

CHAPTER 3

ELECTION OFFENCES AND CONTROVERSIES

1969-21

This Act came into operation on 7th January, 1971.

Amended by:

1980-67

1989-18

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

1985

1991

Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

CHAPTER 3

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**BARBADOS****ELECTION OFFENCES AND CONTROVERSIES
1969-21**

An Act concerning offences committed in relation to the election of members to the House of Assembly of Barbados, legal proceedings in respect thereof, and the determination of controversies arising upon such elections.

[Commencement: 7th January, 1971]

Short title

1. This Act may be cited as the *Election Offences and Controversies Act*.

PART I**PRELIMINARY****Interpretation**

2. For the purposes of this Act, the expression “candidate” has the same meaning as in section 2 of the *Representation of the People Act*, Cap. 12;

“Chief Registering Officer” means the Chief Registering Officer appointed under the *Representation of the People Act* or any person acting in that office;

“Commission” means the Electoral and Boundaries Commission established under section 41A of the *Constitution*;

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“committee room” does not include any house or room occupied by a candidate as a dwelling by reason only of the candidate there transacting business with his agents in relation to the election, and no room or building shall be deemed to be a committee room by reason only of the candidate or any agent of the candidate addressing therein electors, committee men or others;

“constituency” has the same meaning as in section 2 of the *Representation of the People Act*;

“corrupt practice” includes a corrupt practice under subsection (6) of section 47 and subsection (5) of section 53 of the *Representation of the People Act*;

“costs” includes charges and expenses;

“date of the allowance of an authorised excuse” in relation to failure to transmit the return and declaration as to election expenses has the same meaning as in subsection (7) of section 57 of the *Representation of the People Act*;

“declaration as to election expenses” means a declaration made under section 53 of the *Representation of the People Act*;

“election” means an election for a constituency under the *Representation of the People Act*;

“election agent” means the person appointed as such or deemed to be such pursuant to the *Representation of the People Act*;

“election expenses”, in relation to an election, means expenses incurred whether before, during or after the election on account of or in respect of the conduct or management of the election;

“election officer” has the same meaning as in section 2 of the *Representation of the People Act*;

- “election petition” means a petition questioning an election and presented pursuant to this Act;
- “elector” in relation to an election, means any person whose name is for the time being on the register to be used at that election;
- “illegal hiring”, “illegal payment” and “illegal practice” include the offences declared to be such by the *Representation of the People Act*;
- “legal incapacity” includes (in addition to any incapacity by virtue of any subsisting provision of the common law) any disqualification imposed by this Act or any other Act;
- “notice of election” means the notice of election provided for in the election rules in the Second Schedule to the *Representation of the People Act*;
- “payment” includes any pecuniary or other reward, and “pecuniary reward” and “money” shall, save in sections 6 and 7, be deemed to include any office, place or employment and any valuable security or equivalent for money and any valuable consideration, and expressions referring to money shall be construed accordingly;
- “polling day” means the day fixed for the holding of a poll of electors at an election;
- “return as to election expenses” means a return as to election expenses made pursuant to section 53 of the *Representation of the People Act*;
- “returning officer” means the person appointed as such pursuant to the *Representation of the People Act*;
- “Supervisor of Elections” means the person appointed as such pursuant to the *Representation of the People Act*;
- “voter” means any person who votes at an election.

PART II
ELECTION OFFENCES

Election officers not to participate in election campaign

3. Every election officer who—
- (a) canvasses for votes on behalf of any candidate or political party; or
 - (b) addresses any meeting on behalf of any candidate or political party; or
 - (c) in any way actively associates himself with the election campaign of any candidate or political party,

is liable on summary conviction to imprisonment for six months.

Breaches of official duty

4.(1) Where any person to whom this section applies, or who is for the time being under a duty to discharge as deputy or otherwise any of the functions of such a person, is, without reasonable cause, guilty of any act or omission in breach of his official duty, he is liable on summary conviction to a fine of five hundred dollars.

(2) No person to whom this section applies is liable for breach of his official duty to any penalty at common law or under any enactment other than section 3, section 5 and section 11, nor does any action for damages lie in respect of the breach by such person of his official duty.

(3) This section applies to any election officer in connection with his official duties, and the expression “official duty” is for the purposes of this section to be construed accordingly but does not include duties imposed otherwise than by the law relating to elections or the registration of electors.

Requirement of secrecy

5.(1) The following persons, that is to say—

- (a) the Supervisor of Elections, Deputy Supervisor of Elections, every returning officer, election clerk and every presiding officer or clerk attending at a polling station;
- (b) every candidate or election agent or polling agent so attending,

shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person before the poll is closed any information as to—

- (i) the name of any elector who has or has not applied for a ballot paper or voted at a polling station;
- (ii) the number on the register of electors of any elector who has or has not applied for a ballot paper or voted at a polling station;
- (iii) the official mark.

(2) Every person attending at the counting of the votes shall maintain the secrecy of voting and shall not—

- (a) ascertain or attempt to ascertain at the counting of the votes the number on the back of any ballot paper;
- (b) communicate any information obtained at the counting of the votes as to the candidate for whom any vote is given in any particular ballot paper.

(3) No person whosoever shall—

- (a) interfere with or attempt to interfere with a voter when recording his vote;
- (b) otherwise obtain or attempt to obtain in a polling station information as to the candidate for whom a voter in that station is about to vote or has voted;

- (c) communicate at any time to any person any information obtained in a polling station as to the candidate for whom a voter in that station is about to vote or has voted, or as to the number on the back of the ballot paper given to a voter at that station;
 - (d) directly or indirectly induce a voter to display his ballot paper after he has marked it so as to make known to any person the name of the candidate for whom he has or has not voted.
- (4) No person having undertaken to assist a blind or incapacitated voter to vote shall communicate at any time to any person any information as to the candidate for whom that voter intends to vote or has voted or as to the number on the back of the ballot paper given for the use of that voter.
- (5) Any person who contravenes any of the provisions of this section is liable on summary conviction to imprisonment for six months.

