

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed as now printed, is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

1185

*Legislative Council,
7th August, 1914.*

Hon. Mr. Bell.

LEGISLATIVE COUNCIL.

ANALYSIS.

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A BILL INTITULED

AN ACT to alter the Constitution and to define certain of the Title.
Powers of the Legislative Council.

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

1. (1.) This Act may be cited as the Legislative Council Act, Short Title and
1914, and shall form part of and be read together with the commencement,
Legislature Act, 1908 (hereinafter referred to as the principal Act).

(2.) This Act shall commence on the first day of January, nineteen hundred and *sixteen*.

Interpretation.

2. In this Act, if not inconsistent with the context,—

“ Council ” means the Legislative Council :

“ House ” means the House of Representatives :

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“ House of Parliament ” means either the Council or the House as the context requires :

“ Higher figure ” means a figure denoting a greater numerical value (for example, 2 is a higher figure than 1).

Regulations.

3. The Governor may from time to time, by Order in Council gazetted, make such regulations as are deemed necessary for the effective administration of this Act. 10

Constitution Act modified.

4. This Act shall have effect notwithstanding anything to the contrary in the Constitution Act, and that Act shall be construed subject to the provisions of this Act. 15

PART I.

POWERS OF THE COUNCIL AND HOUSE RESPECTIVELY.

Powers of Council with respect to proposed laws appropriating revenue or imposing taxation.

5. Proposed laws appropriating revenue or moneys or imposing taxation shall not originate in the Council. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licenses, or fees for services under the proposed law. The Council may not amend proposed laws imposing taxation or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government. The Council may not amend any proposed law so as to increase any proposed charge or burden on the people. The Council may at any stage return to the House any proposed law which the Council may not amend, requesting, by message, the omission or amendment of any items or provisions therein ; and the House may, if it thinks fit, make any such omission or amendment, with or without modifications. 20 25 30

Provisions to apply where Council refuses or fails to pass Money Bills.

6. (1.) If a Money Bill, having been passed by the House, and sent up to the Council at least one month before the end of the session, is not passed by the Council without amendment within one month after it is so sent up to the Council, the Bill shall, unless the House directs to the contrary, be presented to the Governor and become an Act of Parliament on the Governor's assent being signified, notwithstanding that the Council has not consented to the Bill. 35 40

Money Bill defined.

(2.) A Money Bill means a public Bill which, in the opinion of the Speaker of the House, contains only provisions dealing with all or any of the following subjects—namely, the imposition, repeal, remission, alteration, or regulation of taxation ; the imposition for the payment of debt or other financial purposes of charges on the Consolidated Fund, or on money provided by Parliament, or the variation or repeal of any such charges ; supply ; the appropriation, receipt, custody, issue or audit of accounts of public money ; the raising or guarantee of any loan or the repayment thereof ; or subordinate matters incidental to those subjects or any of them. 45 50

(3.) There shall be endorsed on every Money Bill when it is sent up to the Council, and when it is presented to the Governor for assent, the certificate of the Speaker of the House, signed by him, that it is a Money Bill.

Certificate of Speaker of House to be endorsed on Money Bills.

5 (4.) Any certificate of the Speaker of the House given under this section shall be conclusive for all purposes, and shall not be questioned in any Court of law.

(5.) In every Bill presented to the Governor under the preceding provisions of this section the words of enactment shall be as follows, that is to say:—

Words of enactment.

10 “Be it enacted by the King’s Most Excellent Majesty, by and with the advice and consent of the House of Representatives of New Zealand, in this present Parliament assembled, in accordance with the provisions of the Legislative Council Act, 1914, and by the authority of the same, as follows.”

(6.) Any alteration of a Bill necessary to give effect to the *last preceding* subsection shall not be deemed to be an amendment of the Bill.

20 7. (1.) If the House passes any public Bill, other than a Money Bill, which is sent up to the Council at least one month before the end of the session and the Council rejects or fails to pass it, or passes it with amendments to which the House will not agree, and if the House in the next session again passes the Bill, with or without any amendments which have been made or agreed to by the Council, and the Council rejects or fails to pass it within one month after it is sent up to the Council, or passes it with amendments to which the House will not agree, the Governor may during that session convene a joint sitting of the members of the two Houses of Parliament.

Disagreement between House and Council in respect to other public Bills.

30 (2.) The members present at such joint sitting may deliberate and shall vote together upon the Bill as last proposed by the House.

(3.) If the Bill as last proposed by the House is affirmed by the vote of a majority of the total number of members of both Houses of Parliament present at such joint sitting at the time when such vote is taken, it shall be deemed to have been duly passed by both Houses of Parliament.

40 (4.) If the Bill as last proposed by the House is not affirmed by the vote of a majority of the total number of members of both Houses of Parliament present at such joint sitting at the time when such vote is taken, the Governor may, if he thinks fit, dissolve both the Council and the House simultaneously:

45 Provided that the Governor shall not so dissolve the Council and the House simultaneously within the last six months of the period of three years referred to in subsection two of section thirteen of the principal Act.

8. In this Part of this Act the expressions “revenue,” “moneys,” “taxation,” “public money,” and “loan” respectively do not include the revenues or moneys of, or taxation to be levied by, or loans to be raised by a local authority.

Certain provisions not applicable to revenues, &c., of local authorities.

50 9. Except as provided in this Part of this Act, the Council shall have equal power with the House in respect of all proposed laws.

Powers of House and Council in respect to legislation.

PART II.

CONSTITUTION OF THE COUNCIL, AND ELECTORAL DIVISIONS.

Councillors to
be elected.

10. (1.) Subject to the provisions of this Act, members of the Council shall after the commencement of this Act be elected and not appointed. 5

(2.) The members of the Council so to be elected shall be elected in every electoral division hereinafter mentioned by the votes of those of the inhabitants of New Zealand who are entitled to vote at an election of a member of the House of Representatives in any electoral district within the electoral division. 10

Tenure of office of
members of Council.

