

Hon. Sir J. G. Ward.

LOCAL ELECTIONS.

ANALYSIS.

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A BILL INTITULED

AN ACT to consolidate and amend the Law relating to Local Elections, and to the Taking of Polls on Proposals submitted to the Vote of Local Electors. Title.

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

## Short Title.

1. The Short Title of this Act is "The Local Elections Act, 1904," and it shall come into operation on the first day of January, one thousand nine hundred and *five*.

## Interpretation.

1876, No. 26. s. 2.

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

"District" means the district comprised within the jurisdiction of a local authority, and includes the riding of a county, the ward of a borough, and any other subdivision of a district for electoral purposes : 5

"Election" means election to any office in, under, or in connection with any local authority required by law to be filled by the election of the electors, ratepayers, or other constituency of any district : 10

"Elector," and "voter," mean any person entitled under any law for the time being in force to vote at an election, or on a proposal, as the case may be : 15

"Extraordinary vacancy" means a vacancy occurring in any elective office otherwise than at a time and in a manner specified by law :

"Local authority" means the Council of a borough or county, Road Board, Town Board, or any other elective or partly elective body to which this Act is made to apply : 20

"Minister" means the Minister of the Crown for the time being administering this Act :

"Ordinary vacancy" means a vacancy occurring in any elective office at a time and in a manner specified by law : 25

"Public notice" means publication in a newspaper commonly circulating in the district ; and if there is no such newspaper, publication by placards posted in conspicuous places throughout the district :

"Roll" means any roll made in the manner provided by law, containing the names of the persons entitled to vote at an election. 30

## Elections, &amp;c., to be taken under this Act.

Ibid, sec. 5.

3. Subject to the provisions of any Act by which this Act is made to apply, every election, and every poll on a proposal to be submitted to the vote of the electors *under any such Act*, shall be held and taken in the manner provided by this Act. 35

## Returning Officer.

Ibid, sec. 6.

4. For every district there shall be a Returning Officer appointed by the local authority, who shall hold office until his removal by such local authority, resignation, incapacity, or death, in any of which events the local authority shall appoint a Returning Officer in his stead. 40

## Returning Officer to appoint substitute when unable to act.

Ibid, sec. 7.

5. (1.) Every election and every poll on any proposal shall be held or taken by the Returning Officer, but if from any cause he is unable to fulfil the duties of his office at any election or poll, he shall by writing under his hand appoint a substitute, who, for all the purposes of that election or poll, shall be deemed to be the Returning Officer. 45

1888, No. 10, s. 2.

(2.) If at any time, either before or during an election or poll, a Returning Officer who is unable to act fails to appoint a substitute as aforesaid, the local authority may appoint a substitute, who for the purposes of that election or poll shall be deemed to be the Returning Officer. 50

(3.) No member of the local authority shall be appointed or shall act as Returning Officer, or as his substitute, and no Returning Officer or his substitute shall be capable of being a candidate at any election to be held by him or by his substitute in virtue of his office.

1876, No. 26, s. 9.

5 6. Every Returning Officer and every substitute for a Returning Officer shall, before entering on the duties of his office, make and sign before a Justice, or before the Chairman of the local authority, a declaration in the form numbered (1) in the *First* Schedule hereto.

Returning Officer's declaration.

Ibid, sec. 8.

*Regulation of Elections.*

10 7. Not less than fourteen clear days before any election to fill an ordinary vacancy, the Returning Officer shall give public notice thereof, and shall in such notice appoint a place within the district, and a day not less than five nor more than seven days (exclusive of the day of election) before the election, for the nomination of candidates : Provided that—

Notice of election.

Ibid, sec. 10.

15 (a.) Where a local authority has its public office outside the limits of its district, such public office shall be deemed to be within the limits of the district for all purposes incident to or connected with an election ; and

1888, No. 10, s. 3.

20 (b.) No election shall be liable to be questioned by reason only that any nomination of candidates, taking of votes, or declaration of the poll, has occurred at any place outside the district affected by such election, or that any polling-place was appointed outside the said district, if

25 such public office or polling-place has been actually appointed.

8. No person shall be deemed to be a candidate for any local elective office unless nominated as follows : A nomination-paper, in the form numbered (2) in the *First* Schedule hereto, signed by two, but not more than three, electors of the district and by the candidate, in token of his assent to such nomination, shall be delivered to the Returning Officer, or addressed to him and delivered at the place named in the said notice, at any time after the publication thereof and before noon of the day appointed therein.