Bribery

- 6.(1)** A person is guilty of a corrupt practice who is guilty of bribery.
- (2) A person is guilty of bribery who, directly or indirectly, by himself or by any other person on his behalf
- (a) gives any money or procures any office to or for any elector or to or for any other 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
 - (b) corruptly makes any gift or procurement as is specified in paragraph (a) on account of any elector having voted or refrained from voting; or
 - (c) makes any gift or procurement as is specified in paragraph (a) to or for any person in order to induce that person to procure, or endeavour to procure, the return of any person at an election or the vote of any elector,

or if upon or in consequence of any such gift or procurement he procures or engages, promises or endeavours to procure the return of any person at an election or the vote of any elector.

- (3) A person is guilty of bribery who
- (a) advances or pays or causes to be advanced or paid any money to or to the use of any other person with the intent that such money or any part thereof will be expended in bribery at any election; or
 - (b) knowingly pays or causes to be paid any money to any person in discharge or payment of any money wholly or in part expended in bribery at any election.
- (4) Subsections (1) to (3) do not extend and shall not be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning an election.
- (5) An elector is guilty of bribery who, before or during an election, directly or indirectly by himself or by any other person on his behalf, receives, agrees to receive 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.
- (6) A person is guilty of bribery who, after an 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 refrain from voting.
- (7) For the purposes of this section
- (a) the expression “elector” includes any person who has or claims to have a right to vote or is believed by the person offering the bribe to have a right to vote; and
 - (b) references to giving money includes references to lending, agreeing to give or lend, offering, promising or promising to procure or to endeavour to procure any money or valuable consideration; and

(c) references to procuring any office include references to giving, procuring, agreeing to give or procure, offering, promising or promising to procure or to endeavour to procure any office, place or employment.

(8) For the purposes of this section and sections 7 and 8, reference to voting or refraining from voting includes voting for a particular candidate or party or refraining from voting for a particular candidate or party.

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Treating

7.(1) A person is guilty of a corrupt practice who is guilty of treating.

(2) A person is guilty of treating who corruptly, by himself, either before, during or after an election, directly or indirectly gives or provides or pays wholly or in part the expense of giving or providing any food, drink, entertainment or provision to or for any person

- (a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting at such election; or
- (b) on account of that person or any other person having voted or refrained from voting or being about to vote or refrain from voting at such election.

(3) Every elector who corruptly accepts or takes any such food, drink, entertainment or provision is also guilty of treating.

Undue influence

8.(1) A person is guilty of a corrupt practice who is guilty of undue influence.

(2) A person is guilty of undue influence who

- (a) directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint,

or inflicts or threatens 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 that person to vote or refrain from voting at any election, or on account of that person having voted or refrained from voting at any election; or

- (b) by abduction, duress or any fraudulent device or contrivance, impedes or prevents the free exercise of the franchise of an elector or thereby compels, induces or prevails upon an elector either to vote or refrain from voting at any election.

Personation

9.(1) A person is guilty of a corrupt practice who commits, or aids, abets, counsels or procures the commission of the offence of personation.

- (2) A person is deemed to be guilty of personation at an election who
 - (a) votes as some other person, whether that other person is living or dead or is a fictitious person; or
 - (b) votes for a person whom he knows or has reasonable grounds for supposing to be dead or to be a fictitious person.
- (3) For the purposes of this section, a person who has applied for a ballot paper for the purpose of voting shall be deemed to have voted.

Other voting offences

- 10.(1)** A person is guilty of an offence who
- (a) votes at an election knowing that he is subject to a legal incapacity to vote; or
 - (b) votes as an elector more than once in the same constituency at an election or in more than one constituency at a general election.

(2) A person is guilty of an offence who knowingly induces or procures some other person to do an act which is, or but for that other person's want of knowledge would be, an offence by that other person under subsection (1).

(3) For the purposes of this section, a person who has applied for a ballot paper for the purpose of voting shall be deemed to have voted.

(4) An offence under this section is an illegal practice:

Provided that

- (a) the court before whom a person is convicted of any such offence may, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 60; and
- (b) a candidate is not liable, nor shall his election be avoided, for an illegal practice under this section committed by or with the knowledge and consent of his election agent other than an offence under subsection (2).

Illegal practice

10A. A person is guilty of an illegal practice who before, during or after an election supplies to another person, or wears any apparel or form of dress bearing a political slogan, photograph or image advertising any particular candidate or party in the election.

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Tampering with nomination papers, ballot papers, etc.

11.(1) A person is guilty of an offence who at any election

- (a) fraudulently defaces or fraudulently destroys any nomination paper; or
- (b) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity; or
- (c) without due authority supplies any ballot paper to any person; or

- (d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in; or
 - (e) fraudulently takes out of the polling station any ballot paper; or
 - (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election; or
 - (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.
- (2) A person guilty of an offence under this section is guilty of a misdemeanour and liable—
- (a) if he is an election officer (other than a registering officer, or any other officer having any duty to perform pursuant to any provisions of the Representation of the *People Act*, Cap. 12 or of any regulations made thereunder relating to the registration of electors, when acting as such) to imprisonment for two years; or
 - (b) if he is any other person, to imprisonment for six months.

Intoxicating liquor not to be sold

12.(1) No intoxicating liquor shall, at any time between the opening and the closing of the polls on polling day, be sold, offered or exposed for sale or given away at any premises situate in any constituency for which an election is being held, to which a licence has been issued under the *Liquor Licences Act*, Cap. 182.

(2) Nothing contained in subsection (1) prohibits the sale, offering or exposure for sale within such constituency of any intoxicating liquor sold in bond or sold under the Drawback of Duties on Sale of Goods to Tourists Regulations, 1960.

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(3) No intoxicating liquor shall, at any time between the opening and the closing of the polls on polling day, be supplied to any person on the premises of any club situate in any constituency for which an election is being held.

(4) Any person who contravenes any of the provisions of this section is liable on summary conviction to a fine of five hundred dollars or to imprisonment for six months.

Loud speakers, banners, etc., prohibited

13.(1) No person shall furnish or supply any public address apparatus, loud-speakers, bunting, ensign, banner, standard or set of colours or any flag to any person with intent that it should be carried, worn or used on polling day within a constituency for which an election is being held on any motor or other vehicle or otherwise as political propaganda, and no person shall on polling day carry, wear or use within such constituency any public address apparatus, loud-speaker, bunting, ensign, banner, standard or set of colours or flag, on any motor or other vehicle or otherwise as political propaganda.