11. Except as provided by this section, every elected member of the Council (other than a member elected by the Council to fill a vacancy as provided by section *twenty* or section *twenty-one* hereof) shall continue to hold his seat until the dissolution or expiry of the Parliament which takes place next after the expiration of five years from the date of his election, and no longer: 15

Provided that if the Governor under the powers conferred on him by section *seven* hereof dissolves both the Council and the House simultaneously the seat of every elected member of the Council shall be vacated by and at the date of the proclamation of such dissolution. 20

Dates of first
and subsequent
elections.

12. The first election of members to the Council shall take place simultaneously with the first election of members of the House held after the first day of January, nineteen hundred and *sixteen*; and, except as provided by this section, the next and every succeeding election of members of the Council shall take place simultaneously with the election of members of the House held next after the expiration of five years from the last preceding election of members of the Council: 25

Provided that if the Governor under the powers conferred on him by section *seven* hereof dissolves both the Council and the House simultaneously, an election of members of the Council shall be held simultaneously with the election of members of the House held consequent upon such dissolution. 30

Electoral divisions
for purposes of
Legislative Council
elections.

13. (1.) For the purpose of the election of members of the Council as aforesaid, New Zealand is hereby divided into four electoral divisions, to be known respectively as the First Electoral Division, the Second Electoral Division, the Third Electoral Division, and the Fourth Electoral Division. 35

(2.) The said electoral divisions shall, until altered by the Representation Commissions as provided by this Act, respectively comprise the electoral districts specified in the *second* column of the *First* Schedule hereto, opposite the name of each such electoral division. 40

(3.) The electoral districts referred to in the said *First* Schedule are the electoral districts as defined in the several Proclamations made by the Governor in pursuance of section twenty-two of the principal Act, and dated the twenty-sixth day of September, nineteen hundred and eleven. 45

Number of members
to be elected at first
election.

14. (1.) At the first election of members of the Council pursuant to this Act there shall be elected seven members for the First Electoral Division, seven for the Second Electoral Division, five for the Third Electoral Division, and five for the Fourth Electoral Division. 50

(2.) At every election after the first election there shall be elected forty members from the four electoral divisions in the numbers ascertained in the manner hereinafter provided. Until the Representation Commissions alter the boundaries of the electoral divisions the numbers to be elected at the second and subsequent elections shall be eleven from each of the First and Second Electoral Divisions, and nine from each of the Third and Fourth Electoral Divisions.

Number of members to be elected at subsequent elections.

15 15. Whenever the Representation Commissions divide New Zealand into electoral districts as provided by section twenty-two of the principal Act—

Rules for determining number of members for North and South Islands respectively.

15 (a.) The number of the European population in each Island being ascertained by the last preceding census, the number forty shall be divided into such two even numbers as most nearly represent the proportion which the number of the population in one Island bears to the number of the population in the other Island.

20 (b.) The Governor shall cause such division of the number forty to be made in such manner as he thinks fit, and shall cause notice of the result to be gazetted.

25 (c.) The total number of members to be elected to the Council for both Islands being forty, the total number to be elected from each Island shall be ascertained by the notice so gazetted.

30 16. The Representation Commissions for each Island, sitting together as a joint Commission, shall, immediately after the gazetting of the Proclamations determining the boundaries of the electoral districts, proceed to determine the boundaries of the electoral divisions in each Island, and the number of members to be elected by each electoral division, according to the following rules:—

Rules for determining the boundaries of electoral divisions, and the number of members to be returned by each such division respectively.

(a.) There shall be in each Island two electoral divisions.

35 (b.) The boundary between the First and Second and between the Third and Fourth Electoral Divisions respectively shall be one continuous line from sea to sea, consisting of the boundary or boundaries of one or more electoral districts, so that every electoral district shall be entirely within an electoral division.

40 (c.) The boundary shall be such as, in the opinion of the Commissions, provides, with the nearest approximation, that the proportion of the population in one electoral division to the population in the other electoral division in the same Island shall be the same as the proportion which the number of members to be elected for the first-mentioned electoral division bears to the number to be elected for the other electoral division in the same Island.

45 (d.) The number to be elected in every electoral division shall be an odd number.

50 (e.) When the total number to be elected by both electoral divisions from either Island is not a multiple of four, the number of members to be elected in each electoral division of that Island shall be the same.

55 (f.) When the total number to be elected by both electoral divisions from either Island is a multiple of four, the number of members to be elected by one of the electoral divisions in that Island shall exceed the number to be elected by the other electoral division in that Island by two.

Commissions to report to Governor and report to be gazetted.

17. The Representation Commissions as a joint Commission shall report to the Governor the boundaries of the electoral divisions fixed by them, and also the number of members ascertained and determined by them to be elected by each electoral division; and the Governor shall cause such report to be published in the *Gazette*, and such report shall have the force of law as from the date of such publication for the purposes of the election of members of the Council to be held next after such date. 5

Who may be elected.

18. (1.) Any person who under the provisions of the principal Act may be elected a member of the House, but no other, may be elected a member of the Council, except that a member of the House shall not be elected a member of the Council. 10

(2.) If any person is elected both for the Council and the House, or is elected a member of either House of Parliament while he is a member of the other, his seat in each such House of Parliament shall be vacated. 15

Failure to elect sufficient number of Councillors.

19. If at any election under this Act the number of candidates for any electoral division does not equal the number to be elected for that division, the Council shall, within twenty-one days from the day when it is next in session after such election, choose by ballot of all the members of the Council then present such number of persons qualified to be elected members of the Council as provided by section *eighteen* hereof as will, with the candidates elected, make up the number required, and such persons so chosen by the Council shall be and continue members of the Council for the same period as the candidates who were declared elected at such election after nomination. 20 25

Casual vacancies.

20. If the seat of any elected member of the Council becomes vacant during the term for which such member was elected, the Council shall, within twenty-one days from the day when it is next in session after the occurrence of such vacancy, choose by ballot of all the members of the Council then present a male person, not being a member of either House of Parliament, to fill such vacancy. A member so chosen shall retain his seat for as long as the member whose seat became vacant would have retained it if such vacancy had not occurred. 30 35

Provision for election in certain cases of additional members by members of Council.