Nomination of candidates.

1876, No. 26, s. 11.

1888, No. 10, s. 4 (1).

35 9. At the hour of noon on the said day, or as soon thereafter as practicable, the Returning Officer shall post the names of all the candidates so nominated in a conspicuous public place outside the place appointed in the said notice.

Names of candidates to be posted.

1876, No. 26, s. 12.

1888, No. 10, s. 4 (2).

40 10. If the number of the candidates does not exceed the number of vacancies to be filled, the Returning Officer shall, at the place and on the day so appointed, publicly declare the candidate or candidates so nominated to be duly elected to the office or offices to be filled at the election then being held.

If number of candidates equal to vacancies, candidates to be declared elected.

1876, No. 26, s. 13.

45 11. (1.) If the number of candidates exceeds the number of offices then to be filled, the Returning Officer shall forthwith give public notice of the day on which the poll is to be taken, of the names of the several candidates, and of the situation of the polling-booths.

If number of candidates exceeds vacancies, Returning Officer to give notice of poll.

Ibid, sec. 14.

50 (2.) The day on which the poll is to be taken shall be the day appointed for holding the election as hereinbefore provided.

Candidate may retire.  
1876, No. 26, s. 15.

12. (1.) If a candidate at an election signs and delivers to the Returning Officer, not later than ~~two~~ three clear days before the polling day, a paper in the form numbered (3) in the *First* Schedule hereto, stating that such candidate retires from the election, the Returning Officer shall give public notice thereof; and if by such retirement the number of candidates is reduced to the number of vacancies to be filled, the Returning Officer shall publicly declare the remaining candidates to be duly elected; but if the said number of candidates is not so reduced, the poll shall proceed, but the person so retiring shall not be capable of being elected. 5

Ibid, sec. 19.

(2.) If a candidate retires after the voting-papers have been printed, the Returning Officer shall, before the poll, erase his name from every voting-paper. 10

Appointment of Deputy Returning Officers and poll-clerks.  
Ibid, secs. 17, 22.

13. (1.) The Returning Officer may appoint as many Deputies and poll-clerks as he deems necessary for the effective taking of the poll at every polling-booth. 15

(2.) Every such Deputy shall have and may exercise in and about the polling-booth for which he is appointed all the powers and duties of the Returning Officer.

Ibid, sec. 23.  
1888, No. 10, s. 4 (3).

(3.) Every Deputy Returning Officer shall, before acting as such, make and subscribe before the Returning Officer a declaration in the form numbered (1) in the *First* Schedule hereto; and every poll-clerk shall, before acting, make and subscribe before the Returning Officer, or the Deputy Returning Officer at the booth at which he is to act, a declaration in the form numbered (4) in the said Schedule. 20

Booths, ballot-boxes, voting-papers, &c.  
1876, No. 26, s. 18.

14. The Returning Officer shall provide the following things for taking the poll:— 25

(a.) One or more rooms for polling-booths, and in each booth one or more inner compartments, separated from but opening into the booth, and having no other opening: 30

(b.) In each booth a ballot-box, having a lock and key, and a slit in the upper side by which the voting-papers may be put into the box:

(c.) In each booth one or more copies of the roll for the district, and a sufficient number of voting-papers: 35

(d.) In each inner compartment pencils for the use of the voters.

Form of voting-papers.  
Ibid, sec. 19.

15. The voting-papers shall be printed on paper of uniform colour, and shall be in the form numbered (5) in the *First* Schedule hereto, and shall bear the imprint of the person who printed them.

Scrutineers.  
Ibid, sec. 20.

16. (1.) Each candidate may, by writing under his hand, appoint one scrutineer for each polling-booth at any election. 40

Declaration of scrutineers.  
Ibid, sec. 21.

(2.) Every scrutineer shall, before being allowed to act, make and subscribe before the Returning Officer, or the Deputy Returning Officer at the polling-booth for which he is appointed, a declaration in the form numbered (4) in the *First* Schedule hereto. 45

Duration of poll.  
Ibid, sec. 16.

17. The poll at every election shall commence at nine o'clock in the forenoon of the day appointed, and shall close at six o'clock in the afternoon of the same day:

*New proviso.*

Provided that the Governor may, on the application of any local authority, by Order in Council gazetted, extend the hour at which the poll shall close in the district of such local authority to seven o'clock. 50

Ballot-box to be kept locked during poll.  
Ibid, sec. 24.