(2) No person shall furnish or supply any flag, ribbon, label or like favour, to or for any person with intent that it should be worn or used on polling day by any person within a constituency for which an election is being held, as a party badge to distinguish the wearer as the supporter of any candidate or of the political or other opinions entertained or supposed to be entertained by any candidate, and no person shall on polling day use or wear any flag, ribbon, label or other favour within such constituency as a party badge to distinguish him as the supporter of any candidate or of the political or other opinions entertained or supposed to be entertained by any candidate.

(3) Any person who contravenes any of the provisions of this section is liable on summary conviction to a fine of five hundred dollars or to imprisonment for six months.

Prohibition of employment of bands for music

14.(1) No person shall, for the purpose of promoting or procuring the election of any candidate, hire or make use of a band of music on polling day within a constituency for which an election is being held.

(2) No person shall play in any band of music at any meeting or in any procession held on polling day within a constituency for which an election is being held for the purpose of promoting or procuring the election of any candidate.

(3) Any person who contravenes any of the provisions of this section is liable on summary conviction to a fine of two hundred dollars or to imprisonment for three months.

Persons not to congregate near polling stations

15.(1) Subject to subsection (2), during the hours when the poll is open on polling day no person shall assemble or congregate within one hundred yards of any building in which is situate any polling station.

(2) The provisions of this section shall not apply to—

- (a) any electors who are waiting to poll their votes at such polling station and who obey any instructions which may be given by the presiding officer or any constable for the purpose of forming a queue with other electors so waiting; or
- (b) any person who under the Representation of the *People Act*, Cap. 12 lawfully enters and remains in such station.

(3) Any person who contravenes any of the provisions of this section is liable on summary conviction to a fine of two hundred dollars or to imprisonment for three months.

Influencing electors to vote for any candidate

16.(1) During the hours that the poll is open upon polling day no person shall, upon any public road or in any public place within one hundred yards of any building in which a polling station is situate, seek to influence any elector to vote for any candidate or to ascertain for what candidate any elector intends to vote or has voted.

(2) Any person who contravenes any of the provisions of this section is liable on summary conviction to a fine of two hundred dollars or to imprisonment for three months.

False statement as to candidate

17.(1) Any person who, or any director of any body or association corporate which, before or during an election, for the purpose of effecting the return of any candidate at the election, makes or publishes any false statement of fact in relation to the personal character or conduct of the candidate is guilty of an illegal practice, unless he can show that he had reasonable grounds for believing, and did believe, the statement to be true.

(2) A person making or publishing any false statements of fact as aforesaid may be restrained by interim or perpetual injunction by the High Court from any repetition of that false statement or of a false statement of a similar character in relation to the candidate and, for the purpose of granting an interim injunction, *prima facie* proof of the falsity of the statement shall be sufficient.

(3) Any person who before or during an election knowingly publishes a false statement of the withdrawal of a candidate at the election for the purpose of promoting or procuring the election of another candidate is guilty of an illegal practice.

Name and address of printer on election publications

18.(1) A person shall not—

- (a) print or publish, or cause to be printed or published, any bill, placard, or poster having reference to an election or any printed document distributed for the purpose of promoting or procuring the election of a candidate; or
- (b) post or cause to be posted any such bill, placard or poster as aforesaid; or

- (c) distribute or cause to be distributed any printed document for the said purpose,

unless the bill, placard, poster or document bears upon the face thereof the name and address of the printer and publisher.

(2) For the purposes of this section, any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing, and the expression “printer” shall be construed accordingly.

(3) A candidate or election agent acting in contravention of this section shall be guilty of an illegal practice, and any other person so acting is liable on summary conviction to a fine of five hundred dollars.

Premises not to be used as committee rooms

19.(1) A person who hires or uses any premises to which this section applies or any part thereof for a committee room for the purpose of promoting or procuring the election of a candidate or lets any premises to which this section applies or any part thereof knowing that it was intended to use them or that part as a committee room, is guilty of an illegal hiring.

(2) This section applies to any premises—

- (a) which are licensed for the sale of any intoxicating liquor for consumption on or off the premises or on which refreshment of any kind (whether food or drink) is ordinarily sold for consumption on the premises; or
- (b) where any intoxicating liquor is supplied to members of a club, society or association, other than a permanent political club:

Provided that this section does not apply to the hiring, using, letting or permitting the use of any part of premises which is ordinarily let for the purposes of chambers or offices or the holding of public meetings or arbitrations, if that part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

Employers to allow employees reasonable period for voting

20.(1) Every employer shall on polling day allow to every elector in his employ a reasonable period of not less than one hour for voting and no employer shall make any deduction from the pay or other remuneration of any such elector or impose upon or exact from him any penalty by reason of his absence during such period.

(1A) For the purposes of this section where an employee is normally paid on an hourly, piece-work or other similar basis, the hours of his employment on polling day are the hours he would normally work on that day if it were not polling day. and if the employee is absent during the time that the employer is required to allow the employee under subsection (1), the employer shall be deemed to have made a deduction from the employee's pay, if the employer does not pay the employee the amount that the employee would normally have earned if he had worked during that time.

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(2) Any employer who directly or indirectly refuses or by intimidation, undue influence or in any other way interferes with the granting to an elector in his employ of the period of voting, as provided in this section, is liable on summary conviction to a fine of five hundred dollars or to imprisonment for six months.

Disturbances at election meetings

21.(1) Any person who at a lawful public meeting to which this section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together is guilty of a corrupt practice.

(2) This section applies to a meeting held with reference to an election in the constituency for that election at any time on or after the day of the publication of the notice of election for an election in the constituency and prior to the day on which the result of the election is declared.

(3) Where any police constable reasonably suspects any person of committing an offence under this section, he may if requested so to do by the chairman of the meeting require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address or gives a false name and address, he is liable on summary conviction to a fine of ten dollars, and if he refuses or fails so to declare his name and address or if the constable reasonably suspects him of giving a false name and address, the constable may without warrant arrest him.