21. (1.) If at any time before the first election at which the full number of forty members is elected, as provided by subsection *two* of section *fourteen* hereof, the number of members of the Council including (1) the members elected under the provisions of subsection *one* of section *fourteen* hereof, (2) the members then still holding seats by appointment as provided by section *twenty-three* hereof, (3) any Maori members appointed pursuant to section *twenty-two* hereof, and (4) any members elected under the provisions of section *nineteen* hereof, becomes less than forty, the Council may from time to time choose, by ballot of the members of the Council then present, persons qualified to be elected members of the Council as provided by section *eighteen* hereof to become members of the Council. 40 45

Total number of Councillors not to exceed forty.

(2.) The number so chosen shall not be more than shall suffice at the time of the choice to bring up the total number of members of the Council to forty. 50

Term of office of members elected under this section.

(3.) Members of the Council chosen under this section shall become members of the Council, and shall retain their seats until the

dissolution of Parliament next preceding the first election of forty members held pursuant to subsection *two* of section *fourteen* hereof, and no longer.

22. (1.) The Governor may from time to time, in His Majesty's name, by instrument under the Public Seal of New Zealand, summon to the Council male persons of the Maori race, not being persons disqualified pursuant to section two of the principal Act from holding seats in or of sitting or voting as members of the Council. The number of members holding office pursuant to this section shall not at any time exceed three.

Appointment of
Maori members of
Council.

(2.) Notwithstanding anything in section three of the principal Act, every person appointed a member of the Council under this section shall hold his seat therein for six years, to be reckoned from the date of the instrument of his appointment, and no longer; but every such person may from time to time be reappointed.

23. (1.) Every member of the Council who at the commencement of this Act holds an appointment for life shall continue to be a member of the Council, notwithstanding the passing of this Act, so long as he is qualified pursuant to the provisions of the principal Act.

Present members of
Council not affected
by this Act.

(2.) Every member of the Council who at the commencement of this Act holds an appointment for a term of years shall continue to be a member of the Council until the expiration of the term for which he was so appointed, notwithstanding the passing of this Act, so long as he is qualified pursuant to the provisions of the principal Act.

PART III.

ELECTION OF MEMBERS OF THE COUNCIL.

24. When pursuant to the provisions of this Act an election of members of the Council is required to be held simultaneously with an election of members of the House, the Clerk of the Writs shall, at the same time as he is required to issue writs for the election of members of the House, issue writs for an election of members of the Council. Such writs shall be in the same form (with the necessary modifications) as the writs issued for the election of members of the House, and shall be returnable within *forty* days.

Issue of writs.

25. (1.) The Governor shall, whenever necessary, appoint a Returning Officer for each electoral division and such other persons as he thinks fit to assist the Returning Officers at the official count.

Returning Officer.

(2.) Every such Returning Officer shall, before entering on the duties of his office, make and sign before a Justice of the Peace a declaration in the following form:—

“ I, A.B., do solemnly declare that I will well and truly serve our Sovereign Lord the King in the office of Returning Officer for the Electoral Division, and that I will not do anything forbidden by section one hundred and sixty-two of the Legislature Act, 1908, which has been read to me.

“ A.B.
“ Signed and declared before me, this day of
19 .

“ C.D.,
“ Justice of the Peace.”

(3.) Every Returning Officer appointed for the election of a member of the House shall be deemed to be an assistant to the Returning Officer appointed for the election of members of the Council, and is hereinafter referred to as an Assistant Returning Officer.

Candidate to be nominated by two electors.

26. (1.) Any male person who is qualified to be elected a member of the Council may, with his consent, be nominated as a candidate for election for any electoral division, by not less than two electors of that division, by a nomination-paper in the form numbered (1) in the *Second* Schedule hereto given or transmitted to the Returning Officer of the electoral division so as to reach him not later than noon of the *tenth* day before the day appointed for the poll.

(2.) The consent of any person to be nominated may be affixed to the nomination-paper, or may be signified to the Returning Officer by letter sent by post, or by an ordinary message by telegraph which shall be deemed to be delivered in time if delivered at the telegraph-office for transmission within the time hereinbefore limited.

Candidates to be nominated by separate nomination-paper.

(3.) Each candidate shall be nominated by a separate nomination-paper, in such manner as, in the opinion of the Returning Officer, is sufficient to identify the candidate.

(4.) An elector of any electoral division may subscribe as many nomination-papers as there are vacancies to be filled for that division, but no more.

(5.) Immediately on the close of the nominations the Returning Officer shall forward to the Chief Electoral Officer appointed under the principal Act, at Wellington, by telegraph or other expeditious means, the names of the several candidates nominated who have not withdrawn as hereinafter mentioned; and shall also advertise in the *Gazette* and in at least two newspapers circulating in the principal city or borough of each provincial district which is, or any part of which is, within the electoral division, in such manner as he deems most likely to give full publicity thereto, the names of those candidates, the number of members to be elected, and the day appointed for the poll.

Candidates to make deposit of ten pounds.

27. (1.) Every candidate, or some person on his behalf, shall, at the time of sending to the Returning Officer his consent to be nominated, deposit with the Returning Officer the sum of ten pounds, which sum shall be retained by the Returning Officer until after the official declaration of the poll.

Forfeiture of deposit in certain cases.

(2.) If upon the official count it appears that the number of ballot-papers upon which a figure indicating the order of preference has been placed in the square opposite the name of an unsuccessful candidate is less than one-fourth of the number constituting the quota as defined in the *Third* Schedule to this Act, the deposit shall be forfeited and paid into the Consolidated Fund, but otherwise it shall be returned to the person who paid it.

(3.) For the purpose of the *last preceding* subsection no figure higher than the number of members to be elected at the poll shall be counted. For example, if the poll is for the election of nine members no figure higher than nine shall for this purpose be counted.

(4.) It shall be the duty of the Returning Officer to ascertain in respect of each unsuccessful candidate whether the sum deposited by such candidate is forfeited under the provisions of this section. The Returning Officer shall, at or within seven days after the declaration
 5 of the result of the poll, publicly declare in the form numbered (6) in the *Second* Schedule hereto which (if any) of the sums deposited by unsuccessful candidates are found to be forfeited under the provisions of this section. Every such declaration by the Returning Officer shall be conclusive proof that the sum deposited by the unsuccessful
 10 candidates named in such declaration have been duly forfeited in accordance with the provisions of this section.