18. The Returning Officer shall, before the opening of the poll, and in the sight of any scrutineers present, see that the ballot-box is empty, and shall close and lock it, and retain the key in his pos- 55

session, and the ballot-box shall not again be opened till after the close of the poll.

19. Not more than six voters shall be allowed in a polling-booth or more than one voter in any inner compartment at one and the same time, and no person shall be allowed to remain in any polling-booth except the Returning Officer and his clerks, any of the scrutineers, and as many constables as the Returning Officer thinks necessary to keep the peace.

Persons not to remain in polling-booth.  
1876, No. 26, s. 25, 33

20. (1.) No scrutineer or other official or unofficial person shall speak to any voter in a polling-booth either before or after such voter has given his vote, except only the Returning Officer (with an interpreter, if necessary), who may ask the questions he is authorised to put, and give such general directions as may assist any voter to give his vote.

Voters not to be spoken to in booth.  
1888, No. 10, sec.

(2.) Every person who offends against this section is liable to a fine not exceeding *twenty* pounds, and may be at once removed from the booth by order of the Returning Officer.

21. Every person proposing to vote shall inform the Returning Officer of his name, and the Returning Officer having satisfied himself, by reference to the roll, that such person is entitled to vote, and has not already voted, shall deliver to him one voting-paper for every vote he is entitled to give.

Returning Officer to give voting-papers to voter.  
1876, No. 26, sec. 27

22. (1.) The Returning Officer may, and if so required by any scrutineer shall, before giving any voting-paper, put the following questions to any person proposing to vote:—

Questions may be put to voter.  
Ibid, sec. 30

(a.) "Are you the person whose name appears as A. B. in the roll now in force for this borough [*or as the case may be*], being enrolled in respect of [*Here read the description in the roll*]?"

(b.) "Are you twenty-one years of age?"

(c.) "Are you still possessed of the qualification in respect of which you are enrolled?"

(d.) "Have you already voted at this election?"

(2.) Any person to whom such questions are put who does not answer the same, or does not answer the first three in the affirmative and the fourth in the negative, shall not be permitted to vote.

23. (1.) Before giving any voting-paper the Returning Officer shall write upon the left-hand corner of the back thereof his initials, and the number appearing on the roll against the name of the voter to whom he gives the paper, and, after securing the said corner by gum or otherwise, shall place thereon an official mark, and shall draw a line in pencil or ink through the number and name of such voter on the roll, as evidence that he has proposed to vote at such election.

Before given, voting-paper to be marked.  
Ibid, secs. 28, 29

(2.) At elections where any voter is entitled to give more than one vote, the Returning Officer shall also write *on the roll* against the name of the voter a number denoting the number of voting-papers given to him.

24. (1.) The voter, having received the voting-paper or papers, shall immediately retire into one of the inner compartments provided, and shall there alone and secretly on each voting-paper indicate the candidate or candidates for whom he desires to vote by marking a cross in a square set opposite to the name of each such candidate:

Voter, how to vote.  
Ibid, sec. 31

Provided that no voting-paper shall be rejected as informal that clearly indicates the candidate or candidates for whom the voter intended to vote, whether such indication is made in the manner prescribed by this section or by striking out the names of the candidate or candidates for whom the voter did not intend to vote.

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(2.) Every voter shall, before leaving the inner compartment, fold the paper so that the contents cannot be seen, and shall then deposit it so folded in the ballot-box.

Struck out.

Provision where voter is blind, or cannot write. 1888, No. 10, sec. 6.

25. If any voter is blind, or physically incapacitated from reading or writing, or so desires, the Returning Officer, and if necessary an interpreter, shall retire with him into the inner compartment, and there make up the voting-paper according to the instruction of the voter; and the Returning Officer shall sign his own name at the foot thereof.

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New.

or is unable to read or write, and so desires, the Returning Officer shall, together with not more than two scrutineers if present, and if necessary an interpreter, retire with him into the inner compartment and there make up the ballot-paper according to the instruction of the voter, and such Returning Officer shall sign his own name at the foot thereof.