Notice of meetings

22.(1) No person shall, at any time on or after the day of publication of the notice of election and prior to the day on which the result of the election is declared, call together, hold or address a political meeting in any public place within the constituency in which such election is to be held unless notice of the intention to hold such meeting at such place has been given not less than three hours before the commencement of such meeting to the officer of Police in charge of the parish in which such place is either wholly or in part situate or to the officer of Police or constable in charge of the police station nearest to such place.

(2) Every notice under subsection (1) shall specify

- (a) the person in support of whose candidature the meeting is to be held;
- (b) the place at which such meeting is to be held and the approximate time at which such meeting is to commence.

(3) Any person who contravenes any of the provisions of this section is liable on summary conviction to a fine of twenty-five dollars.

(4) For the purposes of this section, the expression “public place” means any street, road, lane or highway and any park, garden, field or sea beach within the constituency for which the election is being held and to which the public has access, whether as of right or upon payment of any sum of money or otherwise.

Corrupt withdrawal from candidature

23. 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 and any person withdrawing in pursuance of the inducement or procurement, is guilty of an illegal payment.

Providing money for illegal purposes

24. Any person who knowingly provides money for any payment which is contrary to this Act or the *Representation of the People Act*, Cap. 12 or for any expenses incurred in excess of any maximum amount allowed by such Acts, or for replacing any money expended in any such payment or expenses except where the payment or the incurring of the expenses may have been previously allowed in pursuance of section 35 to be an exception, is guilty of an illegal practice.

Savings as to elections

25. Where a person has been declared by others to be a candidate at an election without his consent, nothing in this Act shall be construed to impose any liability on that person, unless he has afterwards given his assent to the declaration or has been nominated.

Rights of creditors

26. The provisions of this Part prohibiting—

- (a) payments and contracts for payments; or
- (b) the payment or incurring of election expenses in excess of the maximum amount allowed by the *Representation of the People Act*, Cap. 12; or
- (c) the incurring of expenses not authorised by the election agent,

do not affect the right of any creditor who, when the contract was made or the expense incurred or the payment made, was ignorant of that contract, expense or

payment being in contravention of this Act or the Representation of the People Act, as the case may be.

PART III

LEGAL PROCEEDINGS IN RELATION TO ELECTION OFFENCES

Prosecution for corrupt practice

27.(1) A person guilty of a corrupt practice, other than personation, is liable on summary conviction to imprisonment for six months or to a fine of five hundred dollars or to both.

(2) A person who commits the offence of personation or of aiding, abetting, counselling or procuring the commission of the offence of personation is liable on summary conviction to imprisonment for one year to to a fine of five hundred dollars or to both.

(3) A person charged with personation shall not be convicted except on the evidence of not less than two credible witnesses.

Prosecution for illegal practice

28. A person guilty of an illegal practice is liable on summary conviction to a fine of five hundred dollars, and on a prosecution for an illegal practice it is sufficient to allege that the person charged was guilty of an illegal practice.

Conviction of illegal practice on charge of corrupt practice

29. 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.

Illegal payments or hirings

30.(1) A person guilty of an offence of illegal payment or hiring on summary conviction is liable to a fine of five hundred dollars and on a prosecution for such an offence it is sufficient to allege that the person charged was guilty of an illegal payment or hiring, as the case may be.

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

(3) Any person charged with an offence of illegal payment or hiring may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.

Time limit for prosecutions

31.(1) A proceeding against a person in respect of any offence to which this section applies shall be commenced within one year after the offence was committed and the time so limited by this section is substituted for any limitation of time contained in the *Magistrates Jurisdiction and Procedure Act*, Cap. 116.

(2) For the purposes of this section, the issue of a summons, warrant or other process shall be deemed to be a commencement of a proceeding in any case 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 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.

(3) This section applies to any corrupt or illegal practice, any illegal payment or hiring and any offence under sections 3 and 18 and under section 56 of the *Representation of the People Act*, Cap. 12.

Offences by association of persons

32. Where any corrupt or illegal practice or any illegal payment or hiring or any offence under section 18 is committed by any association or body of persons, corporate or unincorporate, the members of the association or body who have taken part in the commission of that offence are liable to any fine or punishment imposed for that offence by this or any other Act.

Evidence by certificate of holding of elections

33. On any prosecution for a corrupt or illegal practice or for any illegal payment or hiring or on any prosecution under section 56 of the Representation of the People Act, the certificate of the returning officer that the election mentioned in the certificate was duly held and that the person named in the certificate was a candidate at the election is sufficient evidence of the facts therein stated.

Effect of certificates of indemnity

34.(1) Where on the trial of an election petition, a person has received a certificate of indemnity of an Election Court stating that he answered truly all questions which he was required by the Election Court to answer as a witness at the trial of the petition and any legal proceeding is at any time instituted against him for any corrupt or illegal practice committed by him previously to the date of the certificate at or in relation to the election, or any illegal payment or hiring offence or offence under sections 3 or 18 so committed, the court having cognisance of the case shall on the production of the certificate stay the proceeding and may in its discretion award to the said person such costs as he may have been put to in the proceeding.

(2) Nothing in this section shall be deemed to relieve a person receiving a certificate of indemnity from any incapacity under this or any other Act or from any proceedings to enforce that incapacity (other than a criminal prosecution).

Power to except innocent act from being illegal practice, payment or hiring

- 35.(1)** An application for relief under this section may be made to a Judge.
- (2) Where if it is shown to the Judge by such evidence as to the Judge seems sufficient—
- (a) that any act or omission of any person would apart from this section by reason of being in contravention of this or any other Act be an illegal practice, payment or hiring;
 - (b) that the act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith; and
 - (c) that such notice of the application has been given in the constituency as to the Judge seems fit,

and in the circumstances it seems to the Judge to be just that either that or any other person should not be subject to any of the consequences under this Act or under the *Representation of the People Act*, Cap. 12, of the act or omission, the Judge may make an order allowing the act or omission to be an exception from the provisions of such Acts making it an illegal practice, payment or hiring, and thereupon no person is subject to any of the consequences under such Acts of the said act or omission.

PART IV**ELECTION CONTROVERSIES****Method of questioning election**

- 36.(1)** No election of a member to serve in the House of Assembly and no return to the House of Assembly shall be questioned except by a petition

complaining of an undue election or undue return presented in accordance with this Act.

