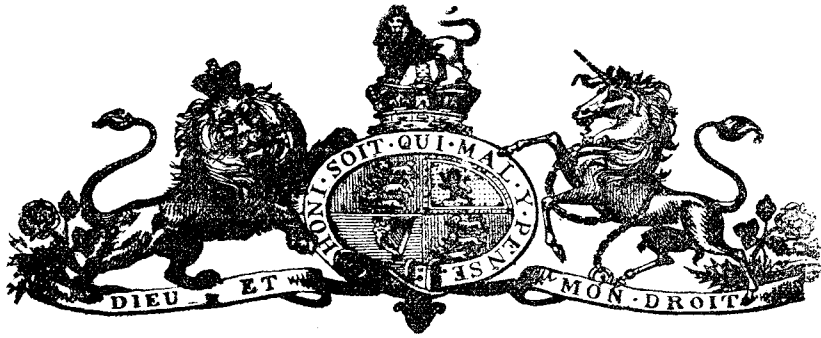


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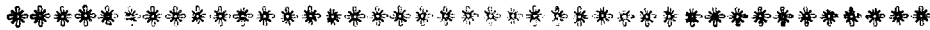


1885.

ANNO QUADRAGESIMO-NONO

VICTORIÆ REGINÆ,

No. 14.



AN ACT for the better Prevention of Corrupt and Illegal Practices at Parliamentary Elections. A.D. 1885.  
[5 December, 1885.]

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

*Corrupt Practices.*

**1** Whereas under Section Eighty-six of *The Electoral Act*, persons other than Candidates at Parliamentary Elections are not liable to any punishment for treating, and it is expedient to make such persons liable: What is treating.  
46 & 47 Vict.  
c. 51, s. 1.  
Be it therefore enacted, in substitution for the said Section Eighty-six, as follows:—

- (1.) Any person who corruptly, by himself or by any other person, either before, during, or after an election under *The Electoral Act*, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink, entertainment, or provision to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person or any other

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person having voted or refrained from voting, or being about to vote or refrain from voting at such election, shall be guilty of treating:

- (2.) And every elector who corruptly accepts or takes any such meat, drink, entertainment, or provision shall also be guilty of treating.

What is undue influence.

46 & 47 Vict.  
c. 51, s. 2.

2 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 to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any such election, or who shall by abduction, duress, or any fraudulent device or contrivance, impede or prevent the free exercise of the right to vote of any elector, or shall thereby compel, induce, or prevail upon any elector either to give or to refrain from giving his vote at any such election, shall be guilty of undue influence.

What is corrupt practice.

*Ib.*, s. 3.

3 The expression "corrupt practice" as used in this Act means any of the following offences; namely, treating and undue influence, as defined by this Act, and bribery and personation, as defined by the enactments set forth in the Schedule (1.), and aiding abetting, counselling, and procuring the commission of the offence of personation; and every offence which is a corrupt practice within the meaning of this Act shall be a corrupt practice within the meaning of "The Electoral Act, No. 5."

45 Vict. No. 18.

Punishment of candidates found on election petition guilty personally of corrupt practices.

46 & 47 Vict.  
c. 51, s. 4.

4 Where upon the trial of an election petition respecting an election for the Legislative Council or the House of Assembly the Supreme Court declares that any corrupt practice other than treating or undue influence has been proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election, or that the offence of treating or undue influence has been proved to have been committed in reference to such election by any candidate at such election, that candidate shall not be capable of ever being elected to or sitting in the Legislative Council or the House of Assembly, as the case may be, for the Electoral District in respect of which the election was held, and if he has been elected his election shall be void; and he shall further be subject to the same incapacities as if at the date of the said trial he had been convicted on an information of a corrupt practice.

Punishment of candidates found on election petition guilty by agents of corrupt practices.

*Ib.*, s. 5.

5 Upon the trial of an election petition respecting any such election, in which a charge is made of any corrupt practice having been committed in reference to such election, the Supreme Court shall declare whether any of the candidates at such election has been guilty by his agents of any corrupt practice in reference to such election; and if any candidate at such election is so declared guilty by his agents of any corrupt practice in reference to such election, that candidate shall not be capable of being elected to or sitting in the Legislative Council or the House of Assembly for the Electoral District in respect of which the election was held for Seven years after the date of the trial, and if he has been elected his election shall be void.

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**6—(1.)** A person who commits any corrupt practice other than personation, or aiding, abetting, counselling, or procuring the commission of the offence of personation, shall be guilty of a misdemeanor, and on conviction on information shall be liable to be imprisoned, with or without hard labour, for a term not exceeding One year, or to be fined any sum not exceeding Two hundred Pounds.