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At close of poll, numbers to be made up from voting-papers. 1876, No. 26, sec. 34

26. (1.) Immediately on the close of the poll, the Returning Officer and each of his Deputies, if any, shall, in the presence of the poll-clerks, if any, and of such of the scrutineers as may be present, open their respective ballot-boxes and ascertain from the voting-papers deposited therein the number of votes received by each candidate; and shall, upon and after such opening, both abstain himself from inspecting the writing on the back of the voting-papers and take care that the same is not seen by any person present.

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(2.) The Deputy Returning Officer shall forthwith send the said number of votes received by each candidate at the election.

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Candidates having most votes to be declared to be elected. Ibid, sec. 35

27. (1.) As soon as conveniently may be on or after the day of the poll, the Returning Officer shall give public notice of the number of votes received by each candidate, and shall declare those candidates, not exceeding the number of vacancies then to be filled, who have received the highest number of votes to be duly elected.

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(2.) Where there is an equality of votes between candidates, and the addition of a vote would entitle any of such candidates to be declared elected, the Returning Officer shall give a casting-vote, but shall not otherwise vote at the election.

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Voting-papers to be sealed up and sent to Returning Officer. Ibid, sec. 36

28. Immediately after the close of the poll, the Returning Officer and each Deputy Returning Officer shall seal up all the voting-papers used at his booth, together with the copy of the roll marked as above provided; and each Deputy shall deliver such packet, indorsed with the name of the booth, to the Returning Officer.

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Returning Officer to send the whole to Clerk of Magistrate's Court. Ibid, sec. 37

29. (1.) The Returning Officer shall seal up all such packets, and transmit the whole to the Clerk of the nearest Magistrate's Court, who shall keep the same for six months thereafter, and shall not open or permit to be opened such packet, except on the order of some competent Court; and shall, at the end of six months, effectually destroy the same.

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(2.) Every person who, save on the order of any such Court, opens any such packet or destroys any of the contents thereof is liable to a fine not exceeding fifty pounds.

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30. (1.) Every Deputy Returning Officer shall be personally responsible for the safe custody of all voting-papers used at the polling-booth at which he presides from the time each voting-paper was placed in the ballot-box by the voter until the parcel of used ballot-papers has been delivered to the Returning Officer as prescribed by section *twenty-eight* hereof, and the Deputy Returning Officer has obtained from the Returning Officer a receipt in writing for the same, which receipt the Returning Officer is in all cases required to give on such delivery.

Safe custody of  
voting-papers.

(2.) In like manner every Returning Officer shall be personally responsible for the safe custody of all voting-papers used at the polling-booth at which he presides until the same have been dealt with in the manner prescribed by section *twenty-nine* hereof, and also for the safe custody of all parcels of used voting-papers for which he has given a receipt under the *last preceding* subsection until the same have been dealt with by him as aforesaid.

(3.) Every Returning Officer or Deputy Returning Officer who on any inquiry under section *forty-five* hereof is reported by the Court as having failed to take reasonable steps to secure the safe custody of all voting-papers for which he is responsible, and thereby any such voting-paper was removed from his custody, shall be liable to a fine not exceeding *fifty* pounds or to *six* months' imprisonment.

31. Every Returning Officer shall have power to enforce order and keep the peace at any election, and may, without other warrant than this Act, cause to be arrested and taken before a Justice any person reasonably suspected of knowingly and wilfully making a false answer to any of the questions the Returning Officer is authorised to put, or who attempts to personate any voter, or attempts unlawfully to vote more than once at the same election, or obstructs the approaches to any polling-booth, or otherwise behaves in a disorderly manner or causes disturbance at any election; and all constables shall aid and assist the Returning Officer in the performance of his duty.

Returning Officer's  
power to keep the  
peace.  
1876, No. 26, sec. 38.

32. If the proceedings at any polling-booth are interrupted or obstructed by riot or violence, the Returning Officer or Deputy Returning Officer may adjourn the polling at such booth to the following day, and if necessary may so adjourn the polling from day to day till the riot ceases, when he shall again proceed therewith.

Poll to be adjourned  
when riot takes  
place.  
Ibid, sec. 39.

33. Every person is liable to two years' imprisonment, with or without hard labour, who—

Double voting, &c.  
Ibid, sec. 40.

(a.) Wilfully makes a false answer to any question the Returning Officer is authorised to put;

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

(c.) Personates any person for the purpose of polling at any election;

(d.) Puts into the ballot-box any voting-paper not given to him by the Returning Officer;

(e.) 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 any voting-paper in his possession after leaving the polling-booth.

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

(g.) Is guilty of bribery at any election.