(2) A petition complaining of no return shall be deemed to be an election petition and the Election Court may make such order thereon as it thinks expedient for compelling a return to be made or may allow the petition to be heard as provided with respect to ordinary election petitions.

Presentation and service of election petition

37.(1) An election petition may be presented by one or more of the following persons, that is to say—

- (a) a person who voted as an elector at an election which is being questioned or who had a right so to vote; or
- (b) a person claiming to have had a right to be elected or returned at the election; or
- (c) a person alleging himself to have been a candidate at the election.

(2) The member whose election or return is complained of is hereinafter referred to as the respondent, but if the election petition complains of the conduct of a returning officer, the returning officer shall for the purposes of this Part be deemed to be a respondent.

(3) The election petition shall be in the prescribed form, state the prescribed matters and be signed by the petitioner or all the petitioners, if more than one, and shall be presented in the prescribed manner to the Registrar who shall cause a copy of it to be published in the constituency to which the election petition relates.

(4) The election petition 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.

Time for presentation or amendment of election petition

38.(1) Subject to this section, an election petition shall be presented within twenty-one days after the day fixed for the return of the writ for the election to which the petition relates.

(2) Where the election petition questions the election or return upon an allegation of a corrupt practice and specifically alleges a payment of money or other reward to have been made by the member or on his account or with his privity since the time of the said return in pursuance or in furtherance of the alleged corrupt practice, it may be presented within twenty-eight days after the date of the payment.

(3) An election petition questioning the election or return upon an allegation of an illegal practice may, so far as respects that illegal practice, be presented—

- (a) not later than the expiration of fourteen days after the day specified in subsection (4); or
- (b) if specifically alleging a payment of money or some other act to have been made or done since the day so specified by the member to whose election the election petition relates or by his election agent, or with the privity of that member or his election agent, in pursuance or in furtherance of the alleged illegal practice, within twenty-eight days after the date of the payment or other act.

(4) The said day is—

- (a) that on which the Supervisor of Elections receives the return and declarations as to election expenses by the said member and his election agent; or
- (b) where the return and declarations are received on different days, the last of those days; or

- (c) where there is an authorised excuse for failing to make the return and declarations, the date of the allowance of the excuse, or if there was a failure as regards two or more of them, and the excuse was allowed at different times, the date of the allowance of the last excuse.
- (5) An election petition presented within the time limited by subsections (1) and (2) may, for the purpose of questioning the election or return upon an allegation of an illegal practice, be amended with the leave of a Judge within the time within which an election petition questioning the election upon the allegation of that illegal practice could be presented under subsection (3).
- (6) Subsections (3), (4) and (5) shall apply notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice and shall apply to a corrupt practice under section 47 of the *Representation of the People Act*, Cap. 12 as if it were an illegal practice.
- (7) For the purposes of this section, an allegation that an election is avoided under section 55 shall be deemed to be an allegation of corrupt practices notwithstanding that the offences alleged are or include offences other than corrupt practice.

Constitution of election court and place of trial

- 39.(1)** An election petition shall be tried by three Judges (in this Act referred to as the Election Court).
- (2) Subject to this Act, the Election Court shall when hearing an election petition have the same powers, jurisdiction and authority as the High Court and when hearing an election petition shall be deemed to be a court of record.
- (3) The place of trial shall be at such place within the Island as the Election Court may think fit.

Attendance and payment of shorthand writers

- 40.(1)** A shorthand writer, who shall be an Official Reporter of the House of Assembly or his deputy, shall attend the trial and shall be sworn by the Registrar

or his deputy faithfully and truly to take down the evidence given at the trial and from time to time as occasion requires to transcribe that evidence or cause it to be transcribed.

(2) The shorthand writer shall take down the evidence and from time to time transcribe it or cause it to be transcribed and a transcript of the notes of the evidence taken down by him shall accompany the certificate given by the Election Court.

(3) The remuneration and allowances, if any, of the shorthand writer shall be fixed by the Registrar and shall be defrayed out of moneys provided for the purpose by Parliament.

Security for costs

41.(1) At the time of presenting an election petition or within three days thereafter, the petitioner shall give security for all costs which may become payable by him to any witness summoned on his behalf or to any respondent.

(2) The security shall be an amount of one thousand dollars and shall be given in the prescribed manner by recognisance entered into by any number of sureties not exceeding four or by a deposit of money, or partly in one way and partly in the other.

(3) Within seven clear days after the presentation of the petition, the petitioner shall serve on the respondent in the prescribed manner the prescribed notice of the presentation of the petition and of the nature of the proposed security and a copy of the petition.

(4) Within five days after service of the notice referred to in subsection (3), the respondent may object in writing to any recognisance on the ground that any surety is insufficient or is dead or cannot be found or ascertained for want of a sufficient description in the recognisance or that a person named in the recognisance has not duly acknowledged the recognisance.

(5) An objection to a recognisance shall be decided in the prescribed manner.

(6) Where the objection is allowed, the petitioner may, within five days of the allowance thereof, remove it by a deposit in the prescribed manner of such sum of money as will, in the opinion of the Registrar, make the security sufficient.

(7) Where no security is given as required by this section or any objection is allowed and not removed as aforesaid, no further proceedings shall be had on the petition.

Petition at issue

42. On the expiration of the time limited for objections or, after objection made, on the objection being disallowed or removed, whichever last happens, the petition shall be at issue.

List of petitions

43.(1) The Registrar shall, as soon as may be, make out a list of all election petitions at issue presented to him, placing them in the order in which they were presented and shall keep at the Registration Office a copy of the list, open to inspection at all reasonable times.

(2) The petitions shall, so far as conveniently may be, be tried in the order in which they stand in the list.

(3) Two candidates may be made respondents to the same election petition, and their cases may be tried at the same time, but for the purposes of this Act, the election petition shall be deemed to be a separate petition against each respondent.

(4) Where more election petitions than one are presented relating to the same election, all those petitions may, if a Judge so directs, be bracketed together in the election list and shall be dealt with as one election petition, standing, unless the Judge otherwise directs, in the list in the place where the last of them would have stood if it had been the only election petition presented.

Trial of petition

44.(1) An election petition shall be tried in open court without a jury, and notice of the time and place of trial shall be given in the prescribed manner not less than fourteen days before the day of trial.