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Punishment of person convicted on indictment of corrupt practices. 46 & 47 Vict. c. 51, s. 6.

(2.) A person who commits the offence of personation, or of aiding, abetting, counselling, or procuring the commission of that offence, shall be guilty of felony, and any person convicted thereof on information shall be punished by imprisonment for a term not exceeding Two years, together with hard labour.

(3.) A person who is convicted on information of any corrupt practice shall (in addition to any punishment as above provided) be not capable during a period of Seven years from the date of his conviction —

(a.) Of having his name inserted in any list of electors, and voting at any election.

(b.) Of holding any public, judicial, or municipal office, and if he holds any such office, the office shall be vacated.

(4.) Any person so convicted of a corrupt practice in reference to any election shall also be incapable of being elected to and of sitting in the Legislative Council or the House of Assembly during the Seven years next after the date of his conviction; and if at that date he has been elected to the Legislative Council or House of Assembly, his election shall be vacated from the time of such conviction.

*Illegal Practices.*

**7—(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.

(a.) On account of the conveyance of electors to or from the poll, whether for the hiring of horses or carriages, or for railway fares, or otherwise; or—

*Ib.*, s. 7.

(b.) To an elector on account of the use of any house, land, building, or premises for the exhibition of any address, bill, or notice, or on account of the exhibition of any address, bill, or notice; or—

(c.) On account of any committee room in any public-house.

(2.) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is knowingly made in contravention of this section, either before or during or after an election, the person making such payment or contract shall be guilty of an illegal practice; and any person receiving such payment, or being a party to any such contract, knowing the same to be in contravention of this Act, shall also be guilty of an illegal practice.

(3.) Provided, that where it is the ordinary business of an elector, as an advertising agent, to exhibit for payment bills and advertisements, a payment to or contract with such elector, if made in the ordinary course of business, shall not be deemed to be an illegal practice within the meaning of this Section.

**8—(1.)** If any person votes, or induces or procures any person to vote, at any election, knowing that he or such person is prohibited, whether by this or any other Act, from voting at such election, he shall be guilty of an illegal practice.

Voting by prohibited persons and publishing of false statements of withdrawal to be illegal. *Ib.* s. 9.

(2.) Any person who, before or during an election, knowingly

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publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate, shall be guilty of an illegal practice.

(3.) Provided, that a candidate shall not be liable, nor shall his election be avoided, for any illegal practice under this Section committed by his agent other than his election agent.

Punishment on conviction of illegal practice. 46 & 47 Vict. c. 51, s. 10.

**9** A person guilty of an illegal practice, whether under the foregoing Sections or under the provisions hereinafter contained in this Act, shall, on summary conviction, be liable to a fine not exceeding One hundred Pounds, and be incapable during a period of Five years from the date of his conviction of being registered as an elector or voting at any Parliamentary election held for or within the Electoral District in which the illegal practice has been committed.

*Illegal Payment, Employment, and Hiring.*

Providing or payment of money for illegal practice to be illegal payment.

*Ib.*, s. 13.

Employment of cabs, &c. prohibited.

*Ib.*, s. 14.

**10** Where a person knowingly provides money for any payment which is contrary to the provisions of this Act, or for replacing any money expended in any such payment, such person shall be guilty of illegal payment.

**11**—(1.) A person shall not let, lend, or employ, for the purpose of the conveyance of electors to or from the poll, any licensed cab, or any horse or other animal kept or used for drawing the same, or any carriage, horse, or other animal which he keeps or uses for the purpose of letting out for hire; and if he lets, lends, or employs such licensed cab, horse, or other animal, knowing that it is intended to be used for the purpose of the conveyance of electors to or from the poll, he shall be guilty of an illegal hiring.

(2.) A person shall not hire, borrow, or use, for the purpose of the conveyance of electors to or from the poll, any licensed cab, horse, or other animal which he knows the owner thereof is prohibited by this Section to let, lend, or employ for that purpose, and if he does so he shall be guilty of an illegal hiring.

(3.) Nothing in this Act shall prevent a licensed cab, horse, or other animal being let to or hired, employed, or used by an elector or several electors at their joint cost for the purpose of being conveyed to or from the poll.

No elector employed for reward to be entitled to vote. 30 & 31 Vict. c. 102, s. 11.

**12** No elector who, within Six months before or during any election for the Legislative Council or House of Assembly, shall have been retained, hired, or employed for all or any of the purposes of the election for reward by or on behalf of any candidate at such election as agent, canvasser, or scrutineer, or in other like employment, shall be entitled to vote at such election; and if he shall so vote he shall be guilty of a misdemeanor, and his vote shall be void.

