

1617

(Hon. Mr. Gisborne.)

# Regulation of Elections.

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A BILL INTITLED

AN ACT to make provision for the Regulation and Conduct of Elections of Members of the House of Representatives, and to prevent Corrupt Practices thereat, and to make provision for the Trial of Election Petitions.

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

1. The Short Title of this Act shall be "The Regulation of Elections Act, 1872." It shall come into operation on the day of \_\_\_\_\_, one thousand eight hundred and seventy-two, and is divided into the following parts:—

PART I.—Regulation of Elections.

PART II.—Prevention of Corrupt Practices at Elections.

PART III.—Election Petitions, and Proceedings thereon.

Title.

Short Title.

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## PART I.

## REGULATION OF ELECTIONS.

2. The several Acts and parts of Acts specified in the Schedule hereto are hereby repealed to the extent in the said Schedule mentioned: Provided that all elections commenced under the said Acts, or any of them, and all other proceedings whatsoever, shall be carried on and concluded in the same manner as if this Act had not been passed; and all elections held and all writs issued under the provisions of any of the said Acts shall be deemed as valid and sufficient as if this Act had not been passed; and all the appointments of officers, clerks, and polling places made before the coming into operation of this Act, and then remaining unaltered, shall be deemed to have been made under the provisions of this Act, and all offences committed against the provisions of the said Acts or any of them, and all penalties incurred, shall and may be prosecuted enforced recovered and disposed of in the manner thereby provided, notwithstanding anything herein contained.

Repeal of certain Acts.

3. In reckoning time for the purposes of this Act, Sunday, Christmas Day, Good Friday, and any day set apart for a public fast or public thanksgiving, shall be excluded.

Calculation of time.

*Appointment of Returning Officers and Polling Places.*

4. The Governor, by warrant under his hand, shall appoint a Returning Officer for each of the Electoral Districts within the Colony for the election of Members of the House of Representatives, and may from time to time, by warrant as aforesaid, remove any Returning Officer, and fill up any vacancy that may at any time occur, by death removal resignation or otherwise, in the office of Returning Officer for any Electoral District.

Governor to appoint Returning Officers.

5. No person shall be appointed to be Returning Officer, or substitute for the Returning Officer appointed under the provisions hereinafter contained, or Deputy Returning Officer for any such Electoral District, who shall at the time be a Member of the House of Representatives for such district, or who shall at the time be a candidate at any election for the district for which such appointment is made; and no Returning Officer or Deputy Returning Officer or substitute for the Returning Officer for any such Electoral District, and no person who shall have been such Returning Officer and shall not by writing under his hand addressed to the Governor have resigned such his office at least thirty days before the day of nomination for any election for the same respectively, and no person appointed as substitute for a Returning Officer or as Deputy Returning Officer for any such district shall be a candidate or be elected or returned or be a Member for such district.

Members of House of Representatives not to be Returning Officers.

6. Every Returning Officer shall, before he shall enter upon any of the duties hereby assigned to him, make and subscribe a declaration to the following effect before some Justice of the Peace, who is hereby authorized to take the same:—

Declaration by 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 authorities and duties reposed in or required of me by “The Regulation of Elections Act, 1872,” as Returning Officer for the Electoral District of \_\_\_\_\_; and I do further solemnly promise and declare that I will not at any election for the said \_\_\_\_\_ attempt to ascertain, save in cases in which I am expressly authorized by law so to do, for what candidate any person shall vote or have voted, and that if in the discharge of my said duties at or concerning any such election I shall have learned or have the means of learning for what candidate any person shall vote or have voted at such election, I will not by

word or act or any other means whatsoever, directly or indirectly, divulge or discover or aid in divulging or discovering the same, save in answer to some question which I am legally bound to answer, or in compliance with the express provisions of the law relating to parliamentary elections." 5

Governor to appoint polling places.

7. It shall be lawful for the Governor, by warrant under his hand, from time to time to appoint polling places for each Electoral District within or within one mile of the limits thereof, and to appoint any one of such polling places to be the principal polling place for the district, 10 and all or any of such polling places from time to time to abolish, and, if he think fit, to appoint other polling places in lieu of those abolished; and every such warrant shall be published in the *New Zealand Gazette*: Provided always, that no polling place shall be appointed by the Governor under this Act unless he shall be first satisfied that the place 15 to be appointed is more convenient than any other for at least twenty electors to record their votes thereat.

*Issue of Writs.*

Writs to be issued by Clerk of the Writs.

8. Writs for the election of Members of the House of Representatives shall in all cases be issued by and returnable to an officer to be 20 appointed by the Governor by warrant under his hand, who shall be called the Clerk of the Writs, and who shall hold office during the Governor's pleasure, or by the Deputy of the said Clerk appointed in like manner, who shall act when the said Clerk is unable to act, which Deputy is hereinafter included in the term "Clerk of the Writs." 25 The Clerk of the Writs shall have a seal of office, which shall be in such form as the Governor shall approve, and he shall issue the said writs in obedience to warrants to be directed to him in the manner herein prescribed, and the said writs may be in the form in the Second Schedule hereto, or to the like effect. 30

Writs for general election to be issued on warrant of the Governor.