(2) The Election Court may in its discretion adjourn the trial from time to time, but the trial shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day on every lawful day until its conclusion.

(3) The trial of an election petition shall be proceeded with notwithstanding the prorogation of Parliament.

(4) On the trial of an election petition complaining of an undue election and claiming the seat for some person, the respondent may give evidence to prove that that person was not duly elected in the same manner as if he had presented an election petition against the election of that person.

(5) Where on the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be elected the Election Court shall determine the election of any such candidate to be void.

Witnesses

45.(1) Witnesses shall be summoned and sworn in the same manner as nearly as circumstances admit as in an action tried in the High Court.

(2) On the trial, the Election Court may, by order in writing, require any person who appears to it to have been concerned in the election to attend as a witness and any person refusing to obey the order shall be guilty of contempt of court.

(3) The Election Court may examine any person so required to attend or who is present at the trial although he is not called and examined by any party to the petition.

- (4) A witness may, after his examination by the Election Court, be cross-examined by or on behalf of the petitioner and respondent, or either of them.
- (5) A person called as a witness respecting an election shall not be excused from answering any question relating to any offence at or connected with the election, on the ground that the answer thereto may criminate or tend to criminate himself or on the ground of privilege:

Provided that—

- (a) a witness who, in the opinion of the Election Court, answers truly all questions which he is required by the Election Court to answer at the trial of an election petition shall be entitled to receive a certificate of indemnity under the hand of the Election Court stating that the witness has so answered; and
- (b) an answer by a person to a question put by or before the Election Court at the trial of an election petition shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be in any proceeding, civil or criminal, admissible in evidence against him.
- (6) The giving or refusal to give a certificate of indemnity to a witness by the Election Court trying an election petition shall be final and conclusive.
- (7) The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition according to the docket of fees allowed to witnesses on the trial of actions in the High Court may be allowed to him by the Election Court or Registrar and, if the witness was called and examined by virtue of subsection (2), shall be deemed costs of the petition.

Conclusion of trial of election petition

46.(1) At the conclusion of the trial of an election petition, the Election Court shall determine whether the member whose election or return 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 the determination to the Speaker and the determination so certified shall be final to all intents and purposes.

(2) Where any charge is made in the petition of any corrupt or illegal practice having been committed at the election, the Election Court shall, in addition to giving a certificate, at the same time make a report to the Speaker as required by sections 52 and 53 which shall also state whether corrupt or illegal practices have, or whether there is reason to believe that corrupt or illegal practices have, extensively prevailed at the election.

(3) The Election Court may at the same time make a special report to the Speaker as to matters arising in the course of the trial an account of which in the judgment of the Election Court ought to be submitted to the House of Assembly.

(4) Every report sent to the Speaker under this section shall be signed by the Judge presiding over the Election Court.

(5) The House of Assembly, on being informed by the Speaker of a certificate and any report of the Election Court, shall order the certificate and report (if any) to be entered in the record of their proceedings and shall give the necessary directions for confirming or altering the return or shall take the necessary steps to have a writ issued for a new election or for carrying the determination into execution, as the circumstances may require, and where the Election Court makes a special report, the House of Assembly may make such order in respect of that report as they consider proper.

Withdrawal of petition

47.(1) A petition may only be withdrawn if all the petitioners serve notice in writing on the Registrar that they consent to the withdrawal of the petition.

(2) Where a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent.

(3) Notice of the withdrawal of a petition shall as soon as practicable be published by the Registrar in at least one daily newspaper of the Island.

(4) Where a petition is withdrawn any person who might have been a petitioner in respect of the election may within seven days of the publication of the notice

referred to in subsection (2) apply in the prescribed manner to a Judge to be substituted as a petitioner, and the Judge may, if he thinks fit, substitute him accordingly.

(5) 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 five days after the order of substitution.

(6) A substituted petitioner shall, as nearly as may be, stand in the same position and be subject to the same liabilities as the original petitioner.

(7) Where no person is substituted as a petitioner pursuant to this section or no security is within the time provided by subsection (5) given by or on behalf of a substituted petitioner, the Registrar shall report the withdrawal to the Speaker.

Abatement of petition

48.(1) An election petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

(2) The abatement shall not affect the liability of the petitioner or any other person to the payment of costs previously incurred.

(3) On the abatement the prescribed notice thereof shall be given in the constituency 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 may apply to a Judge in the prescribed manner and within the prescribed time to be substituted as a petitioner and the Judge may, if he thinks fit, substitute him accordingly.

(4) Security shall be given on behalf of a petitioner so substituted as in the case of a new petitioner.

Withdrawal and substitution of respondents before trial

49.(1) Where before the trial of an election petition a respondent other than a returning officer—

- (a) gives the prescribed notice that he does not intend to oppose the petition or dies; or
- (b) is appointed to the Senate or his seat in the House of Assembly becomes vacant;

such notice thereof as may be prescribed shall be given in the constituency 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 may apply to a Judge to be admitted as a respondent to oppose the petition and shall be admitted accordingly, except that the number of persons so admitted shall not exceed three.

(2) 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 the petition in any proceedings thereon, and he shall not sit or vote in the House of Assembly until the House has been informed of the report on the petition.

(3) Where a respondent to an election petition has given the said notice in the prescribed time and manner, the Registrar shall report that fact to the Speaker.

Costs of petition

50.(1) All costs of and incidental to the presentation of an election petition and the proceedings consequent thereon, except such 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 Election Court may determine; and in particular any costs which in the opinion of the Election Court have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or of the respondent, and any needless expense incurred or caused on the part of the petitioner or respondent, may be ordered to be defrayed by the

parties by whom it has been incurred or caused whether or not they are on the whole successful.

(2) Where a petitioner neglects or refuses for six months after demand to pay any person summoned as a witness on his behalf or to the respondent any sum certified to be due to him for his costs, and the neglect or refusal is, within one year after the demand, proved to the satisfaction of a Judge, such sum shall be deemed to be a judgment debt of the magistrate's court in its civil jurisdiction and may be recovered from every person who under this Part entered into a recognisance relating to the petition in the same manner as judgment debts may be recovered under the *Petty Debt Act*, Cap. 209 notwithstanding that the amount exceeds the normal monetary limit on the civil jurisdiction of the magistrate's court.