Returning Officer to make declaration as to forfeited deposits.

28. (1.) Any candidate may withdraw not later than the time limited for making nominations by giving or transmitting by letter to the Returning Officer a notice in the form numbered (2) in the
 15 *Second* Schedule hereto, signed by the candidate and attested by a Justice of the Peace.

Candidates may withdraw by notice to Returning Officer.

(2.) The Returning Officer shall forthwith publish such notice in such manner as he deems most likely to give full publicity thereto, and shall omit the name of every candidate whose name is withdrawn
 20 from the ballot-papers hereinafter mentioned.

(3.) For the purposes of the subsequent provisions of this Act a candidate who has withdrawn in manner aforesaid shall be deemed not to have been nominated.

(4.) Where a candidate duly withdraws, the sum deposited by
 25 him or on his behalf as prescribed in the *last preceding* section shall be returned to the person who paid it.

29. (1.) If the number of candidates nominated for any electoral division is equal to or less than the number to be elected by that division, the Returning Officer shall, by public notice on or before
 30 the day appointed for taking the poll, declare those candidates to be duly elected, and shall endorse their names on the writ, and forthwith return the writ to the Clerk of the Writs.

Procedure where number of nominations does not exceed number of members required.

(2.) If the number of candidates is less than the number to be elected, the number required shall be made up in the manner
 35 prescribed by section *nineteen* hereof.

30. (1.) If more candidates are nominated than the number to be elected, then a poll for deciding between the candidates shall be taken on the day fixed for the general election of members of the House, and simultaneously therewith.

Procedure for taking poll where required.

40 (2.) For the purposes of such poll the Returning Officer of the electoral division shall make provision for the supply to each Assistant Returning Officer within the electoral division of a sufficient number of ballot-papers for use at each polling-booth.

(3.) The ballot-papers shall be in the form numbered (3) in the
 45 *Second* Schedule hereto, and shall contain a list of the surnames and Christian names of all the persons nominated as candidates (each name being inserted once only, whether nominated in one or more nomination-papers), and of no other persons. The names shall be arranged alphabetically in order of the surnames, the
 50 surnames being printed in larger characters than the Christian names. Where two or more candidates have the same surname, they may be distinguished on the ballot-papers by the addition of such other matter as may be necessary to distinguish them.

(4.) A ballot-paper shall be given to every elector as nearly as practicable simultaneously with the ballot-paper for the election of a member of the House.

(5.) The ballot-papers shall be different in colour from the ballot-papers used for the election of members of the House and the voting-papers used for the licensing poll, and the ballot-boxes shall be such as to be readily distinguished from those used either for the election of members of the House or for the licensing poll. 5

(6.) The polling-places shall be the same as those used at the election of members of the House, and the Deputy Returning Officer at each polling-booth shall also be the Deputy Returning Officer for taking the poll under this Act. 10

Scrutineers not to be appointed.

31. (1.) No scrutineers shall be appointed by or to act on behalf of any candidate at an election of members of the Council, and the principal Act and the sections thereof and of the Legislature Amendment Act, 1910, referred to in this Act shall, with respect to such elections, be so read and interpreted as if all references to the appointment, rights, and duties of scrutineers were excluded therefrom. 15

Appointment, &c. of Supervisors.

(2.) The Council shall from time to time as required nominate by vote of the Council *eight* persons, *two* for each electoral division, to be Supervisors, and the Governor may appoint such persons to be Supervisors accordingly. The appointment of every Supervisor shall continue in force until another is appointed in his place. 20

(3.) The Supervisors for an electoral division shall, whenever practicable, be present at the official count by the Returning Officer of that electoral division, and shall have the rights, powers, and duties conferred and imposed on scrutineers appointed by candidates at an election for the House under the principal Act. Each of the Supervisors for an electoral division shall be deemed to act on behalf of all the candidates at and in relation to the official count for that electoral division; and the Returning Officer shall consider and determine every question relating to the ballot-papers or the official count submitted by the Supervisors, or either of them. 25 30

(4.) No election shall be void or in any manner affected by reason only of any failure to duly appoint Supervisors or of any failure of both or of one of the Supervisors for an electoral division to be present at the official count. 35

Electors to vote within the district where enrolled, or by absent voters' permits.

32. Except as provided by this section, an elector at a poll for the election of members of the Council shall vote only at some polling-booth in the electoral district within which he is entitled to vote at the election of a member of the House: 40

Provided that a holder of an elector's right or of a voting-permit may vote as provided in such behalf respectively by the principal Act and its amendments. 45

Method of recording votes.

33. In lieu of marking his ballot-paper in the manner prescribed by the principal Act in the case of elections of members of the House, the voter at an election under this Act shall place in the squares opposite the respective names of three candidates the figures 1, 2, and 3, so as to indicate the order of his preference. He may also indicate the order of his preference for as many of the other candidates (if any) as he pleases by placing in the squares opposite their re- 50

spective names other figures next in numerical order after those already used by him.

34. (1.) In this section, if not inconsistent with the context,— Procedure after closing of poll.

5 “Council ballot-papers” means the ballot-papers provided for a poll for the election of members of the Council:

“Council ballot-box” means the ballot-box provided for the reception of Council ballot-papers:

“House ballot-papers” means the ballot-papers provided for a poll for the election of a member of the House:

10 “House ballot-box” means the ballot-box provided for the reception of House ballot-papers.

(2.) As soon as practicable after the closing of the poll the Deputy Returning Officer shall make up into a separate parcel the counterfoils of all the Council ballot-papers that have been issued by
15 him.

(3.) The Deputy Returning Officer at each polling-booth, as soon as practicable after the closing of the poll, and after the opening of the House ballot-box, shall, in the presence of the poll-clerks, if any, and of such officers as are present, but not of any other person, open
20 the Council ballot-box, and, taking therefrom the ballot-papers, shall ascertain whether any House ballot-papers have been placed in such Council ballot-box, and shall cause such House ballot-papers, if any, to be placed in the House ballot-box.