9. All writs for each election to be issued upon the expiration of the period of continuance of the House of Representatives for the time being, or upon the previous determination of such House by its dissolution, shall be issued upon the warrant of the Governor directed to the Clerk of the Writs. 35

Committee to act in place of Speaker in certain cases.

10. The Chairman of Committees (if any) of the House of Representatives, and any three other Members of the said House, to be from time to time nominated by the Speaker, shall form a Committee for the purposes hereinafter provided; and every such nomination shall be in writing under the hand of the Speaker, and be deposited 40 with the Clerk of the Writs.

In cases of resignation where no Speaker, writ to issue on warrant of Members of Committee.

11. If any Member of the House of Representatives wishes to resign his seat in the interval between two Sessions of the General Assembly, and there is then no Speaker of the said House, or if the Speaker be absent from the Colony, or if such Member be himself the 45 Speaker, he may address and cause to be delivered to any two Members of the said Committee his resignation under his hand, and his seat shall thereafter become vacant; and such two Members, upon being satisfied of the vacancy, shall forthwith address the warrant to the Clerk of the Writs, and a writ for the election of a new Member shall 50 issue accordingly.

Writ to fill vacant seat during Session to issue on warrant of Speaker.

12. During any Session of the House of Representatives the Speaker of the said House shall forthwith, upon being ordered so to do by the said House, issue his warrant to the Clerk of the Writs to make out a new writ for electing a Member of the said House in the 55 room of any Member whose seat shall have become vacant during such Session or previous thereto, and a new writ shall issue accordingly; but where a vacancy has occurred prior to or immediately after the first meeting of a new Parliament, or within fourteen days after the return of the Member whose seat is vacated, or if the seat which has 60 been vacated be claimed on behalf of another candidate, no writ shall be issued until after the time limited for receiving election petitions.

13. During any recess of the House of Representatives, whether by prorogation or adjournment, the Speaker of the said House shall issue his warrant to the Clerk of the Writs to make out a new writ for electing a Member of the said House in the room of any Member whose seat shall become vacant either during the recess or previous thereto, as soon as it shall be established to his satisfaction that such vacancy has occurred, and a new writ shall issue accordingly: Provided that the Speaker shall not issue his warrant until six days after the insertion by him in the *New Zealand Gazette* of a notice of the alleged cause of vacancy.

Writs to fill up vacant seats during recess.

14. The Speaker of the said House shall not issue such warrant unless the return of the writ by virtue of which the Member whose seat has become vacant was elected shall have been made to the Clerk of the Writs fifteen days at least before the commencement of the recess, nor unless there is an interval of time between the issue of such warrant and the day then fixed for the next meeting of the said House for despatch of business sufficient to enable the writ to be issued before the day fixed for such meeting, nor shall such warrant issue if the seat shall have been vacated by a Member against whose election or return a petition was depending at the time of the then last prorogation of the General Assembly or adjournment of the said House.

Time for issue of Speaker's warrant.

15. During any such recess as aforesaid, any two Members of the said Committee may execute all and singular the powers given to the said Speaker for issuing such warrants as aforesaid during a recess, subject nevertheless to such restrictions and regulations as are herein contained; but the powers conferred by this section shall be deemed to be conferred only in the case of there being no Speaker of the said House, or of the Speaker being absent from the Colony, or in the case of the Member whose seat is vacated being such Speaker.

Quorum of Committee for exercise of functions.

16. If any writ shall have been unduly issued during any Session, the Speaker of the House of Representatives shall forthwith, on being ordered so to do by the said House, issue a warrant under his hand to the Clerk of the Writs, directing him to issue a writ of *supersedeas* to any such writ, and a writ of *supersedeas* shall issue accordingly; and if any writ shall have been unduly issued during any recess, in pursuance of any warrant given by the Speaker of the House of Representatives or any Member of any such Committee as aforesaid, such Speaker or Members of such Committee, as the case may be, may, during such recess, and before the nomination, issue his or their warrant to the Clerk of the Writs, directing him to issue a writ of *supersedeas* to any such writ, and a writ of *supersedeas* shall issue accordingly.

*Supersedeas* to writs unduly issued.

17. Every writ shall be returnable to the Clerk of the Writs on such day within sixty days from the day of issue thereof as shall be appointed in the warrant for the issue of the writ and named in the writ, and every such writ shall be directed to the Returning Officer of the district for which the election is to be held.

Return of writs.

