

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE.]

House of Representatives, 23rd September, 1913.

Hon. Mr. Herdman.

LOCAL ELECTIONS AND POLLS AMENDMENT.

ANALYSIS.

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A BILL INTITULED

AN ACT to amend the Local Elections and Polls Act, 1908.

Title.

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

1. This Act may be cited as the Local Elections and Polls Amendment Act, 1913, and shall form part of and be read together with the Local Elections and Polls Act, 1908 (hereinafter referred to as the principal Act).

Short Title.

2. Section seven of the principal Act is hereby amended by omitting the word "seven," and substituting the word "ten."

Section 7 of principal Act amended.

3. The assent of any person to his nomination as a candidate may, notwithstanding anything in section eight of the principal Act, be signified to the Returning Officer, within the time limited for making nominations, by writing sent by post or affixed to the nomination-paper, or by telegraph, and any such telegram shall be deemed to be delivered in time if delivered at the telegraph-office for transmission within the time limited for making nominations.

How assent to nomination may be given.

4. (1.) Section twenty-six of the principal Act is hereby amended by inserting the following subsection:—

Section 26 of principal Act amended.

"(1A.) Immediately after ascertaining the number of votes recorded for each candidate, the Returning Officer or Deputy Returning Officer, as the case may be, shall announce the result of the voting at the polling-place of which he is in charge."

(2.) The said section is hereby further amended by omitting from subsection two the words "who shall make up the whole number of votes received by each candidate at the election."

Section 26 of principal Act further amended.

Preliminary count
of votes.

5. (1.) Immediately after ascertaining the number of votes received by each candidate the Returning Officer and each Deputy Returning Officer shall make up into a packet all the voting-papers used by him at the polling-place at which he presided, and shall seal the same and indorse it with a description of its contents, the name of the district, the name of the polling-place, and the date of the polling; and such indorsement shall be signed by the Returning Officer or Deputy Returning Officer, as the case may be. 5

(2.) Each Deputy Returning Officer shall deliver the said packet to the Returning Officer, together with the copy of the roll on which the fact of any person having received a voting-paper has been noted, as prescribed by section twenty-three of the principal Act. 10

Scrutiny of the
rolls.

6. (1.) The Returning Officer shall make arrangements for a scrutiny of the rolls as soon as practicable after the close of the poll, and shall give notice in writing to each of the candidates or their scrutineers of the time and place at which he will commence the scrutiny. 15

(2.) No person other than the Returning Officer and his assistants, and one person appointed as scrutineer by each candidate for the purpose, shall be present at the scrutiny. 20

(3.) No candidate shall act as scrutineer under this section.

Marked copies of
rolls to be
compared.

7. (1.) The Returning Officer shall, in the presence and hearing of such scrutineers as are present, compare one with another all the certified copies of rolls on which the fact of any person having received a voting-paper has been noted. 25

(2.) If on such comparison it appears that the same person has received a voting-paper at two or more polling-places, the Returning Officer shall, in the presence of such scrutineers as choose to be present, open the packets of voting-papers used at the several polling-places at which such person appears to have received a voting-paper, and shall select therefrom the voting-papers on which the number corresponding to the name of that person appears, and shall disallow every vote appearing to have been given by means of the voting-papers so selected. 30

(3.) Upon and after the opening of such packets the Returning Officer shall abstain from inspecting the faces of the voting-papers in the several packets so opened, other than the voting-papers selected therefrom, and shall take care that the faces of the same are not seen by any person present. 35

Packets to be sealed
up after scrutiny.

8. (1.) When the Returning Officer has selected from any packet all the voting-papers he is required to select therefrom, he shall forthwith, in the presence of the scrutineers, close and seal up the said packet, and shall indorse thereon a memorandum of the fact of such voting-papers having been selected from such packet, specifying the same by the name of the person to whom the same appear to have been delivered, and shall sign the indorsement with his name. 40 45

(2.) The Returning Officer shall set aside all voting-papers selected by him from any packet, as herein provided, and shall, in the presence of the scrutineers, seal up the same in a separate packet, and shall indorse the same with a description of the contents thereof, and shall sign the indorsement with his name. 50

Official count and
declaration of poll.

9. (1.) On completion of the scrutiny hereinbefore directed, the Returning Officer with such assistance as he deems necessary, and

in the presence of such scrutineers as are present, shall open all the packets of voting-papers used at the election, and setting aside all informal papers shall ascertain the total number of votes received by each candidate at the election, and shall declare those candidates, not exceeding the number of vacancies to be filled, who have received the highest number of votes to be duly elected.

(2.) Where there is an equality of votes between candidates, and the addition of a vote would entitle any of those candidates to be declared elected, the Returning Officer shall determine by lot which candidate shall be elected.

