

*Trial of Controverted Elections Act.*

Elected to and sitting in the Legislative Council, and also be incapable

1. Of being Registered as a Voter, and Voting at any Election in British Columbia; and
2. Of holding any Municipal Office; and
3. Of holding any Judicial Office; and of being appointed, and of acting as a Justice of the Peace.

44. For the purpose of disqualifying, in pursuance of the 18th Section of "The Corrupt Practices Prevention Act, 1871," a Member guilty of corrupt practices, other than personal bribery within the 41st Section of this Act, the Report of the Judge on the Trial of an Election Petition shall be deemed to be competent authority within the meaning of the said Act, and the said Section shall be construed as if the words "reported by a Judge on the Trial of an Election Petition" were inserted therein, in place of the words "declared by any competent authority."

As to disqualification of Members for corrupt practices.

45. If at any time after any person has become disqualified by virtue of this Act, the witnesses, or any of them, on whose testimony such person shall have so become disqualified, shall, upon the prosecution of such person, be convicted of perjury in respect of such testimony, it shall be lawful for such person to move the Court to order, and the Court shall, upon being satisfied that such disqualification was procured by reason of perjury, order that such disqualification shall thenceforth cease and determine, and the same shall cease and determine accordingly.

Removal of disqualification on proof that disqualification was procured by perjury.

46. If any Returning Officer wilfully delays, neglects, or refuses duly to return any person who ought to be returned to serve in the Council for any Electoral District, such person may, in case it has been determined on the hearing of an Election Petition under this Act that such person was entitled to have been returned, sue the Officer having so wilfully delayed, neglected, or refused duly to make such return at his Election, in the Supreme Court, and shall recover double the damages he has sustained by reason thereof, together with full costs of suit; provided such action be commenced within one year after the commission of the act on which it is grounded, or within six months after the conclusion of the trial relating to such Election.

Returning Officer may be sued for neglecting to return any person duly elected.

47. In reckoning time for the purposes of this Act, Sunday, Christmas Day, and Good Friday, and any day set apart for a Public Holiday shall be excluded.

Calculation of time.

48. Where an Election Petition under this Act complains of the conduct of a Returning Officer, such Returning Officer shall for all the purposes of this Act, except the admission of Respondents in his place, be deemed to be a Respondent.

Returning Officer, if complained of, to be Respondent.

49. A Petition under this Act complaining of no return, may be presented to the Court, and shall be deemed to be an Election Petition within the meaning of this Act, and the Court may make such order thereon as they think expedient for compelling a return to be made, or may allow such Petition to be heard by the Judge in manner hereinbefore provided with respect to ordinary Election Petitions.

Petition complaining of no Return.

50. On the trial of a Petition under this Act, complaining of an undue return, and claiming the seat for some person, the Respondent may give evidence to prove that the Election of such person was undue, in the same manner as if he had presented a Petition complaining of such Election.

Recrimination when Petition for undue Return.

51. If upon a Petition to the Council, presented within twenty-one days after the return, to the Registrar of the Supreme Court, of a Member to serve in the Council for any Electoral District, or within fourteen days after the Meeting of the Council, and signed by two or more Electors of such District, and alleging that corrupt practices have extensively prevailed at the then last Election for such District, or that there is reason to believe that corrupt practices have there so prevailed, or if upon the Judge making a Report to

Commissioners into inquiry into corrupt practices.