"Bribery" defined.  
1876, No. 26, sec. 41

34. Every person is guilty of bribery who, whether before or after any election,—

- (a.) Gives or procures, or agrees or promises to give or procure, to or for any person, any money or valuable consideration, or any place, office, or employment, in order to induce such person or any other person to vote or abstain from voting, or in consideration that any person has voted or abstained from voting, at such election; or 5
- (b.) Receives or agrees to receive any money, valuable consideration, or any place, office, or employment, in consideration of voting or abstaining from voting, or of having voted or abstained from voting, or in consideration of any other person voting or having voted, or abstaining or having abstained from voting. 10

Illegal nomination,  
&c.  
Ibid, sec. 42.

35. Every person is liable to a fine not exceeding *twenty* pounds who,— 15

- (a.) Procures himself to be nominated as a candidate for any elective office knowing himself to be incapable under the provisions of any Act of holding such office; or
- (b.) Signs any nomination-paper purporting to nominate to any such office a person who is, to the knowledge of the person so signing, incapable under any Act of holding such office; or 20
- (c.) Signs any nomination-paper, knowing himself not to be qualified to vote at the election of the candidate so nominated; or 25
- (d.) Gives or causes to be given to any voter on the day of polling, on account of such voter having polled or being about to poll, any meat, drink, or entertainment by way of refreshment, or any money or ticket to enable such voter to obtain refreshment. 30

Disclosing poll, &c.  
Ibid, sec. 43.

36. Every Returning Officer, Deputy Returning Officer, Scrutineer, Clerk, or other person, who makes known the state of the poll or gives or pretends to give any information by which the state of the poll may be known before the final declaration thereof by the Returning Officer, or who makes known for what candidate any voter has voted, is liable to a fine not exceeding *fifty* pounds. 35

Penalty on  
Returning Officers.  
Ibid, sec. 44.

37. Every Returning Officer or Deputy Returning Officer who is guilty of any wilful or negligent act of commission or omission contrary to the provisions of this Act in respect of any election, and for which no other penalty is imposed by this Act, is liable to a fine not exceeding *fifty* pounds. 40

If no candidate  
returned, to be an  
extraordinary  
vacancy.  
Ibid, sec. 45; 1888,  
No. 10, sec. 4 (4)

38. If at any election to fill any vacancy in any office no person is nominated or returned, or a less number of persons are returned than there are vacancies to be filled, any vacancy remaining unfilled shall be deemed to be an extraordinary vacancy occurring on the day appointed for the nomination or election. 45

Election to  
extraordinary  
vacancy.  
1876, No. 26, sec. 46.

39. (1.) In the case of any extraordinary vacancy in an elective office, the Clerk or proper officer of the local authority shall forthwith give notice of such vacancy to the Returning Officer, and the Returning Officer shall forthwith, by public notice, appoint a day, not less than twenty nor more than twenty-five clear days from the occurrence of such vacancy, for the election to fill the same; and shall in such notice appoint a place and a day, not less than five nor more than seven days (exclusive of the day of election) before the election, for receiving the nomination of candidates. 50 55



(2.) Except as provided by this section, all the proceedings in an election to fill an extraordinary vacancy shall be the same as in the case of an ordinary vacancy.

5 40. All reasonable costs and expenses incident to any election, except expenses of the scrutineers and other expenses incurred by or on behalf of candidates, shall be paid out of the revenues at the disposal of the local authority.

Costs of election.  
1876, No. 26, s. 47.

*Regulation of Polls other than Elections.*

10 41. Not less than fourteen clear days before any poll on a proposal to be submitted to the vote of the electors entitled to vote thereon (hereinafter referred to as "a poll"), the Returning Officer shall give public notice thereof.

Notice of poll to be given.

15 42. The voting-papers shall be in the form numbered (6) in the First Schedule hereto, and shall be printed on paper of uniform colour; and where ~~more than one election or~~ an election and a poll are held simultaneously the voting-papers in each case shall be different in colour.

Form, &c., of voting-paper.

43. Scrutineers may be appointed in the following manner:—

Appointment of scrutineers.