(3.) For the purposes of this section a voting-paper shall be deemed to be informal,—

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

(b.) If anything not authorized by the principal Act is written or marked thereon by which the voter can be identified; or

(c.) If the number of candidates for whom the elector has voted exceeds the number of candidates to be elected; or

(d.) If the candidates for whom the elector desired to vote are not clearly indicated thereon:

Provided that a voting-paper shall not be deemed informal merely on the ground of some informality in the manner in which it has been dealt with by the elector if it is otherwise regular, and if in the opinion of the Returning Officer the intention of the elector in voting is clearly indicated.

10. (1.) Where any candidate has reason to believe that the public declaration by the Returning Officer of the number of votes received by each candidate is incorrect, and that on a recount thereof such first-mentioned candidate might be found to be elected, he may within three days after such public declaration apply to a Magistrate for a recount of the votes.

(2.) Every such application shall be accompanied by a deposit of ten pounds.

(3.) The Magistrate shall, as soon as practicable after receiving the application and deposit as aforesaid, cause a recount of the votes to be made, and shall give at least two days' public notice of the time and place at which the recount will be made.

(4.) At the recount the Returning Officer shall produce to the Magistrate all the voting-papers used at the election.

(5.) The recount shall be made in the presence of the Magistrate, or of an officer appointed by him for the purpose, and shall, as far as practicable, be made in the manner provided in the case of the original count, and the provisions of subsection *three* of section *seven* hereof, relating to the secrecy of the ballot, shall, *mutatis mutandis*, apply to such recount.

(6.) If on the recount the Magistrate finds that such public declaration was incorrect, he shall order the Returning Officer to give an amended public declaration of the total number of votes received by each candidate as disclosed by such recount, and the candidates then found to have received the highest number of votes, not exceeding the number of vacancies to be filled, shall be declared to be elected.

(7.) The Magistrate may make such order as to the costs of and incidental to the recount as he deems just, and, subject to any such order, shall direct the deposit made under this section to be returned to the person who made the same.

Disposal of voting-papers.

11. (1.) As soon as practicable after the day of the polling the Returning Officer shall make up into one packet all the packets of voting-papers used at the election and all the copies of the roll marked as provided by section twenty-three of the principal Act, and shall seal the packet and indorse it with a description of its contents and the date of the polling, and shall sign such indorsement, and shall transmit the packet to the Clerk of the nearest Magistrate's Court, who shall keep the same for six months thereafter, and shall not open the packet or permit the same to be opened, except on the order of some Court of competent jurisdiction, and shall at the end of six months effectually destroy the same.

(2.) Every person who opens any such packet or destroys the same or any of the contents thereof, except as provided by the *last preceding* subsection, is liable to a fine of *fifty* pounds.

Repeals.

12. (1.) Sections twenty-seven, twenty-eight, and twenty-nine of the principal Act, and section seven of the Municipal Corporations Amendment Act, 1910, are hereby repealed.

(2.) Section thirty-six of the principal Act is hereby amended by omitting the words "the final declaration thereof by the Returning Officer," and substituting the words "the close of the poll."

Extended hours of polling.

13. An Order in Council made under the authority of section seventeen of the principal Act may provide for the extension of the hours of polling at all polls to be taken in the district of the local authority, or may apply to any specified poll.

Provisions as to polls other than elections.

14. (1.) Except where otherwise specially provided, the provisions of the principal Act and of this Act as to elections shall, so far as applicable and with the necessary modifications, extend and apply to polls other than elections.

Repeal.

(2.) Section forty-four of the principal Act is hereby repealed.

Offences at Elections.

Influencing voters.

15. Every person is liable to a fine not exceeding *twenty* pounds who at an election—

(a.) In any way interferes with any elector, either in the polling-booth or while on his way thereto, with the intention of influencing him or advising him as to his vote; or

Printing or distributing mock voting-papers.

(b.) Prints or distributes or delivers to any person, on the day of the poll, or at any time during the three days immediately preceding the poll, anything being or purporting to be in imitation of any voting-paper to be used at the poll and having thereon the names of the candidates, or any of them, together with any direction or indication as to how any person should vote, or in any way containing such direction or indication, or having thereon any matter likely to influence any vote; or

Making public demonstration.

(c.) During the hours in which the poll is being taken makes any public demonstration having reference to the poll by means of living figures, effigies, paintings, placards, or other like means.

16. Every person is liable to a fine not exceeding *fifty* pounds or to imprisonment for any period not exceeding *three* months who, at any time after public notice has been given pursuant to section seven of the principal Act of any election and before the close of the poll, publishes or exposes, or causes to be published or exposed, to public view any document, or writing, or printed matter containing any untrue statement defamatory of any candidate and calculated to influence the vote of any elector.

Publishing defamatory matter at election-time.