(4.) The Deputy Returning Officer shall then replace in the
25 Council ballot-box all the Council ballot-papers, and shall also place therein the Council ballot-papers, if any, found in the House ballot-box, and shall then securely close the Council ballot-box.

(5.) As soon as practicable after the completion of the counting of the House ballot-papers the Deputy Returning Officer, in the
30 presence of the poll-clerks, if any, and of such officers as are present, but not of any other person, shall again open the Council ballot-box, and taking therefrom the ballot-papers shall set aside all informal ballot-papers, and shall ascertain in respect of each candidate the number of ballot-papers which are marked with the figure 1 opposite
35 the name of such candidate.

(6.) The number so ascertained in respect of each candidate shall be deemed, provisionally and until the official count, to be the number of first-preference votes recorded for that candidate at the polling-booth at which they were so recorded.

40 35. (1.) A ballot-paper is informal—

(a.) If there is reasonable cause to believe that it was not issued to a voter by the Deputy Returning Officer; or

(b.) If it has upon it any mark or writing by which the voter can be identified; or

45 (c.) If it has no vote indicated on it; or

(d.) If it has the same figure (being one of the figures 1, 2, or 3) opposite the names of more than one candidate; or

(e.) If the number of candidates marked in the order of the voter's preference is less than three.

50 (2.) A ballot-paper shall not be rejected as informal on any ground other than those stated in the *last preceding* subsection.

(3.) In particular a ballot-paper shall not be informal by reason only of—

Informal ballot-papers.

- (a.) A figure (not being one of the figures 1, 2, or 3) being placed opposite the names of more than one candidate; but the votes indicated by that figure or any higher figure shall not be effectual; or
- (b.) A figure (not being one of the figures 1, 2, or 3) being omitted in the numerical sequence of the order of the voter's preference; but the votes indicated by any figure higher than the figure so omitted shall not be effectual. 5

Result of voting to be announced.

36. Immediately after ascertaining the number of first-preference votes recorded for each candidate, the Deputy Returning Officer shall announce the result at the polling-booth at which he presides, and shall transmit the result by telegraph or other expeditious means to the Assistant Returning Officer of the electoral district who, on receipt of all such returns, shall ascertain therefrom the total number of first-preference votes received by each candidate within the electoral district, and transmit the result by telegraph or other expeditious means to the Returning Officer of the electoral division. 10 15

Deputies to make up books and papers in parcels.

37. (1.) The Deputy Returning Officer shall then forthwith make up into separate parcels— 20

- (a.) The used ballot-papers, together with (but in a separate enclosure) the ballot-papers set aside as informal under section *thirty-four* hereof;
- (b.) The ballot-papers set aside under section one hundred and thirty-two of the principal Act in its application to elections under this Act; 25
- (c.) The unused and spoilt ballot-papers;
- (d.) All books and papers kept and used by him during the polling, except the certified copy of the roll supplied to him on which is noted the fact that any elector has tendered his vote; and 30
- (e.) (i.) A statement, in the prescribed form, of the number of first-preference votes received by each candidate, and of the number of ballot-papers set aside as informal under section *thirty-four* hereof, or set aside as aforesaid under section one hundred and thirty-two of the principal Act; and 35
- (ii.) A statement, in the prescribed form, of the number of ballot-papers originally delivered to the Deputy Returning Officer, the number thereof delivered to and used by voters, the number of spoilt ballot-papers, and the number of ballot-papers not delivered to and used by voters. 40

(2.) The statements referred to in paragraph (e) of this section shall be prepared by the Deputy Returning Officer, and shall be signed by him. 45

(3.) Every parcel made up pursuant to section *thirty-four* hereof or to this section shall be sealed by the Deputy Returning Officer with his own seal, and shall be endorsed by him with a description of the contents thereof, the name of the electoral division, the name of the polling-booth, and the date of the polling; and such endorsement shall be signed by the Deputy Returning Officer. 50

(4.) The Deputy Returning Officer shall with all possible despatch deliver or transmit all the separate parcels referred to in the *last preceding* subsection to the Assistant Returning Officer of the electoral district who, on receipt of all such parcels, shall with
5 all possible despatch transmit the same to the Returning Officer of the electoral division.

38. (1.) Except where expressly provided in this Act, the procedure prescribed by the principal Act and its amendments for the conduct of elections of members of the House shall extend and
10 apply to elections of members of the Council; and, in particular, the following provisions shall, *mutatis mutandis*, so apply:—

Provisions of principal Act applied to elections of Councillors.

(a.) Sections eighty-seven to ninety-six, relating to seamen's rights;

15 (b.) Sections one hundred and three, and one hundred and four, relating to the issue of the writ:

Provided that in lieu of the notice required by section one hundred and four, notice shall be given in the form numbered (4) in the *Second Schedule* hereto;

20 (c.) Section one hundred and twelve, relating to candidates' meetings;

(d.) Sections one hundred and eighteen and one hundred and nineteen, relating to Deputy Returning Officers;

25 (e.) Sections one hundred and twenty-four to one hundred and twenty-eight, one hundred and thirty-one, and one hundred and thirty-two, relating to the ballot;

(f.) Sections one hundred and forty-eight, one hundred and forty-nine, and one hundred and fifty-one to one hundred and fifty-three, relating to proceedings after the poll;

30 (g.) Sections one hundred and fifty-four and one hundred and fifty-five, relating to the maintenance of order at elections;

(h.) Section one hundred and fifty-six, relating to the custody of ballot-papers;

35 (i.) Sections one hundred and fifty-seven to one hundred and sixty-four, relating to offences at elections;

(j.) Sections one hundred and sixty-nine to one hundred and seventy-six, relating to candidates' expenses;

40 (k.) Section thirty-eight of the *Legislature Amendment Act, 1910*, relating to the method of marking ballot-papers by Deputy Returning Officers; and

(l.) Sections forty to forty-three of the last-mentioned Act, relating to voting-permits.

(2.) In the application of the said provisions to elections of members of the Council—

45 (a.) Each electoral district constituted pursuant to the principal Act shall be deemed to be an electoral ward of the electoral division in which it is situated, and the provisions relating to seamen's rights and to absent voters' permits shall apply as if they were expressed to relate to electoral wards.