#### Proceedings at Election.

18. Whenever a writ for the election of a Member of the House of Representatives shall be received by any Returning Officer, he shall indorse thereon the day on which he shall have received it, and shall forthwith fix and give not less than seven nor more than thirty days' notice of the day and hour on which the nomination shall take place, and shall also give notice of the day on which a poll if necessary shall be taken, in the form in the Third Schedule hereto, by publishing the same, together with the notice at the foot thereof in the said Schedule, twice in one or two newspapers published within the Electoral District for which such writ shall have been issued, and if there be no such newspaper, then in one or two news-

Returning Officer to fix day of nomination and of poll.

Third schedule.

papers published at the place nearest to the principal polling place of the district, or in some other convenient manner within the Electoral District, calculated to give, in the opinion of the Returning Officer, full publicity to the same.

Returning Officer to  
appoint substitute.

**19.** The Returning Officer shall forthwith, on the receipt by him of any such writ of election as aforesaid, appoint by writing under his hand some fit person to be substitute for such Returning Officer; and if the Returning Officer shall die, or if by reason of his sickness or any other unavoidable cause he shall be unable to do or suffer any acts or things relating to such election, and shall notify the same to such substitute, then such substitute at any time may and shall as and for the Returning Officer do and suffer all such acts and things, and subject in every such case to the like provisions, as though he were the Returning Officer.

Returning Officer to  
preside at nomination.

**20.** On the day of nomination the Returning Officer shall preside at a meeting to be held at noon at the principal polling place of the district, and shall declare the purpose for which the meeting is held.

Candidates to be  
proposed and  
seconded.

**21.** Every candidate shall be proposed by an elector duly qualified to vote at the election, and seconded by another elector so qualified; and if there be no more candidates proposed and seconded than the number of Members to be returned, the Returning Officer shall publicly declare the candidate or candidates then duly proposed and seconded to be duly elected, and shall make a return accordingly.

Show of hands.

**22.** In the event of there being more candidates proposed and seconded than the number of Members to be returned, the Returning Officer shall call for a show of hands, separately, in favour of each candidate, and after such show shall declare the persons in whose favour the show of hands shall appear to have been; and if thereupon a poll be not demanded by one of the candidates, or by not less than two electors, the Returning Officer shall declare such persons to be duly elected.

Names of persons  
elected to be  
indorsed on writ.

**23.** The names of the persons so declared to be elected shall be indorsed on the writ by the Returning Officer as the persons duly elected in pursuance thereof, and the writ shall be returned by him to the Clerk of the Writs forthwith.

Candidates may  
resign.

**24.** It shall be lawful for any candidate so nominated as aforesaid, at any time thereafter, but not later than two clear days before the day of polling, to withdraw his name as a candidate, by giving to the Returning Officer a notice in the form in the Fourth Schedule hereto or to the like effect, signed by the said candidate in the presence of and attested by a Justice of the Peace; and whenever any candidate shall so withdraw, the Returning Officer shall forthwith publish such notice in such manner as he shall deem best calculated for giving full publicity to the same, and if after such withdrawal there shall be no more candidates than the number of Members to be returned, no poll shall be taken, and the Returning Officer shall forthwith publicly declare the remaining candidates to be duly elected (as though the number of candidates had not exceeded the number of Members to be elected), and shall insert at the foot of such last-mentioned notice notice in the form in the Fifth Schedule hereto or to the like effect, that the remaining candidates are duly elected, and shall indorse the writ accordingly, and shall return the same to the Clerk of the Writs forthwith: Provided that if after such withdrawal the number of candidates remaining exceed the number of Members to be returned, the Returning Officer shall omit the name of every candidate whose

Fifth Schedule.

name is withdrawn from the ballot papers to be printed as hereinafter provided, or if any such ballot papers be already printed, he shall erase from such printed ballot papers the name of every candidate whose name is withdrawn, and shall publish the said notice of withdrawal in

such manner as he shall deem best fitted to give publicity to the same, and the poll shall be held as if the remaining candidates alone had been proposed.

25. If a poll be demanded as aforesaid, the Returning Officer shall then declare the day on which the same shall be held, being the day so to be fixed as aforesaid, and the poll shall thereupon stand appointed for such day; and on that day at every polling place of which notice shall have been given as aforesaid, and at no other, the poll shall be opened, unless the candidates shall before such day be reduced by withdrawal to a number not exceeding the number of Members to be returned.

Procedure when poll demanded.

26. Forthwith after a poll shall stand appointed for any election, the Returning Officer shall cause ballot papers to be printed, with the Christian names and surnames of all the candidates of such election, and of no other persons, in full, in the form in the Sixth Schedule; and if the Christian names and surnames of any two or more candidates be the same, they shall be distinguished upon such ballot papers by the addition of their residence and occupation, and the directions in the said Schedule shall be of the same force as if they had been provisions contained in this Act.

Ballot papers to be printed.

Sixth Schedule.

