowledge and belief no other person on behalf of the said candidate has, made any payment or given any reward or valuable consideration, or incurred any liability on account of or in connection with or incidental to the said election :

And I further solemnly and sincerely declare that I have received from the said candidate _____ pounds, and no more [*or nothing*], for the purpose of the said election, and that, except as specified in the said return sent by me, no money, security, or equivalent for money has been paid, advanced, given, or deposited by any one to me or in my hands, or, to the best of my knowledge and belief, to or in the hands of any other person, for the purpose of defraying any expenses incurred on behalf of the said candidate on account of, or in connection with, or incidental to the said election.

(*Signature of declarant*) G.H.,

Signed and declared by the above-named declarant on the _____ day of _____ before me.

I.J.
Justice of the Peace.