50 (b.) References to the Speaker shall be deemed to be references to the Speaker of the Council, and, unless the context

otherwise requires, references to a Returning Officer shall be deemed to be references to a Returning Officer appointed under this Act.

- (c.) Forms prescribed by the principal Act and its amendments may be so altered as to adapt them to the circumstances under this Act. 5

Election petitions
in cases of elections
under this Act.

39. Part V of the principal Act shall apply, *mutatis mutandis*, to the election of members of the Council, with the following amendments and modifications, that is to say:—

- (a.) The specific grounds on which the complaint of an election petition is founded shall be one or both of the following grounds, and no other:—

(i.) Corrupt or illegal practice by one or more candidate or candidates, or by an agent or agents of a candidate or candidates: 15

(ii.) That a member elected was not duly qualified to be so elected.

- (b.) The Election Court shall not examine or inquire into any matter relating to the constitution of electoral divisions, the number of members to be elected, the rolls, the acts or defaults of a Returning Officer, an Assistant Returning Officer, or a Deputy Returning Officer, or the official count; nor shall the Election Court hold or direct any recount or scrutiny of votes. 20

- (c.) The Election Court shall not have power to disallow any vote. 25

- (d.) Paragraphs (f) and (g) of section one hundred and ninety-six and section two hundred and twelve shall not apply.

- (e.) Subject to the provisions of the principal Act as modified and amended by this Act, the Election Court shall have jurisdiction to inquire into and adjudicate on any matter relating to a petition as it thinks fit, and at the conclusion of the trial shall determine, as the case may require, according to the specific grounds alleged in the petition, whether the member whose return or election is complained of was or was not guilty, by himself or his agent, of any corrupt or illegal practice, or was or was not a person qualified to be elected, and shall forthwith certify in writing such determination to the Speaker of the Council, and upon such certificate being given such determination shall be final and conclusive to all intents and purposes. 30 35 40

- (f.) Where the Election Court determines that the election of a member was void, the vacancy shall be filled in the manner provided by section *twenty* hereof as if such member had been elected and as if his seat had become vacant on the date of the certificate of such determination by the Election Court to the Speaker. 45

Official Count of the Votes and Declaration of Poll.

Official count of
the votes.

40. (1.) On completion of the scrutiny of the rolls, as directed by sections one hundred and forty-two and one hundred and forty-three 50

of the principal Act, the Assistant Returning Officer shall, in the prescribed form, forward the result thereof to the Returning Officer of the electoral division.

(2.) On receipt of the results of every such scrutiny conducted within the electoral division, the Returning Officer, with such assistance as he deems necessary, shall proceed as follows:—

(a.) He shall open separately each of the parcels of ballot-papers mentioned in paragraph (a) of subsection *one* of section *thirty-seven*, and, after setting aside all informal ballot-papers, shall count the number of first-preference votes recorded for each candidate on the ballot-papers contained therein, and shall compare the result of the count in respect of each parcel with the corresponding statement mentioned in paragraph (e) of the last-mentioned section. The Returning Officer shall, where necessary, amend any such statement, and every such statement (whether amended or not) shall be initialled by the Returning Officer.

(b.) The Returning Officer shall then deal in like manner with all absent-voters' ballot-papers and seamen's ballot-papers, and shall count the number of first-preference votes recorded thereon for each candidate.

(c.) The Returning Officer shall then count the votes in accordance with the rules set out in the *Third* Schedule hereto.

41. (1.) The count of the votes by the Returning Officer may be adjourned from time to time as the Returning Officer deems necessary. Count may be adjourned.

(2.) Each adjournment and also the time and place for the continuation of the count shall be announced to the Supervisors and officers by the Returning Officer.

(3.) Before any such adjournment the room containing all ballot-papers and other documents connected with the count shall be securely locked up by the Returning Officer, and all receptacles containing such ballot-papers and other documents shall also be securely locked up within such room under the seal of the Returning Officer.

42. As soon as conveniently may be after the counting of the votes has been completed the Returning Officer shall publicly declare in the form numbered (5) in the *Second* Schedule hereto the result of the poll, and the persons therein declared to be elected shall be deemed to be elected accordingly. Public declaration of the poll.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

ELECTORAL DIVISIONS FOR LEGISLATIVE COUNCIL ELECTIONS.

| Names of Electoral Divisions. | Electoral Districts comprised in Electoral Divisions. |
|-------------------------------|---|
| First Electoral Division | Bay of Islands, Marsden, Kaipara, Waitemata, Parnell, Auckland West, Auckland Central, Auckland East, Grey Lynn, Eden, Manukau, Thames, Franklin, Raglan, Ohinemuri, Tauranga, Waikato, Taumarunui, Bay of Plenty, Gisborne, Hawke's Bay. |
| Second Electoral Division | Stratford, Taranaki, Egmont, Patea, Waimarino, Wanganui, Rangitikei, Oroua, Waipawa, Napier, Pahiatua, Palmerston, Otaki, Masterton, Wairarapa, Hutt, Wellington Suburbs and Country District, Wellington North, Wellington Central, Wellington East, Wellington South. |
| Third Electoral Division | Motueka, Nelson, Wairau, Buller, Grey, Westland, Hurunui, Kaiapoi, Riccarton, Avon, Christchurch East, Christchurch North, Christchurch South, Lyttelton, Ellesmere, Selwyn, Ashburton. |
| Fourth Electoral Division | Temuka, Timaru, Waitaki, Wakatipu, Otago Central, Oamaru, Chalmers, Dunedin North, Dunedin West, Dunedin Central, Dunedin South, Bruce, Clutha, Mataura, Invercargill, Awarua, Wallace. |

SECOND SCHEDULE.

(1.) NOMINATION-PAPER.

To the Returning Officer for the _____ Electoral Division.
 WE, the undersigned electors of the _____ Electoral Division, do hereby nominate A. B., of [Address and occupation], with his consent, as a candidate at the election of members of the Legislative Council for the aforesaid electoral division, the poll wherefor is appointed for the _____ day of _____, 19 ____.

Dated at _____, this _____ day of _____, 19 ____.