27. For taking the poll at any election the Returning Officer shall cause booths to be erected or rooms to be hired or otherwise provided and used as such booths at each polling place as occasion may require; and if under this provision there shall be more than one booth at any polling place, there shall be affixed over the entrance of each booth in succession so many letters of the alphabet in their alphabetical order as shall denote the booth at which each elector, according to the initial letter of his surname, is to vote, and no elector shall be permitted to vote in any booth save that which is so denoted by the initial letter of his surname: Provided always that no polling booth shall be in any house licensed for the sale of fermented or spirituous liquors or upon the premises appertaining to such house.

Returning Officer to provide booths or rooms to take poll.

35 Vict., No. 40.

28. Each booth shall be so divided or arranged that there shall be in the same one or more inner compartments opening only into that part of the booth in which the ballot box is kept, and the Returning Officer or his Deputy shall provide in every such compartment pencils or pens and ink for the use of the electors, and shall also provide for each booth a ballot box having a lock and key and with a cleft or opening therein capable of receiving the ballot papers herein mentioned.

Internal arrangement of booth.

Ballot Box.

29. The Returning Officer of each Electoral District shall conduct the election at some one booth at the principal polling place, with such Clerks to be appointed by him as may be required, and shall appoint in writing on the occasion of such election a Deputy to act for him and take the poll at each of the other booths of the several polling places for the district, and such Deputies shall appoint such Clerks as may be required to assist in taking the poll.

Returning Officer and Deputies to act at booths.

30. Every Substitute of a Returning Officer, and every Deputy Returning Officer and Poll Clerk, shall, before he shall enter upon any of the duties hereby assigned to him with regard to any election, make and sign before some Justice a declaration to the effect following:—

Declaration by Substitutes, Deputies, and Poll Clerks.

“ 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 authorities and duties reposed in or required of me by ‘The Regulation of Elections Act, 1872,’ as Substitute of the Returning Officer [or Deputy Returning Officer or Poll Clerk as the case may be] with regard to the election of a Member for the Electoral District of ; and I do further solemnly promise

and declare that I will not at the said election attempt to ascertain [*Add in the case of a Substitute or of a Deputy Returning Officer* save in the cases in which I am expressly authorized by law so to do] for what candidate any person shall vote or have voted at the said election; and that if in the discharge of my duties at or concerning the said election I shall have learned or have the means of learning for what candidate any person shall vote or have voted thereat, I will not by word or act, or by any other means whatsoever, directly or indirectly, divulge or discover or aid in divulging or discovering the same, save in answer to some question which I am legally bound to answer, or in compliance with the express provisions of the law relating to parliamentary elections.”

**31.** Before the day of polling, the Returning Officer shall deliver to each of the Deputies, for use at each polling booth, copies of all rolls in force for the district in and for which the poll is to be taken thereat, certified under his hand to be true copies, and shall also deliver to each Deputy and himself retain such numbers respectively of the ballot papers as shall be sufficient for the use of the electors who shall be entitled to vote at each booth at which such Returning Officer and Deputies respectively are to take the poll, and every Returning Officer and Deputy shall keep an exact account of the number of ballot papers so delivered.

Rolls and signed ballot papers to be issued to Deputies.

**32.** Each candidate, or, if he omit to do so, his proposer on his behalf, shall be entitled to appoint in writing under his hand one person not being a candidate to be Scrutineer on behalf of such candidate at each polling booth; and every such Scrutineer shall be entitled to be present in that part of the booth in which the ballot papers are received as hereinafter provided.

Scrutineers may be appointed.

**33.** Every Scrutineer, before he shall act as such at any polling booth, shall make and sign before the Returning Officer or Deputy (as the case may be) who shall take the poll at such booth a declaration to the effect following:—

Declaration by Scrutineers.

“I [A.B.], Scrutineer for C.D., a candidate at the present election for the Electoral District of \_\_\_\_\_, do solemnly declare that I will faithfully observe all the provisions of ‘The Regulation of Elections Act, 1872,’ which relate to such my office of Scrutineer; and I do further solemnly promise and declare that I will not, as such Scrutineer at the said election, attempt to ascertain for what candidate any person shall vote or have voted at the said election; and that if in the discharge of my duties at or concerning the said election I shall have learned or have the means of learning for what candidate any person shall vote or have voted thereat, I will not by word or act, or by any other means whatsoever, directly or indirectly, divulge or discover or aid in divulging or discovering the same, save in answer to some question which I am legally bound to answer, or in compliance with the express provisions of the law relating to parliamentary elections.”

**34.** The Returning Officer or Deputy, the Poll Clerks, and the Scrutineers duly appointed hereunder, together with such number of constables to keep order as such Returning Officer or Deputy shall think fit, and any voters not exceeding six in number being actually engaged in voting, to be designated if necessary by the Returning Officer or Deputy, shall alone be permitted at any one time, without the consent of the Returning Officer or Deputy, to enter or remain in the polling room during the taking of the poll.

Who may be in polling room.

**35.** Immediately before proceeding to take the poll at any booth,

Ballot box to be exhibited empty.



