

# PROVINCE OF AUCKLAND.



## BRIBERY AND TREATING ACT.

IN THE EIGHTEENTH YEAR OF THE REIGN OF HER MAJESTY  
QUEEN VICTORIA.

Session 2, No. 10.

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AN ACT to prevent Bribery and Corruption at Elections for Superintendent and Members of the Provincial Council. Title.

WHEREAS it is expedient to prevent Bribery and Corruption at Elections for Superintendent and Members of the Provincial Council in the Province of Auckland. Preamble.

BE IT THEREFORE ENACTED by the Superintendent of the Province of Auckland, with the advice and consent of the Provincial Council thereof as follows---

What shall be deemed acts of Bribery and Corruption.

1. Every one of the following acts shall be deemed and taken to be an act of bribery and corruption on the part of any Candidate for the office of Superintendent or Member of the Provincial Council, whether committed by such Candidate or by any agent on the part of such Candidate, authorised to act for him, that is to say, giving or offering to give any money, or any liquor or refreshment, or any article whatsoever to any elector, or to any of his family or kindred, friends or dependents, with a view to influence his vote, or the holding out to him of any promise or expectation of profit, advancement, or enrichment to himself, or to any of his family or kindred, friends, or dependents in any shape, in order to influence his vote, or making use of any threat to any Elector, or otherwise intimidating him in any manner with a view to influence his vote, the treating of any voter, or the supplying him with meat, drink, or lodging, horse, or carriage hire, or conveyance whilst at such election, or whilst engaged in coming or going from such election, the payment to any elector of any sum of money for acting or joining in any procession during such election, or before or after the same, the keeping open or allowing to be kept open any public house, shop, booth, or tent, or place of entertainment of any kind (wherein liquor or refreshment of any kind be distributed or allowed at such place of entertainment or not), the giving of any dinner, supper, breakfast, or other entertainment at any place whatsoever, by any such Candidate to any Elector or number of Electors, with a view of influencing his or their vote or votes.

Penalty on Candidate.

2. The commission of any one of the above mentioned acts, by any Candidate at any such election, shall render such Candidate liable to a penalty of £100, to be recovered by summary proceeding before any Resident Magistrate or any two or more Justices of the Peace. Provided always that no such proceeding shall be commenced in the case of a Superintendent except the Commissioners to be appointed as hereinafter mentioned; and in the case of a member of the Provincial Council except the said Council or a tribunal appointed by them shall respectively have reported an opinion that there are good grounds for believing that such Candidate has committed such offence.

Acts of agent to be deemed acts of principal.

3. The acts of all authorised agents of any such candidate as aforesaid shall in all matters connected with the elections, be held to be acts of their principal; provided that it shall be proved that such acts were committed with his knowledge or consent.

Penalty on Electors.

4. The commission by any person of any one of the acts hereinbefore declared to be an act of bribery or corruption, with a view to

influence the vote of any elector, or corruptly being a party to any such act in any manner whatsoever, shall render such person liable to a penalty not exceeding fifty pounds or less than five pounds, to be recovered by summary proceeding before any Resident Magistrate or any two or more Justices of the Peace. Provided always that no such proceeding shall be commenced except the Commissioners to be appointed as hereinafter mentioned, or the Provincial Council, or a tribunal appointed by them, shall respectively have reported an opinion that there are good grounds for believing that such elector has committed such an offence.

5. In addition to the questions permitted by law to be asked at any Election, it shall also be lawful for the Returning Officer, or his Deputy, if required by any two electors, to put to any voter at the time of his delivering his voting paper, and not afterwards, the following question :—

Question as to Bribery may be put at the time of polling.

Have you, during the present election, committed, or been a party to, any act of bribery or corruption as defined by the Bribery and Treating Act of 1855 ?

And every person required to answer the said question who shall refuse to answer the same, or who shall wilfully give a false answer to such question, and shall afterwards vote at such election, shall forfeit and pay for such offence any sum not exceeding fifty pounds, or less than five pounds, to be recovered in a summary way before a Resident Magistrate, or any two Justices of the Peace.

Penalty for false answer.

6. Upon the conviction of any person under this Act, or in case of an appeal therefrom on the affirmance thereof, it shall be the duty of the Clerk of the Bench before whom such conviction shall have taken place, to publish in the Auckland Provincial Government Gazette, and twice in every newspaper published in Auckland at the time, the name, place of residence, and occupation of the person so convicted, and a description of the offence of which he has been convicted, and the cost of such publication shall be paid out of the fees of Court received by such Clerk.

Names of Persons convicted of Bribery and Corruption to be published in Gazette and Newspaper.

7. Every person who shall poll a second time or offer to poll a second time at the same election, or who shall personate or attempt to personate any other person for the purpose of polling at such election shall forfeit and pay any sum not more than fifty pounds or less than ten pounds, to be recovered in a summary way before a Resident Magistrate or two Justices of the Peace.