17. Every person is liable to a fine not exceeding *fifty* pounds who erases, obliterates, or alters any official mark, stamp, or writing on the back of any voting-paper, or places thereon any writing, print, or other matter which might lead persons to believe that the same was put thereon by any officer or person duly authorized in that behalf.

Erasing, &c., official mark on voting-paper.

18. (1.) Every person is liable, if a Returning Officer or Deputy Returning Officer, or an officer or clerk in attendance at a polling-booth, to *two years'* imprisonment, with or without hard labour, and, if any other person, to *six months'* imprisonment, who—

Offences in respect of voting-papers and ballot-boxes.

(a.) Forges, or counterfeits, or fraudulently defaces, or fraudulently destroys any voting-paper, or the official mark on any voting-paper; or

(b.) Without due authority supplies any voting-paper to any person; or

(c.) Puts into any ballot-box any paper other than the voting-paper that he is authorized by law to put therein; or

(d.) Obtains possession of or has in his possession any voting-paper other than the one given him by the Returning Officer for the purpose of recording his vote or retains in his possession any voting-paper after leaving the polling-booth; or

(e.) Without due authority destroys, takes, opens, or otherwise interferes with any ballot-box or box or packet of voting-papers then in use for the purposes of the election, or in course of transmission by post or otherwise, or thereafter wherever the same may be kept as a record of such election.

(2.) Every person is liable to *two years'* imprisonment who—

(a.) Votes or offers to vote more than once at the same election;

(b.) Fraudulently abstracts any voting-paper that has been put into the ballot-box;

(c.) Is guilty of bribery, personation, treating, or undue influence at any election.

(3.) Every person is liable to a fine not exceeding *fifty* pounds who wilfully makes a false answer to any question the Returning Officer is authorized to put to him.

(4.) Section thirty-three of the principal Act is hereby repealed.

19. (1.) Sections two hundred and fifteen to two hundred and eighteen of the Legislature Act, 1908, are hereby incorporated in this Act, but modified by omitting the words "to serve in the House of Representatives" in paragraphs (c) and (d) of the said section two hundred and fifteen.

Sections 215 to 218 of Legislature Act, 1908, incorporated.

(2.) Section thirty-four of the principal Act is hereby repealed.

Repeal.

20. In any indictment or other prosecution for an offence in relation to the ballot-boxes, voting-papers, or marking-instruments at an election the property in such papers, boxes, and instruments may be stated to be in the Returning Officer at that election.

Property may be stated as being in Returning Officer

Infringement of
secrecy.

21. (1.) Every officer, clerk, scrutineer, interpreter, and constable in attendance at a polling-booth shall maintain and aid in maintaining the secrecy of the voting in such booth, and shall not communicate to any person, except for some purpose authorized by law, before the poll is closed, any information likely to defeat the secrecy of the ballot. 5

(2.) No person, except as provided by the principal Act or this Act, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling-booth information as to the candidate for whom any voter in such booth is about to vote or has voted, or communicate at any time to any person any information obtained in a polling-booth as to the candidate for whom any voter at such booth is about to vote, or has voted, or as to the number on the back of the voting-paper given to any voter at such booth. 10 15

(3.) Every person in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular voting-paper. 20

(4.) No person shall, directly or indirectly, induce any voter to display his voting-paper after he has marked the same, so as to make known to any person the name of the candidate for or against whom he has voted.

(5.) Every person who offends against this section is liable, on summary conviction before two Justices, to *six* months' imprisonment with or without hard labour. 25

Validity of Elections.

Election not invalid
by reason of certain
irregularities.

22. (1.) An election or poll shall not be questioned by reason only of any defect in the title or any want of title of the person by or before whom the election or poll was held, if such person was actually appointed or was acting in the office giving a right to preside at that election or poll. 30

(2.) An election or poll shall not be declared invalid by reason of any irregularity in any of the proceedings preliminary to the polling, or by reason of any failure to hold a poll at any place appointed for holding a poll, or to comply with the directions contained in the principal Act or this Act as to the taking of the poll or the counting of the votes, or by reason of any mistake in the use of the forms contained in the Second Schedule to the principal Act, if it appears to the Magistrate having cognizance of the question that the election or poll was conducted in accordance with the principles laid down in the principal Act, and that such irregularity, failure, or mistake did not affect the result of the election or poll. 35 40

Validation of
certain
irregularities.

23. Where anything is omitted to be done or cannot be done at the time required by or under the principal Act, or is done after such time, or is otherwise irregularly done in matter of form, or sufficient provision is not made by or under that Act, the Governor may, by Order in Council gazetted, at any time before or after the time within which such thing is required to be done, extend such time, or may validate anything so done after the time required or so irregularly done in matter of form, or make other provision for such case as he thinks fit. 45 50