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the Returning Officer or Deputy (as the case may be) shall exhibit for the inspection of the Scrutineers and Poll Clerks who may be present, the ballot box open and empty, and shall forthwith thereafter close and lock the same, being still empty, and set and keep the same un-  
 5 opened upon the table at which he is to preside, and in view of such persons as shall from time to time be present in the polling booth, and shall keep the key of the said box.

**36.** Every polling shall commence on the day appointed for the same at nine of the clock in the forenoon, and shall, unless lawfully  
 10 adjourned, finally close at four of the clock in the afternoon of the same day, and shall be conducted in manner hereinafter mentioned. Commencement and close of poll.

**37.** Every person who shall for the time being be enrolled upon an electoral roll in force for any district, and every holder of a miner's right or business license entitling him to vote for the election of a  
 15 Member of the House of Representatives for the district, shall be entitled to vote in such district, and no person shall vote more than once at the same election. Persons entitled to vote.

**38.** Every person tendering his vote shall do so in manner following (that is to say)—he shall state to the Returning Officer or  
 20 Deputy his christian or other names and surname, and such other particulars of those required by law to be expressed in the electoral roll as the said Returning Officer or Deputy may, for the purpose only of ascertaining upon the roll the name intended by such person, require, and shall also, if he claim to vote as a holder of a miner's right or  
 25 business license, exhibit to the Returning Officer or Deputy the miner's right or business license which shall entitle him to exercise such right of voting, and shall demand a ballot paper. Particulars to be stated by persons tendering vote.

**39.** When any person shall have tendered his vote at any polling place in manner hereinbefore required, the Returning Officer or  
 30 Deputy shall ascertain that the name given by such person is upon the miner's right or business license (if any) exhibited by him, or (as the case may be) upon the electoral roll in force for the district for which such polling place is appointed for the district. Returning Officer to ascertain that voter's name is on roll or miner's right.

**40.** After having found upon the proper roll the name intended  
 35 by any person tendering his vote, the Returning Officer or Deputy may if he think fit, and shall, if required so to do by any Scrutineer or by any two persons entitled to vote at the polling booth at which he presides, put to any such person before he shall have received a ballot paper and not afterwards, the questions following,  
 40 hereinafter called "the prescribed questions" (that is to say):— Questions to be put to voter.

- (1.) Are you the person whose name appears as [A.B.] in the roll in force for the Electoral District of \_\_\_\_\_?
- (2.) [*If the person claims as the holder of a miner's right or business license*]  
 45 —Are you the person whose name appears as [A.B.] on the miner's right (or business license) now presented? Was the miner's right (or business license) now exhibited by you issued to you?
- (3.) Have you already voted here or elsewhere at this present election?
- (4.) [*If the person claims to vote as the holder of a miner's right or business license*]  
 50 —Are you a natural-born or a naturalized subject of Her Majesty Queen Victoria?
- (5.) Are you twenty-one years of age?

**41.** The Returning Officer or Deputy may if he think fit, and  
 55 shall, if called upon so to do by any Scrutineer, require of any person tendering his vote before he shall receive a ballot paper to make a solemn declaration against bribery in the manner and form following (that is to say):— Declaration against bribery may be demanded.

"I [A.B.] do solemnly declare that I have not received or had,  
 60 by myself or any person whatsoever in trust for me or for my use or benefit, or for the use or benefit of any member

of my family or kindred or any friend or dependent, directly or indirectly, any sum of money office place of emolument gift or reward, or any promise or security for, nor do I expect to receive any money office place of emolument gift or reward, by way of consideration, either expressed implied or understood, for giving my vote at this election."

Voter not answering questions properly, not to vote.

42. If any person having tendered his vote, to whom the prescribed questions shall be so put as aforesaid, shall refuse or omit distinctly to answer the same and each part thereof, or shall not answer absolutely in the affirmative such of the first two of the prescribed questions as shall apply to his claim to vote, and absolutely in the negative the third of the prescribed questions, and absolutely in the affirmative the fourth and fifth of the prescribed questions, if put to him; and if any person having tendered his vote, and being so required to make such declaration as aforesaid, shall refuse or omit so to do, he shall be and be deemed prohibited from voting then or afterwards at such election, and shall be guilty of an offence, and on conviction shall forfeit and pay for the same a penalty not exceeding twenty pounds.

Ballot paper to be delivered to voter.