C. D. } [Full names, addresses, and occupations
 E. F. } of two or more electors nominating.]

I, A. B., do hereby consent to the above nomination.

A. B., of [Residence and occupation].

(2.) NOTICE OF WITHDRAWAL FROM CANDIDATURE.

To the Returning Officer for the _____ Electoral Division.
 I, the undersigned, hereby give notice that I withdraw my name as a candidate at the election of members of the Legislative Council for the _____ Electoral Division.

Dated at _____, this _____ day of _____, 19 ____.

[Signature.]

[Address.]

Signed in the presence of—

[Occupation.]

C. D., Justice.

(3.) BALLOT-PAPER.
(Front.)

1201

| | |
|--|--|
| | BROWN, Charles James, Nelson. |
| | CAMPBELL, Arthur Peter, Hokitika. |
| | CLARK, Alfred, Ashburton. |
| | EVANS, John George, Dunedin. |
| | GIBBS, Mark John, Dunedin. |
| | JONES, Thomas, Christchurch. |
| | LEWIS, Edward William, Lawrence. |
| | MASON, Frederick, Invercargill. |
| | MURPHY, Samuel John, Christchurch. |
| | REID, Herbert Thomas, Motueka. |
| | SMITH, Joseph, Kaiapoi [<i>Contractor</i>]. |
| | SMITH, William, Riccarton [<i>Solicitor</i>]. |

DIRECTIONS.

The voter must not strike out the name of any candidate.

The voter must place within the squares respectively opposite the names of three candidates the numbers 1, 2, and 3, so as to indicate the order of his preference.

The voter may, in addition, indicate the order of his preference for as many more candidates as he pleases by placing within the squares respectively opposite their names other numbers next in numerical order after those already used by him.

The ballot-paper is to be folded so that the contents cannot be seen, and the official mark on the back having been shown to the Deputy Returning Officer, the ballot-paper is to be put into the proper ballot-box by the voter.

This ballot-paper is not to be taken out of the polling-booth.

Back.)

Consecutive No. :

To be entered here and also on the top left-hand corner of the back of ballot-paper.

No. on Roll :

To be entered here only.

Stamp across the perforation so that the number of the polling-place shall appear on both the counterfoil and the ballot-paper.

Official

Mark.

Initials of
Deputy Returning Officer :

(4.) NOTICE OF POLLING-DAY.

IN pursuance of the Legislative Council Act, 1914, I, A. B., Returning Officer for the Electoral Division, do hereby give notice that, by virtue of a writ bearing date the day of , 19 , under the hand of the Clerk of the Writs, an election will be held for the return of qualified persons to serve as members of the Legislative Council for the said division.

Every man desirous of becoming a candidate must be nominated by not less than two electors of the division, by a nomination-paper as prescribed by section 24 of the said Act, delivered to me on or before noon on the day of , 19 .

The poll, if necessary, will be taken on the same day as the poll for the election of members of the House of Representatives, and the polling-places will be the same as those appointed for that election.

Dated this day of , 19 .

A. B.,
Returning Officer for the Electoral Division.

(5.) DECLARATION OF RESULT OF POLL.

I, A. B., Returning Officer for the Electoral Division, do hereby declare that at the poll taken on the day of , 19 , for the election of members of the Legislative Council for the said electoral division the following candidates secured the quota :—

[Set out names of candidates, and other particulars, as appearing on ballot-paper.]

I therefore declare the said candidates to be duly elected.

Dated at , this day of , 19 .

A. B.,
Returning Officer.

(6.) FORFEITURE OF DEPOSIT.

I, A. B., Returning Officer for the Electoral Division, do hereby declare that at the poll taken on the day of , 19 , for the election of members of the Legislative Council for the said electoral division the deposits of the following candidates have been forfeited pursuant to the provisions of the Legislative Council Act, 1914.

[Set out names and other particulars, as appearing on ballot-paper, of candidates whose deposits are forfeited.]

Dated at this day of , 19 .

A. B.,
Returning Officer.

THIRD SCHEDULE.

METHOD OF COUNTING VOTES.

In this Schedule, unless the contrary intention appears,—

- “Quota” means the number of votes sufficient to elect a candidate :
- “Surplus” means the number of votes which a candidate has obtained, at any stage of the scrutiny, over and above the quota :
- “First choice recorded for a candidate” means a voting-paper on which the number 1 is placed in the square opposite the name :
- “Second choice recorded for a candidate” means a voting-paper on which the number 2 is placed in the square opposite his name :
- “Transfer value” means that portion of a vote which is unused by—
- (a.) An elected candidate who has obtained a surplus :
- (b.) A candidate excluded on account of his being lowest on the poll, and which is therefore transferred to the candidate next in order of the voter’s preference. The transfer value of all votes is either 1 or some fraction of 1.
1. The number of first choices recorded for each candidate shall be counted, and all informal voting-papers shall be rejected.
 2. The aggregate number of such first choices shall be divided by one more than the number of candidates required to be elected, and the quotient increased by one. disregarding any remainder, shall be the quota, and (except as hereinafter provided in rule 10) no candidate shall be elected until he obtains a number of votes equal to or greater than the quota.
 3. Any candidate who has, upon the first choices being counted, a number of such votes equal to or greater than the quota shall be declared elected.
 4. Where the number of such votes obtained by any candidate is equal to the quota, the whole of the voting-papers on which a first choice is recorded for such elected candidate shall be set aside as finally dealt with.
 5. Where the number of such votes obtained by any candidate is in excess of the quota, the proportion of votes in excess of the quota shall be transferred to the other candidates not yet declared elected, next in the order of the voters’ respective preferences, in the following manner :—
 - (i.) All the voting-papers on which a first choice is recorded for the elected candidate shall be re-examined, and the number of second choices, or (in the case provided for in rule 12) third or next consecutive choices, recorded for each unelected candidate thereon shall be counted :
 - (ii.) The surplus of the elected candidate shall be divided by the total number of votes obtained by him on the counting of the first choices, and the resulting fraction shall be the transfer value :
 - (iii.) The number of second or other choices, ascertained in paragraph (i) to be recorded for each unelected candidate, shall be multiplied by the transfer value :
 - (iv.) The resulting number, disregarding any fractional remainder, shall be credited to each unelected candidate, and added to the number of votes obtained by him on the counting of the first choices.
 6. (a.) Where, on the counting of the first choices or on any transfer, more than one candidate has a surplus, the largest surplus shall be first dealt with. If then more than one candidate has a surplus, the then largest surplus shall be dealt with, and so on : Provided that if one candidate has obtained a surplus at a count or transfer previous to that at which another candidate obtains a surplus, the surplus of the former shall be first dealt with.