20 (a.) The Chairman of the local authority taking the poll may, by writing under his hand, appoint a scrutineer for each or any polling-booth, and the scrutineer so appointed shall be deemed to be a scrutineer for the proposal to be submitted at the poll:

25 (b.) Any five of the electors ~~opposed to the proposal to be submitted~~ may, by writing under their hands addressed to the Returning Officer, and delivered to him not less than ~~two~~ three clear days before the poll, nominate a scrutineer for each or any polling-booth:

30 (c.) Where not more than one person is nominated as scrutineer under paragraph (b) for any polling-booth, that person shall be deemed to be a scrutineer against the proposal to be submitted:

35 (d.) Where more than one person is nominated as aforesaid for any polling-booth the Returning Officer shall select from the persons so nominated a scrutineer for that booth, and shall notify his selection to all the persons nominated for that booth, and the person so selected shall be deemed to be a scrutineer against the proposal to be submitted.

40 44. Subject to the two last preceding sections, the proceedings at a poll shall be the same as in the case of an ordinary election, and such of the provisions of sections seven to forty hereof as are applicable shall, *mutatis mutandis*, extend and apply to the taking of the poll.

Other proceedings as at ordinary election.

*Disputed Elections and Polls.*

45 45. (1.) Where any candidate and ~~two~~ five electors, or where any ~~six~~ ten electors, are dissatisfied with the result of any election or poll held or taken under this Act, or under any Act to which this Act or any part thereof is applied, they may within fourteen days after the declaration of the result of the election or poll, by petition filed in the Court as hereinafter mentioned, demand an inquiry as to the conduct of the election or poll, or of any candidate or other person thereat.

Petition for inquiry.  
Cf. 1876, No. 26, s. c. 48.

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

From of petition.

(3.) Such petition shall be in such one of the forms in the *Second Schedule* hereto as is applicable, or to the like effect, and shall be filed in the Magistrate's Court nearest to the principal polling-place at the election or poll to be inquired into, and shall be heard and determined before any Magistrate exercising jurisdiction at that Court. 5

Specified grounds only to be investigated. Cf. 1876, No. 26, sec. 51. Recriminatory evidence.

46. The petition shall allege the specific grounds on which the complaint is founded, and no grounds other than those stated shall be investigated *except by leave of the Magistrate and upon reasonable notice being given, which leave may be given on such terms and conditions as the Magistrate deems just* : 10

Provided that, in the case of an election, evidence may be given to prove that the election of any *rejected* candidate (~~other than the candidate whose election is petitioned against~~) would be invalid in the same manner as if the petition had complained of his election; and, in the case of a poll, evidence may be given to prove that some proposal other than that declared to be carried *was carried and not rejected or was rejected and not carried*. 15

Who may be respondent.

47. Any candidate, in the case of an election, or any six electors, in the case of a poll, may, at any time before the commencement of the inquiry, file in the Court in which the petition is filed a notice in writing of his or their intention to oppose the petition, and thereupon the candidate or electors giving such notice shall be deemed to be the respondent or respondents to the petition. 20

Time for holding inquiry. 1876, No. 26, sec. 49.

48. The inquiry shall be commenced within fourteen days after the filing of the petition, and not less than seven days' public notice shall be given of the time and place at which the inquiry will be held. 25

Powers of Magistrate. Cf. 1876, No. 26, secs. 50, 52.

49. For the purposes of the inquiry the Magistrate shall have and may exercise all the powers of citing parties, compelling evidence, and maintaining order he would have in his ordinary jurisdiction, and, in addition, may at any time during the inquiry direct a recount or scrutiny of the votes given at the election or poll, and shall disallow the vote of every person who— 30

- (a.) Has voted, not being entitled to vote; or 35
- (b.) Has given more votes than he was entitled to give.

Result of inquiry.

50. The Magistrate shall determine whether, by reason of some irregularity that in his opinion ~~tended materially to affect~~ *materially affected* the result of the election or poll, the election or poll is void; or whether, in the case of an election, the candidate whose election is complained of, or any and what other candidate, was duly elected; or whether, in the case of a poll, any and what proposal was duly carried. 40

Persons committing irregularities to be named in report.

51. (1.) On any such inquiry the Magistrate ~~may~~ *shall* report in writing to the Minister the names of all persons found to have been guilty of any irregularity at or in connection with the election or poll, and shall state in such report whether or not in his opinion any such irregularity ~~tended to defeat~~ *defeated* the fairness of the election or poll, and whether or not such irregularity ~~tended materially to affect~~ *materially affected* the result thereof. 50

And liable to fine.