43. When any person shall have tendered his vote in manner hereinbefore mentioned, and the name in which he shall demand to vote shall appear in a roll in force for the district, or on a miner's right or business license, entitling such person to vote at such election, the Returning Officer or Deputy shall, unless such person be prohibited from voting for some of the causes hereinbefore mentioned, forthwith write upon the back of one of the ballot papers, as near as practicable to the lower edge thereof, the number corresponding to the number set opposite such person's name in such roll, or the number of the miner's right or business license, or such other particulars as may be necessary to identify the same, and so that in folding up such ballot paper as hereinafter mentioned, the voter may easily conceal from view the said writing, and shall cause such ballot paper to be marked conspicuously on the back with a stamp varying at each election, the form thereof to be determined by the Governor in Council, and shall deliver to such person such ballot paper, and shall forthwith mark upon a certified copy of such roll, against the name of such person, the fact of his having received such ballot paper, or if he shall be the holder of a miner's right or business license, shall impress thereon such distinguishing mark as the Governor in Council shall heretofore have appointed under "The Miners' Representation Act, 1862," or shall hereafter from time to time appoint under this Act.

Voter to strike out names, and deposit paper in box.

44. Every person to whom a ballot paper shall have been delivered as aforesaid shall forthwith retire alone to some unoccupied compartment of the polling booth, and shall there alone and without delay strike out from such ballot paper the names of the candidates for whom he does not intend to vote, and shall forthwith fold up such ballot paper in such manner as will conceal the names of the candidates, and will display the stamp on the back thereof, and deposit it in the ballot box in the presence of the Returning Officer or Deputy: Provided that the Returning Officer shall not allow any ballot paper to be deposited in the box unless the stamp on the back thereof be displayed.

Number of votes to be given by each voter.

45. At every election for any district, each elector may give and exercise as many votes as there are Members to be then and there elected for such district; and at every such election every such elector may give not more than one vote to each or any candidate not exceeding the number of Members then to be elected, and any ballot paper recording more than the legal number of votes at any election shall be rejected at the close of the poll.

46. If at any polling booth any ballot paper shall have been delivered to any person having tendered his vote, and if any other person shall afterwards tender his vote at such booth as of the same person in whose name such first-mentioned person shall have received such  
 5 ballot paper, the Returning Officer or Deputy shall put to the person so secondly tendering the prescribed questions, and such person shall and may be dealt with in all respects in like manner as any other person having tendered his vote, but the ballot paper of such person shall not be deposited in the ballot box, or allowed by  
 10 the Returning Officer or Deputy, and shall be set aside by him for separate custody.

Proceeding when second vote tendered in same name.

47. If any person to whom a ballot paper shall have been delivered as aforesaid shall be blind, or be unable to read, and shall signify the same to the Returning Officer or Deputy, such Returning  
 15 Officer or Deputy may and shall, at the request of such person, and for him, and in presence of a witness, if so desired by such person, strike out in the polling booth from such ballot paper the names of such candidates as such person may designate.

Provision for voter unable to read.

48. If during the polling at any election any person shall wilfully  
 20 take any ballot paper out of the polling booth, save into one of the compartments aforesaid, he shall be guilty of a misdemeanour punishable with fine or fine and imprisonment, with or without hard labour, for any term not exceeding two years.

Penalty for taking ballot paper out of polling booth.

49. If any person shall knowingly and wilfully enter any of the  
 25 compartments aforesaid while any other person shall be therein, or if any person being in any such compartment shall wilfully remain there for a longer time than such as shall be reasonably required for the purpose of striking out the names from his ballot paper, or if any person shall otherwise wilfully obstruct or unnecessarily delay the  
 30 proceedings at any such polling, he shall on conviction forfeit and pay for every such offence a penalty not exceeding fifty pounds.

Penalty for entering compartment or remaining there without reason.

50. If any person to whom any of the prescribed questions shall be so put as aforesaid shall wilfully make a false answer to the same or any part thereof, and if any person shall wilfully make a false declara-  
 35 tion in manner aforesaid, or shall personate any elector for the purpose of voting at any election, or shall present any miner's right or business license not issued to him with intent to vote in respect thereof, or shall vote twice at any election for the same district, or wilfully and knowingly deposit in the ballot box at any polling place more ballot  
 40 papers than one, or any paper not being the ballot paper delivered to him, he shall be guilty of a misdemeanour punishable with fine or fine and imprisonment, with or without hard labour, for any term not exceeding two years.

Penalty for giving false answer, personation, and voting twice.

51. Every Returning Officer and Deputy shall have power and  
 45 authority to maintain order and keep the peace at any election or polling held by him, and without any other warrant than this Act to cause to be arrested and taken before a Justice any person reasonably suspected of committing or attempting to commit at any polling place any of the offences which are made misdemeanours hereby, and also  
 50 to cause to be removed any person who shall obstruct the approaches to any polling booth, or wilfully or unnecessarily obstruct or delay the proceedings at the polling, or conduct himself in a disorderly manner, or cause a disturbance at any election, and all constables and peace officers shall aid and assist such Returning Officer or Deputy in the  
 55 performance of his duty.

Maintenance of order.