Further provisions as to costs of petition

51.(1) Where upon the trial of an election petition it appears to the Election Court that a corrupt practice has not been proved to have been committed in reference to the election by or with the knowledge and consent of the respondent to the petition and that the respondent took all reasonable means to prevent corrupt practices being committed on his behalf, the Election Court may make one or more orders with respect to the payment either of the whole or such part of the costs of the petition as it may think right as provided by subsection (2).

(2) Where it appears to the Election Court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices or to have encouraged or promoted extensive corrupt practices in reference to the election, the Election Court may, after giving that person or those persons an opportunity of being heard by counsel or solicitor and examining and cross-examining witnesses to show cause why the order should not be made, order the whole or part of the costs to be paid by that person, or those persons or any of them, and may order that if the costs cannot be recovered from one or more of those persons they shall be paid by some other of those persons or by either of the parties to the petition.

(3) Where any person appears to the Election Court to have been guilty of a corrupt or illegal practice, the Election Court may, after giving that person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceeding before him in relation to the said offence or to the said person to be paid by the said person or persons as the Election Court may direct.

PART V

CONSEQUENCES OF A FINDING OF CORRUPT OR ILLEGAL PRACTICE

Report as to candidate guilty of corrupt or illegal practice

52.(1) Where, on the trial of an election petition, it is proved to the satisfaction of the Election Court that any corrupt practice was committed by or with the knowledge and consent of any candidate at the election, the report of the Election Court under section 46 shall state that the candidate proved guilty of that corrupt practice is personally guilty of that corrupt practice and where it is proved to the satisfaction of the Election Court that any illegal practice was committed by or with the knowledge and consent of any candidate at the election, the said report shall state that the candidate proved guilty of that illegal practice is personally guilty of that illegal practice.

(2) Where on the trial of an election petition, it is proved to the satisfaction of the Election Court that any corrupt practice was committed by or with the knowledge and consent of a person who was the election agent of any candidate at the election and such corrupt practice is not proved to have been committed by or with the knowledge and consent of the candidate for whom such person was such election agent, the report of the Election Court under section 46 shall state that the candidate, whose election agent is proved guilty of that corrupt practice, is guilty by his election agent of that corrupt practice, and where it is proved to the satisfaction of the Election Court that any illegal practice was committed by or with the knowledge and consent of a person who was the election agent of any candidate at the election, and such illegal practice is not proved to

have been committed by or with the knowledge and consent of the candidate for whom such person was such election agent, the report shall state that the candidate, whose election agent is proved guilty of that illegal practice, is guilty by his election agent of that illegal practice.

(3) Whenever any candidate is reported personally guilty or guilty by his election agent of a corrupt or illegal practice, the report shall state the nature of the corrupt or illegal practice.

Report of all persons guilty of a corrupt or illegal practice

53. The report of the Election Court under section 46 shall state the names of all persons (if any) who have been proved at the trial to have been guilty of any corrupt or illegal practice, the nature of the offence and whether they have been furnished with certificates of indemnity, but in the case of someone who is not a party to the petition, nor a candidate on behalf of whom the seat is claimed by the petition, the Election Court shall first cause notice to be given to him and, if he appears in pursuance of the notice, shall give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported.

Avoidance of election of candidate reported guilty of a corrupt or illegal practice

54. Where a candidate who has been elected is reported by the Election Court personally guilty or guilty by his election agent of any corrupt or illegal practice his election shall be void.

Circumstances in which election may be avoided for general corruption, etc.

55.(1) Where on an election petition it is shown that corrupt or illegal practices or illegal payments or hirings committed in reference to the election for the purpose of promoting or procuring the election of any person thereat have so extensively prevailed that they may reasonably be supposed to have affected the

result, his election, if he has been elected, shall be void and he shall be incapable of being elected to fill the vacancy for which the election was held.

(2) An election shall not be liable to be avoided otherwise than under this section by reason of general corruption, bribery, treating or intimidation.

Avoidance of election for employing a corrupt election agent

56.(1) Where at an election the candidate engages as his election agent any person whom he knows or has reasonable grounds for supposing to be subject to an incapacity to vote at the election by reason of his having been convicted or reported of any corrupt or illegal practice, the candidate shall be incapable of being elected to fill the vacancy for which the election is held.

(2) A vote given for such a person at an election shall not, by reason of his incapacity under this section, be deemed to be thrown away so as to entitle another candidate to be declared elected unless given at a poll consequent on the decision of the Election Court at the trial of an election petition that he was so incapable.

Votes to be struck off for corrupt or illegal practices

57.(1) Where, on an election petition claiming the seat for any person, a candidate is proved to have been guilty by himself, or by any person on his behalf, of bribery, treating or undue influence within the meaning of sections 6, 7 or 8 in respect of any person who voted at the election, there shall, on a scrutiny, be struck off from the number of votes appearing to have been given to the candidate one vote for every person who voted at the election and is proved to have been so bribed, treated or unduly influenced.

(2) Where any person who is guilty of a corrupt or illegal practice or of illegal payment or hiring at an election votes at the election, his vote shall be void.

(3) Where any person who is under any enactment subject to an incapacity to vote at an election votes at that election, his vote shall be void.

Incapacity of candidate reported guilty of a corrupt or illegal practice

58. Subject to any express provisions of this Act relating to particular acts which are declared to be corrupt or illegal practices, if a candidate at an election is by an Election Court on the trial of an election petition reported personally guilty or guilty by his election agent of any corrupt or illegal practice, he shall be incapable from the date of that report of being elected to and sitting in the House of Assembly for the constituency for which the election was held—

- (i) if reported personally guilty of a corrupt practice, for ten years;
- (ii) if reported guilty by his election agent of a corrupt practice or personally guilty of an illegal practice, for seven years;
- (iii) if reported guilty by his election agent of an illegal practice, during the life of the House of Assembly for which the election was held.

Consequent incapacities to persons reported personally guilty of a corrupt or illegal practice

59.(1) Subject to section 61 and to any express provisions of this Act relating to particular acts which are declared to be corrupt practices, a candidate or other person reported by an Election Court on the trial of an election petition personally guilty of a corrupt practice shall for five years from the date of the report be incapable—

- (a) of being registered as an elector or of voting at any election for the House of Assembly; and
- (b) of being elected to and sitting in the House of Assembly; and
- (c) of holding any judicial office or being appointed as a Senator;

and if already elected to the House of Assembly or holding such office or so appointed shall from the said date vacate the seat or office.