(2.) Every person so named shall (unless some specific penalty is elsewhere prescribed) be liable,—

- (a.) Where the irregularity ~~tended~~ in the opinion of the Magistrate *materially to affect* ~~affected~~ the result of the election or poll, to a fine not exceeding *one hundred pounds*; or 55

(b.) Where such irregularity did not in the opinion of the Magistrate ~~tend~~ materially to affect the result, but ~~tended to defeat~~ defeated the fairness of the election or poll, to a fine not exceeding *twenty* pounds; or

(c.) Where such irregularity did not in the opinion of the Magistrate ~~tend~~ either materially to affect the result or to defeat the fairness of the election or poll, to a fine not exceeding *five* pounds.

52. (1.) The Magistrate may order that the expenses of and incident to the inquiry shall be borne either by the parties petitioning or by the respondents, or, where it declares the election or poll void on the ground or partly on the ground of any negligence or misfeasance of any Returning Officer or other person acting officially at the election or poll, may order that such expenses or any part thereof shall be borne by that Returning Officer or other person; *and such order shall have the same effect and may be enforced in like manner as if it were a judgment for a sum of money obtained under "The Magistrates' Courts Act, 1893," in the Magistrate's Court in which the petition is filed:*

Costs of inquiry.  
Cf. 1876, No. 26,  
sec. 55.

Provided that no such order shall be made against any person who has not been cited as a party or summoned to attend and give evidence at the inquiry.

(2.) Subject to any such order the Court shall direct that the deposit ~~paid~~ accompanying any petition under section *forty-five* hereof shall be returned to the person who paid the same, *unless the Magistrate is of opinion that the petitioners have failed to establish the grounds specified in their petition, or any other grounds investigated by leave of the Court, in which case the deposit shall be forfeited to the Crown.*

53. Where an election or poll is declared void, a fresh election or poll shall, on a day to be fixed by the Returning Officer, being not later than twenty-five days after the date of such declaration, be held or taken under the same provisions, so far as practicable, as the voided election or poll.

Fresh election or  
poll.  
Cf. 1876, No. 26,  
sec. 56.

54. Every determination or order under this Act shall be final and conclusive, and no such determination or order shall be removed by *certiorari* or otherwise into the Supreme Court, nor shall any writ of *quo warranto* issue for trying therein the validity of any election.

Order to be final.  
1876, No. 26,  
sec. 57.

#### Miscellaneous.

55. No polling-booth shall be in any house licensed under "The Licensing Act, 1881," or in any premises belonging to such house.

Polling-booth not to  
be on licensed  
premises.  
1876, No. 26,  
sec. 18 (1).

56. All fines under this Act may be recovered in a summary way before any two Justices.

Fines recoverable  
summarily.

57. Where any unrepealed Act incorporates or refers to "The Regulation of Local Elections Act, 1876," or any of its provisions, such unrepealed Act shall be deemed to incorporate or refer to this Act, or to the provisions corresponding to those repealed.

Ibid, sec. 58.  
References to  
repealed Act.

58. The enactments mentioned in the *Third* Schedule hereto are hereby repealed:

Repeals.

Provided that any proceedings taken before the commencement of this Act for any election or poll and not then completed shall be deemed to have been taken under this Act.

## Schedules.

## SCHEDULES.

## FIRST SCHEDULE.

Sections 6, 13 (3).  
1876, No. 26,  
First Schedule.

## (1.) DECLARATION BY RETURNING OFFICER OR DEPUTY RETURNING OFFICER.

I, A. B., do solemnly declare that I will faithfully and impartially, according to the best of my skill and judgment, exercise and perform all the powers and duties reposed in or required of me by "The Local Elections Act, 1904," as Returning Officer [or Deputy Returning Officer] for the [naming the district]; and I solemnly promise that I will not, directly or indirectly, disclose any fact coming to my knowledge at any election or poll which I am required by the said Act not to disclose.

A. B.

Declared and signed before me, at  
this                    day of                    , 19                    .  
C. D., Justice of the Peace.  
[or Chairman of the above-named district,  
or Returning Officer.]

Section 8.  
Ibid, Second  
Schedule.

## (2.) NOMINATION PAPER.

To the Returning Officer of [Name the district].  
WE, A. B. and C. D., being two duly-qualified electors for the [Name the district], hereby nominate X. Y. as a candidate for the office of [Name the office], at the present election.

Signed, this                    day of                    , 19                    .

A. B., Elector.

C. D., Elector.

I HEREBY consent to this nomination.