52. Immediately upon the close of the poll, the Returning Officer and every Deputy at the polling place at which each shall preside shall, in the presence and subject to the inspection of such of the  
 60 Scrutinisers as choose to be present, and the Poll Clerks (if any), but of no other persons, open the ballot box and proceed to ascertain the

Number of votes to be ascertained on close of poll.

number of votes for each candidate, and shall upon and after such opening both abstain himself from inspecting the writing upon the back of the ballot papers, and take care that the same is not seen by any person present before the papers are enclosed in a sealed parcel as herein provided. 5

Books and papers to be made up in parcels.

**53.** Immediately after ascertaining the total number of votes as last aforesaid, each Deputy Returning Officer shall make up in one parcel the ballot papers which shall have been used in voting at his polling booth during the election, in another separate parcel the ballot papers which shall have remained unused thereat, in another separate 10 parcel the ballot papers which shall as herein provided have been set aside for separate custody thereat, and in another separate parcel all books rolls and papers kept or used by him during the polling, except the certified copies of rolls supplied to the said Deputy, on which the fact of any person having received a ballot paper has been 15 noted, as by this Act provided, and shall seal up the said several parcels, and shall permit any of the Scrutineers who may desire to do so to affix his or their seals to such parcels, and shall indorse the same severally with a description of the contents thereof, and with the name of the district, the name of the place of polling, and the date 20 of the polling, and sign with his name the said indorsement, and shall transmit the said parcels to the Returning Officer.

Deputies to make returns to Returning Officer.

**54.** Each Deputy shall, together with the parcels aforesaid, transmit to the Returning Officer the certified copies of rolls supplied to the said Deputy on which the fact of any person having received a 25 ballot paper has been noted as by this Act provided, and a list of the total number of votes received by each candidate, and also an account in which such Deputy shall charge himself with the number of ballot papers originally delivered to him, specifying therein the number thereof delivered to and used by voters, and the number not so 30 delivered or left unused, and the number set aside as aforesaid for separate custody, and every such list and account respectively shall be verified as well by the signatures of the said Deputy and the Poll Clerk (if any), as also by the signatures of such of the Scrutineers as shall be present and shall consent to sign the same. 35

Returning Officer to make up parcels.

**55.** The Returning Officer shall, in respect of the polling booth at which he himself shall have presided, make up in separate parcels, in like manner as is herein required of Deputy Returning Officers, all ballot papers used unused or set aside as aforesaid, and all books rolls and papers, except the certified copies of rolls on which the fact of any 40 person having received a ballot paper has been noted as by this Act provided, kept or used by him at such polling booth, and shall seal up and also permit to be sealed up by the Scrutineers and shall indorse in like manner as aforesaid the said several parcels, and deal with the same as hereinafter provided, and shall also make out in respect of the 45 said booth the like list as herein required in the case of Deputy Returning Officers, which said list shall be verified by the signature of the Returning Officer, the Poll Clerk (if any), and Scrutineers in manner aforesaid.

Returning Officer may select ballot paper and disallow votes.

**56.** The Returning Officer shall, in the presence and hearing of 50 such Scrutineers as shall be present, compare with one another all the certified copies of rolls on which the fact of any person having received a ballot paper has been noted by himself or any Deputy as by this Act provided, and if on such comparison it shall appear that the same person has received a ballot paper at two or more polling places, the 55 Returning Officer shall, in the presence of such Scrutineers as choose to be present, open the parcels of ballot papers used at the several polling places at which such person shall appear to have received any ballot paper, and shall select therefrom the ballot papers on which the number corresponding to the name of such person shall appear, and 60

shall disallow every vote appearing to have been given by means of the ballot papers so selected: Provided that upon and after the opening of such parcel the Returning Officer shall both abstain himself from inspecting the faces of the ballot papers in the several 5 parcels other than the ballot papers selected therefrom so opened, and shall take care that the faces of the same are not seen by any person present.

57. When the Returning Officer has selected from any parcel all the ballot papers which he is required to select therefrom, he shall 10 forthwith close and seal up the said parcel, and shall also permit the Scrutineers to seal up the same, and shall indorse thereon a memorandum of the fact of ballot papers having been selected from such parcel, specifying the same by the name of the person to whom the same shall appear to have been delivered, and shall sign the indorse- 15 ment with his name.

After selection, parcels to be sealed up.

58. The Returning Officer shall set aside all ballot papers selected by him from any parcel as herein provided, and shall seal up the same in a separate parcel, and shall also permit the Scrutineers to seal up the same, and shall indorse the same with a description of the contents 20 thereof, and shall sign the indorsement with his name.

Selected papers to be sealed up.

59. The Returning Officer shall make up from the list made out by him as last aforesaid, and from the lists so transmitted by the Deputy Returning Officers as aforesaid (corrected by disallowing votes if need be), the general state of the poll, and shall at the principal 25 polling place of the district, and at a time to be fixed, of which at least forty-eight hours' notice shall have been given, in such manner as he may deem best calculated to give publicity to the same, announce the number of votes given to each candidate, and declare those candidates, not exceeding the number to be elected, who have received at all the 30 polling places the greatest number of votes to be duly elected as Members for the district, and if two or more candidates shall have received an equal number of votes, the Returning Officer shall in such case have the casting vote, but shall not otherwise vote at such election; and the names of the persons so elected shall be indorsed on the writ 35 by the Returning Officer, and the writ shall be by him returned to the Clerk of the Writs, and within the time specified therein forthwith.