Certain employment to be illegal. 46 & 47 Vict. c. 51, s. 17.

**13**—(1.) No person shall, for the purpose of promoting or procuring the election of a candidate at any such election, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except for any purposes or capacities mentioned in the Schedule (2.)

(2.) Subject to such exception as may be allowed in pursuance of his Act, if any person is engaged or employed in contravention of this

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Section, either before, during, or after an election, the person engaging or employing him shall be guilty of illegal employment, and the person so engaged or employed shall also be guilty of illegal employment if he knew that he was engaged or employed contrary to law.

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**14** Any person who corruptly induces or procures any other person to withdraw from being a candidate at an election in consideration of any payment or promise of payment shall be guilty of illegal payment, and any person withdrawing in pursuance of such inducement or procurement shall also be guilty of illegal payment.

Corrupt withdrawal from a candidature.  
46 & 47 Vict. c. 51, s. 15.

**15** Every bill, placard, or poster having reference to an election shall bear upon the face thereof the name and address of the printer and publisher thereof; and any person printing, publishing, or posting, or causing to be printed, published, or posted, any such bill, placard, or poster as aforesaid which fails to bear upon the face thereof the name and address of the printer and publisher, shall, if he is the candidate or the election agent of the candidate, be guilty of an illegal practice, and if he is not the candidate or the election agent of a candidate, shall be liable on summary conviction to a fine not exceeding One hundred Pounds.

Name and address of printer on placards.  
*Ib.*, s. 18.

**16** (1.) A person guilty of an offence of illegal payment, employment, or hiring, shall, on summary conviction, be liable to a fine not exceeding One hundred Pounds.

Punishment of illegal payment, employment, or hiring.  
*Ib.*, s. 21.

(2.) A candidate, or an election agent of a candidate, who is personally guilty of an offence of illegal payment, employment, or hiring, shall be guilty of an illegal practice.

*Excuse and Exception for Corrupt or Illegal Practice or Illegal Payment, Employment, or Hiring.*

**17** Where upon the trial of an election petition respecting any election for the Legislative Council or House of Assembly the Supreme Court declares that a candidate at such election has been guilty by his agents of the offence of treating and undue influence and illegal practice, or of any of such offences, in reference to such election, and the Court further declares that the candidate has proved to the Court—

Report exonerating candidate in certain cases of corrupt and illegal practice by agents.  
*Ib.*, s. 22.

- (a.) That no corrupt or illegal practice was committed at such election by the candidate or his election agent, and the offences mentioned were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent; and
- (b.) That such candidate and his election agent took all reasonable means for preventing the commission of corrupt and illegal practices at such election; and
- (c.) That the offences mentioned were of a trivial, unimportant, and limited character; and
- (d.) That in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and of his agents;

then the election of such candidate shall not, by reason of such offences, be void, nor shall the candidate be subject to any incapacity under this Act.

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*Disqualification of Electors.*

Prohibition of persons guilty of corrupt or illegal practices &c. from voting.

46 & 47 Vict. c. 51, s. 36.

Limitation of time for prosecution of offence.

*Ib.*, s. 51.

**18** Every person guilty of a corrupt or illegal practice, or of illegal employment, payment, or hiring at an election is prohibited from voting at such election, and if any such person votes his vote shall be void.

*Legal Proceedings.*

**19**—(1.) A proceeding against a person in respect of the offence of a corrupt or illegal practice, or any other offence under this Act or any former Act, shall be commenced within Three months after the offence was committed.

(2.) For the purposes of this Section the issue of a summons, warrant, writ, or other process shall be deemed to be a commencement of a proceeding where the service or execution of the same on or against the alleged offender is prevented by the absconding, or concealment, or act of the alleged offender; but, save as aforesaid, the service or execution of the same on or against the alleged offender, and not the issue thereof, shall be deemed to be the commencement of the proceeding.

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

*Ib.*, s. 52.

**20** Any person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice, (which offence shall for that purpose be an offence for which an Information may be filed in the Supreme Court); 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; and a person charged with illegal payment, employment, or hiring may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.

Application of previous enactments.

*Ib.*, s. 53.

**21**—(1.) Sections Ninety-six, Ninety-seven, Ninety-eight, Ninety-nine, and One hundred of *The Electoral Act* which relates to prosecutions for bribery and other offences under the said Act shall extend to any prosecution on Information for the offence of any corrupt practice within the meaning of this Act, and to any action for any pecuniary forfeiture for an offence under this Act in like manner as if such offence were bribery within the meaning of the said Act and such Information or action were the Information or action in those Sections mentioned, and an order under the said Section Ninety-seven may be made on the defendant.