(b.) Where two or more surpluses are equal, the surplus of the candidate who was the highest on the poll at the count or transfer at which they last had an unequal number of votes shall be first dealt with ; and if they have had an equal number of votes at all preceding counts or transfers, the Returning Officer shall decide which candidate’s surplus shall be first dealt with.
 7. (a.) Where the number of votes obtained by a candidate is raised up to or above the quota by a transfer as aforesaid, he shall thereupon be declared elected ; and in such case, notwithstanding the fact that he may have reached the quota, such transfer shall be completed, and all the votes to which he is entitled therefrom shall be transferred to him, but no votes of any other candidate shall be transferred to him.

(b.) Where the number of votes obtained by a candidate is raised up to, but not above, the quota by a transfer as aforesaid, the whole of the voting-papers on which such votes are recorded shall be set aside as finally dealt with.

First choice of each candidate to be counted.

To find the quota.

Candidates who have the quota to be declared elected.

If first choices exactly equal to quota, voting-papers to be set aside.

If a surplus, surplus to be transferred.

Voting-papers re-examined and second choices counted.

Find the transfer value.

Multiply second choices by transfer value.

Add result on.

If more than one surplus, largest to be first dealt with.

If surpluses equal, last difference to decide.

If transfer raises candidate up to or above quota, he to be declared elected.

If votes exactly equal to quota, voting-papers to be set aside.

If surplus created, surplus to be transferred.

Voting-paper of last transfer re-examined and third choices counted.

Find the transfer value.

Multiply third choices by transfer value.

Add result on.

When all surpluses dealt with candidate lowest on poll to be excluded and his votes transferred.

First choices to be transferred first.

Then other votes in order.

Each transfer deemed a separate transfer.

If transfer raises candidate up to quota, he to be declared elected.

If votes exactly equal to quota, voting-papers to be set aside.

If surplus created, surplus to be transferred.

Surpluses to be dealt with before further exclusion.

Process of exclusion to be repeated until there remains number of candidates required.

If lowest candidates equal, last difference to decide.

If a candidate elected or excluded, his name not considered on voting-paper. Exhausted votes.

(c.) Where the number of votes obtained by a candidate is raised above the quota by a transfer as aforesaid, his surplus shall be transferred to the candidates next in the order of the voters' respective preferences, in the following manner:—

(i.) The voting-papers on which are recorded the votes obtained by the elected candidate in the last transfer shall be re-examined, and the number of third, or (in the case provided for in rule 12) next consecutive choices recorded for each unelected candidate thereon counted:

(ii.) The surplus of the elected candidate shall be divided by the total number of voting-papers mentioned in paragraph (i) and the resulting fraction shall be the transfer value:

(iii.) The number of third (or other) choices, ascertained in paragraph (i) to be recorded for each unelected candidate, shall be multiplied by the last-mentioned transfer value:

(iv.) The resulting number, disregarding any fractional remainder, shall be credited to each unelected candidate, and added to the number of votes previously obtained by him.

8. (a.) Where, after the first choices have been counted and all surpluses (if any) have been transferred as hereinbefore directed, no candidate, or less than the number of candidates required to be elected, has or have obtained the quota, the candidate who is lowest on the poll shall be excluded, and all the votes obtained by him shall be transferred to the candidates next in the order of the voters' respective preferences, in the same manner as is directed in rule 5.

(b.) The votes obtained by such excluded candidate as first choices shall first be transferred, the transfer value of each vote in this case being 1.

(c.) The other votes of such excluded candidate shall then be dealt with in the order of the transfers in which, and at the transfer value at which, he obtained them.

(d.) Each of the transfers which takes place under the two previous clauses of this rule shall be deemed for all purposes to be a separate transfer.

9. (a.) Where the number of votes obtained by a candidate is raised up to or above the quota by any such transfer as aforesaid, he shall thereupon be declared elected. And in such case, notwithstanding the fact that he may have reached the quota, such transfer shall be completed, and all the votes to which he is entitled therefrom shall be transferred to him, but no other votes shall be transferred to him.

(b.) Where the number of votes obtained by a candidate is raised up to, but not above, the quota by any such transfer as aforesaid, the whole of the voting-papers on which such votes are recorded shall be set aside as finally dealt with.

(c.) Where the number of votes obtained by a candidate is raised above the quota by any such transfer as aforesaid, his surplus shall be transferred to the candidates next in the order of the voters' respective preferences in the same manner as is directed in rule 7, clause (c): Provided that such surplus shall not be dealt with until all the votes of the excluded candidate have been transferred.

(d.) Where any surplus exists it shall be dealt with before any other candidate is excluded.

10. The same process of excluding the candidate lowest on the poll and transferring to other candidates his votes shall be repeated until all the candidates, except the number required to be elected, have been excluded, and the unexcluded candidates, who have not already been so declared, shall then be declared elected.

11. Where at any time it becomes necessary to exclude a candidate, and two or more candidates have the same number of votes and are lowest on the poll, then whichever of such candidates was lowest on the poll at the last count or transfer at which they had an unequal number of votes shall be first excluded, and if such candidates have had an equal number of votes at all preceding counts or transfers the Returning Officer shall decide which candidate shall be first excluded.

12. In determining what candidate is next in the order of the voters' preference, any candidates who have been declared elected or who have been excluded shall not be considered, and the order of the voters' preference shall be determined as if the names of such candidates had not been on the voting-paper.

13. Where on any transfer it is found that on any voting-paper there is no candidate opposite whose name a number is placed, other than those who have been already either declared elected or excluded, such voting-paper shall be set aside as exhausted.