Polling a second time or personating electors.

8. And whereas by the New Zealand Constitution Act it is enacted that it shall be lawful for the Governor of New Zealand on behalf of Her Majesty to disallow the election of a Superinten-

Governor may appoint three Commissioners to enquire into grounds of peti-

tion complaining of  
undue return.

dent, and if such disallowance shall be signified in manner prescribed by the said recited Act, that the office of Superintendent shall become vacant; and whereas it is not fitting that any person who shall have committed any act of Bribery or Corruption within the meaning of this Act should be allowed to fill the office of Superintendent of the Province, to that end be it further enacted that whenever a petition shall be presented to the Governor complaining of the undue return of a Superintendent on any grounds whatever, it shall be lawful for the Governor by warrant under his hand, to appoint three fit persons to be Commissioners for the purpose of enquiring into the same.

Commissioners to  
enquire and report to  
Governor.

9. Such Commissioners shall by all lawful means as to them may appear best with a view to the discovery of the truth, inquire into the allegations contained in the said petition, and having concluded such enquiry shall report to the Governor the evidence taken by them and their opinion thereon.

Commissioners may  
summon witnesses  
and call for books,  
&c.

10. It shall be lawful for the said Commissioners by a summons under their hands to require the attendance before them at a place and time to be mentioned in the summons of any persons whose evidence, in the judgment of the Commissioners, may be material to the subject matter of the enquiry, and to require all persons to bring before them such books, papers, deeds, and writings as to the said Commissioners may appear to be necessary for arriving at the truth of the matters to be enquired into, all which persons shall attend such Commissioners and shall answer all questions put to them by such Commissioners touching the matters to be enquired into, and shall produce all books, papers, deeds, and writings required of them and in their custody or control, according to the tenor of the summons; provided always that no statement made by any person in answer to any question put by such Commissioners shall except in cases of indictment for perjury committed in such answer be admissible evidence in any proceeding, civil or criminal.

Persons making full  
disclosures shall be  
freed from penalties.

11. And for the more effectually prosecuting any enquiries under this Act, every person who shall have been engaged in any corrupt practice and who is examined as a witness and shall make entire disclosure to the best of his knowledge touching all things to which he is so examined, and shall have obtained a certificate from the Commissioners to this effect, shall be freed from all penal actions, forfeitures, punishments, disabilities, and incapacities and all criminal prosecutions to which he may have been or may become liable or subject in respect of such corrupt practice, and no person shall be excused from answering any question on the ground that the answer to such question will tend to criminate such person.

12. It shall be lawful for the Commissioners to administer an oath or an affirmation, as the case may be, to all persons who shall be examined before them under this Act.

Commissioners may administer oath.

13. Every person without reasonable cause failing to attend as required by any such summons as aforesaid, or to submit himself to examination, or to produce books, papers, or writings as herebefore required, or prevaricating before such Commissioners, shall forfeit and pay for every such offence any sum not exceeding one hundred pounds, to be recovered in a summary way before a Resident Magistrate or any two Justices of the Peace.

Penalty on witnesses for not attending or submitting to be examined.

14. Every person wilfully and knowingly giving false evidence before any Commissioner shall be deemed to have committed wilful and corrupt perjury.

Person giving false evidence guilty of perjury.

15. The several clauses hereinbefore contained numbered 10, 11, 12, 13, and 14 respectively, shall apply to enquires by the Provincial Council or a tribunal appointed by them for enquiring into the validity of a return of a member of the Provincial Council in the same manner as though such Council or tribunal respectively were named in the said clauses instead of the said Commissioners.

Clauses 10, 11, 12, 13 and 14 to apply to enquiries before Provincial Council.

16. In every case the persons who shall under this Act decide the questions raised by any petition, shall have full power to direct that all costs and charges incurred in supporting or opposing, and investigating the questions raised by any such petition, shall be paid and borne as to them shall seem most expedient, and a certificate signed by them of costs to be paid by any party shall be conclusive evidence of the liability of such party of the amount to be paid by him and of all other matters to establish the demand and liability of such party to defray the same. And the person who shall be named in such certificate as the person authorised to receive such costs shall be entitled to recover the amount thereof expressed in such certificate by action or suit in any court of competent jurisdiction.

Costs to be paid in discretion of persons deciding on petition.

17. This Act may be cited and referred to as the "Bribery and Treating Act of 1855."

Short title.

18. This Act shall come into operation on the first day of February, 1855.

Commencement of Act.

T. H. BARTLEY,  
Speaker.

Passed the Provincial Council this seven-  
teenth day of January, One Thousand  
Eight Hundred and fifty-five.

ALEXANDER S. MARTIN,  
Acting Clerk of Provincial Council.

On this eighteenth day of January, in the Year  
One thousand eight hundred and fifty-five, I  
assent to this Act on behalf of the Governor.

R. H. WYNYARD,  
Superintendent.