X. Y., Candidate.

Received at the hour of                    on the                    day of                    , 19                    .  
M. N., Returning Officer.

Section 12.  
Ibid, Third  
Schedule.

## (3.) NOTICE OF RETIREMENT OF A CANDIDATE.

To the Returning Officer of [Name the district].  
I HEREBY give notice that I withdraw my name as a candidate at the election for the office of [Name the office], to which I was nominated on the                    day of                    19                    .

X. Y., Candidate.

Received at the hour of                    on the                    day of                    , 19                    .  
M. N., Returning Officer.

Sections 13 (3), 16 (2).  
Ibid, Fifth  
Schedule.

## (4.) DECLARATION OF POLL-CLERKS AND SCRUTINEERS.

I, A. B., Poll-clerk [or Scrutineer for C. D., a candidate] at the present election for the office of                    [or, at the present poll], do solemnly declare that I will observe the provisions of "The Local Elections Act, 1904," relating to the office of Poll-clerk [or Scrutineer]; and I solemnly promise that I will not, directly or indirectly, disclose any fact coming to my knowledge at such election [or poll] which I am forbidden by the said Act to disclose.

A. B.,

Poll-clerk [or Scrutineer for C. D.].

Declared and signed before me,  
this                    day of                    , 19                    .  
M. N., Returning Officer.  
[or Deputy Returning Officer.]

(5.) VOTING-PAPER AT AN ELECTION.

Section 15.

[Name of District.]

ELECTION OF MAYOR [or of Nine Councillors, or as the case may be.]

VOTING-PAPER.

<b>ARMSTRONG, Thomas.</b>	
<b>BURTON, Gerald.</b>	
<b>HORNSBY, William.</b>	
<b>McKENZIE, Donald, Ironmonger.</b>	
<b>McKENZIE, Donald, Grocer.</b>	
<b>SHAW, Thomas.</b>	

*Directions.*

The voter is to mark a cross in the square set opposite to the name or names of the candidate or candidates for whom he desires to vote.

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

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

(6.) VOTING-PAPER AT A POLL ON A PROPOSAL.

Section 42.

[Name of District.]

PROPOSAL to [State full particulars of the proposal.]

<b>For the Proposal.</b>	
<b>Against the Proposal.</b>	

DIRECTIONS.

If the voter desires to vote *for* the proposal he must mark a cross in the square at the end of the line "For the proposal." If he desires to vote *against* the proposal he must mark a cross in the square at the end of the line "Against the proposal."

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

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

Section 45.

## SECOND SCHEDULE.

## PETITION FOR INQUIRY.

(1.) *On an Election.*

In the matter of an election to the office of \_\_\_\_\_ for the [State district], held on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

THE petition of the undersigned electors of the [State district]—namely, A. B., of \_\_\_\_\_, C. D., of \_\_\_\_\_, &c.

1. Your petitioners state that the said election was held on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, when A. B., X. Y., and S. T. were candidates, and the Returning Officer has returned S. T. as being duly elected.

2. And your petitioners say that [State the facts and grounds on which the petitioners rely].

Wherefore your petitioners pray that it may be determined that the said S. T. was not duly elected, and that the election was void [or that the said A. B. was duly elected, and ought to have been so declared].

A. B.,  
C. D.,  
&c.

(2.) *On a Poll, not being an Election.*

In the matter of a poll under "The [State Act under which the proposal was submitted], held in the [State district] on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

THE petition of the undersigned electors of the [State district]—namely, A. B., of \_\_\_\_\_, C. D., of \_\_\_\_\_, &c.

1. Your petitioners state that the said poll was held on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, on the proposal [Set out proposal], and that the Returning Officer has declared the said proposal to be carried [or rejected].

2. And your petitioners say that [State the facts and grounds on which the petitioners rely].

Wherefore your petitioners pray that it may be determined that the said proposal was rejected and not carried [or was carried and not rejected, as the case may be, or that the said poll was void].

A. B.,  
C. D.,  
&c.

Section 58.

## THIRD SCHEDULE.

## ENACTMENTS REPEALED.

1876, No. 26.—"The Regulation of Local Elections Act, 1876."

1888, No. 10.—"The Regulation of Local Elections Act Amendment Act, 1888."

1902, No. 59.—"The Municipal Corporations Amendment Act, 1902": Section 16.

By Authority: JOHN MACKAY, Government Printer, Wellington.—1904.