(2) Subject to section 61 and to any express provisions of this or any other Act relating to particular acts which are declared to be illegal practices, a candidate

or other person reported by an Election Court on the trial of an election petition personally guilty of an illegal practice shall for five years from the date of the report be incapable of being registered as an elector or voting at any election for the House of Assembly.

Incapacities on conviction of corrupt or illegal practice

60. Subject to section 61, but in addition to any punishment as provided by sections 27 and 28—

- (a) a person convicted of a corrupt practice shall be subject to the incapacities imposed by subsection (1) of section 59 as if at the date of the conviction he had been reported by an Election Court on the trial of an election petition personally guilty of that corrupt practice; and
- (b) a person convicted of an illegal practice shall be subject to the incapacities imposed by subsection (2) of section 59 as if at the date of the conviction he had been reported by an Election Court on the trial of an election petition personally guilty of that illegal practice.

Mitigation and remission of incapacities

61.(1) Where any person is subject to any incapacity by virtue of the report of an Election Court made on the trial of an election petition, and he or some other person in respect of whose acts the incapacity was imposed is on a prosecution acquitted of any of the matters in respect of which the incapacity was imposed, the acquittal shall, upon or after the expiration of the ordinary period allowed for making an appeal or, if an appeal is made and the acquittal affirmed, upon or after the date on which that appeal is finally disposed of or, if an appeal is made and is abandoned or fails by reason of non-prosecution thereof, upon or after the date that appeal is abandoned or so fails, be reported to a Judge, who may order that the incapacity shall thenceforth cease so far as it is imposed in respect of those matters.

(2) Where any person who is subject to any incapacity as aforesaid is on a prosecution convicted of any such matters as aforesaid, no further incapacity shall

be taken to be imposed by reason of the conviction, and a Judge has, on the application of the person convicted, the like power (if any) to mitigate or remit for the future the incapacities so far as they are imposed by section 59 in respect of the matters of which he is convicted, as if the incapacity had been imposed by reason of the conviction.

(3) A Judge in exercising any of the powers conferred by subsections (1) and (2) shall make an order declaring how far, if at all, the incapacities imposed by virtue of the relevant report remain unaffected by the exercise of the said power, and that order is conclusive for all purposes.

(4) Where a person convicted of a corrupt or illegal practice is subsequently reported by an Election Court on the trial of an election petition to have been guilty thereof, no further incapacity shall be imposed on him under section 59 by reason of the report.

(5) Where any person is subject to any incapacity by virtue of a conviction or of the report of an Election Court and any witness who gave evidence against that person upon the proceeding for the conviction or report is convicted of perjury in respect of that evidence, the incapacitated person may, upon or after the expiration of the ordinary period allowed for making an appeal against the conviction of perjury or, if an appeal is made and the conviction is affirmed, upon or after the date on which that appeal is disposed of or, if an appeal is made and is abandoned or fails by reason of non-prosecution thereof, upon or after the date that appeal is abandoned or so fails, apply to a Judge, and the Judge, if satisfied that the conviction or report so far as respects that person was based upon perjury, may order that the incapacity shall thenceforth cease.

Reports, convictions and acquittals for corrupt and illegal practices and the terms of any order made by the Judge under section 61 to be reported to Chief Registering Officer

62. Where any candidate or other person is reported by an Election Court on the trial of an election petition personally guilty or guilty by his election agent of a corrupt or illegal practice, or where any incapacity imposed by virtue of a

report of an Election Court on the trial of an election petition or by virtue of a conviction for a corrupt or illegal practice is mitigated or remitted by a Judge in exercise of the powers conferred on him by section 61, then—

- (a) in the case of a conviction, the clerk of the court in which the trial or appeal is conducted, upon the expiration of the ordinary period allowed for making an appeal or, if an appeal is made, upon the date on which that appeal is finally disposed of or abandoned or fails by reason of non-prosecution thereof, and
- (b) in the case of any such report or of the exercise of the power conferred by section 61, the Registrar,

shall inform the Commission of the decision of the court in which the trial or appeal was conducted or, as the case may be, of the order of the Judge made under section 61 and at the same time shall furnish to the Commission the name, address and description of the candidate or other person so reported, convicted or acquitted or, as the case may be, in respect of whom such power was exercised, and a statement setting forth the offence of which such candidate or other person has been reported, convicted or acquitted or, as the case may be, the terms of the order made by the Judge.

[1989-18]

PART VI

MISCELLANEOUS

Computation of time

63.(1) When the day or last day on which anything is required or permitted to be done by or in pursuance of this Act is any of the days mentioned in the following subsection, the requirement or permission shall be deemed to relate to the first day thereafter which is not one of those days and in computing any period of not more than 7 days for the purposes of this Act any of the days so mentioned shall be disregarded.

(2) The days referred to in subsection (1) are any Sunday, Christmas Day, Good Friday, any public holiday and any day appointed for the purpose of thanksgiving or mourning.

Rules of Court

64.(1) The Judicial Advisory Council may make such rules for the effectual regulation of the practice, procedure and trial of any proceedings instituted under this Act, for carrying into effect the provisions of this Act in relation thereto and with respect to any prescribed matters as it thinks fit.

(2) Until such time as rules are made under this section, the statutory instruments made under any enactment repealed by this Act shall continue in force notwithstanding such repeal with such modifications as are necessary to bring them into conformity with this Act and shall have effect as if made under this section.

Savings for existing incapacities

65. Without prejudice to the *Interpretation Act*, Cap. 1 the repeal of any enactments by section 65 of the *Election Offences and Controversies Act 1969** does not affect any disqualification or incapacity which has been imposed by or which may be subsisting under any such enactment upon persons found or reported guilty of any corrupt or illegal practice under any enactment (whether or not specified in the First Schedule of that Act) and any such incapacity shall be treated as having been imposed under the corresponding provision of this Act.

**[Section 65 and Schedules of Act 1969-21 not reprinted in these Laws.]*