(2.) On any prosecution under this Act, whether on Information 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, may, if he or she think fit, be examined as an ordinary witness in the case.

(3.) On any such prosecution or action as aforesaid, it shall be sufficient to allege that the person charged was guilty of an illegal practice, payment, employment, or hiring within the meaning of this Act, as the case may be; and the certificate of the Returning Officer at an election that the election mentioned in the certificate was duly held, and that the person named in the certificate was a candidate at such election, shall be sufficient evidence of the facts therein stated.

Prosecution on summary conviction.

*Ib.*, s. 54.

19 Vict. No. 8.

19 Vict. No. 10.

**22** (1.) All offences under this Act punishable on summary conviction may be prosecuted in the manner provided by *The Magistrates Summary Procedure Act*.

(2.) A person aggrieved by a conviction under this Act may appeal against the same in the mode prescribed by *The Appeals Regulation Act*.

*Corrupt Practices at Elections.**Repeal.*

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**23** The Act set forth in the Schedule (3.) is hereby repealed to the extent in Schedule (3.) mentioned: Provided that this repeal shall not affect anything duly done or suffered before the commencement of this Act, or any right acquired or accrued, or any incapacity incurred before the commencement of this Act; and any person subject to any incapacity under any enactment hereby repealed shall continue subject thereto, and this Act shall apply to him as if he had become so subject in pursuance of the provisions of this Act.

Repeal.

**24** This Act may be cited as "The Corrupt and Illegal Practices Prevention Act, 1885."

Short title.

## SCHEDULE.

## (1.)

## ENACTMENTS DEFINING THE OFFENCES OF BRIBERY AND PERSONATION.

"THE ELECTORAL ACT," 21 VICT. NO. 32, SS. 84, 85.

**S. 84** The following persons shall be deemed guilty of bribery under this Act, and shall be punishable accordingly:—

Bribery defined.

1. Every person who, directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises 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 corruptly does any such act as aforesaid on account of such elector having voted or refrained from voting at any election under this Act:
2. Every person who, directly or indirectly, by himself or by any other person on his behalf, gives or procures, or offers, promises, or promises to procure or to endeavour to procure, any office, place, or 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 order to induce such elector to vote, or refrain from voting, or corruptly does any such act as aforesaid on account of any elector having voted or refrained from voting at any election under this Act:
3. Every person who, directly or indirectly, by himself or by any other person on his behalf, makes 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 as a Member of the Parliament of *Tasmania*, or the vote of any elector at any election under this Act:
4. Every person who, upon or in consequence of any such gift, loan, offer, promise, or procurement or agreement, procures, or engages, promises, or endeavours to procure, the return of any person as a Member of the Parliament of *Tasmania*, or the vote of any elector at any election under this Act:
5. Every person who advances or pays, or causes 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 under this Act, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election.

**S. 85** The following persons shall also be deemed guilty of bribery under this Act, and shall be punished accordingly:—

Bribery further defined.

Every elector who, before or during any election under this Act, directly or indirectly, by himself, or by any other person on his behalf, receives, agrees, or contracts 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 such election:

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Every person who, after any such election, directly or indirectly, by himself, or by any other person on his behalf, receives 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 such election.

Personation  
defined.

“THE BALLOT ACT, 1872,” (ENGLAND), 35 & 36 VICT., c. 33, s. 24.

A person shall be deemed to be guilty of the offence of personation who, at any election under *The Electoral Act*, applies for a ballot-paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person, or who having voted once at any such election applies at the same election for a ballot-paper in his own name.

(2.)

## PERSONS LEGALLY EMPLOYED FOR PAYMENT.

- (1.) One Election Agent, and no more.
- (2.) The number of Scrutineers allowed by *The Electoral Act*, and no more.
- (3.) Any such paid Election Agent and Scrutineer may or may not be an elector, but may not vote.

(3.)

<i>Date and Number of Act.</i>	<i>Title of Act.</i>	<i>Extent of Repeal.</i>
21 Vict. No. 32.	<i>The Electoral Act.</i>	Section Eighty-four, from “and any person so offending” to “with full costs of suit;” Section Eighty-five, from “and any person so offending” to the end of the Section; Section Eighty-six; Section Eighty-eight; Section Ninety-four; Section Ninety-five; Section Ninety-six, from “but any action to be brought” to the end of the Section.