State of poll to be made up.

Declaration of result of election.

Casting vote.

60. The Returning Officer shall, as soon as practicable after the day of polling at any election, enclose in separate packets, in manner 40 hereinafter mentioned, as well as all the parcels so as aforesaid transmitted to him as also those made up and sealed by himself in respect of the polling booth at which he shall have presided, that is to say, he shall enclose in one separate packet all parcels of used ballot papers, in another all parcels of unused ballot papers, in another all parcels of 45 ballot papers set aside as aforesaid, and in another all parcels containing copies of rolls books or other papers, as herein provided, and shall seal up the said several packets, and indorse the same with a description of the contents thereof respectively, and the name of the district and the date of the polling, and sign with his name the said indorse- 50 ment, and shall forthwith forward the said packets and also the parcel of ballot papers selected as aforesaid to the Clerk of the House of Representatives, to be by him safely kept for two years, and he shall also at the same time seal up and transmit to the said Clerk a parcel containing all ballot papers which shall have been printed for the said 55 election and not used by the Returning Officer, or distributed for use to his Deputies, and the said Clerk shall forthwith give or send to the Returning Officer a receipt under his hand for the said packets and parcel.

Parcels to be made up in packets and sent to Clerk of House of Representatives.

61. Any ballot paper and any copy of a roll and any book pur- 60 porting to be taken from any such parcel as aforesaid, and having

Papers taken from parcels to be evidence.

written thereon respectively, under the hand of the Clerk of the House of Representatives for the time being, a certificate of the several particulars hereby required to be indorsed upon such parcel, and that the same was so taken from such parcel, shall be evidence in any Court of Justice or before any Committee of the House of Representatives that 5 the same was so taken, and that the same, if a ballot paper was deposited and if a roll or book was kept or used at the election and booth to which such indorsement and writing relate, and every such ballot paper so certified shall be evidence of a vote given at such election, and the correspondence of the number appearing on such 10 ballot paper with the number appearing on any roll so certified as of the same election and booth against any name, shall be evidence of the person so named having voted at such election and booth and according to the tenor of the said ballot paper, except in the case of the ballot papers set aside or selected and set aside by a Deputy 15 Returning Officer or by the Returning Officer, when such correspondence shall be evidence only of some person having voted in the name appearing on such roll.

Packets not to be opened except by command of Court.

**62.** If any person shall knowingly and wilfully break the seal of or open any such sealed parcel or sealed packet as aforesaid, unless he 20 be by the lawful command of some competent Court or other tribunal required so to do, or called upon to produce some portion of the contents of such parcel or packet, he shall be guilty of a misdemeanour: Provided always, that as to any parcel or packet containing ballot papers set aside or selected and set aside under the provisions of this 25 Act, it shall be lawful for the Court to direct any person to open any such packet or parcel, and extract any ballot paper therefrom.

Adjournment of poll.

**63.** When the proceedings for taking of the poll at any election shall be interrupted or obstructed at any place by any riot or open violence, the Returning Officer or Deputy (as the case may be) shall 30 not for such cause finally close the poll, but shall adjourn the taking of the poll at the polling place at which such interruption or obstruction shall have happened to the following day, and if necessary such Returning Officer or Deputy shall further adjourn such poll until such interruption or obstruction shall have ceased, when such Returning 35 Officer or Deputy shall again proceed with the taking of the poll at the place at which the same may have been so interrupted or obstructed, but so that the poll shall be kept open for seven hours in the whole and no more.

Declaration of poll to be postponed in case of adjournment.

**64.** Where any poll shall have been adjourned as aforesaid by any 40 Deputy of the Returning Officer, such Deputy shall forthwith give notice thereof to the Returning Officer, and in every such case the Returning Officer shall not notify the total number of votes given, or finally declare upon which candidates the election has fallen, until the poll so adjourned shall have been finally closed and the ballot papers 45 transmitted to the Returning Officer.

Adjournment not to extend beyond return day of writ.

**65.** No such adjournment as aforesaid of the proceedings at any election shall be made or extend to the day named as the return day in the writ for such election; and if the polling shall not have been completed before the day named, the Returning Officer shall forthwith 50 indorse that fact upon the writ, and shall return the same to the Clerk of the Writs.

Election not to be affected by want of title in officers.

**66.** No election shall be liable to be questioned by reason only of any defect in the title, or any want of title, of the person by or before whom such election or any polling for the same shall have been held, 55 if such person have been actually appointed to preside or have been acting in the office giving the right so to preside at such election.

Governor in Council may rectify mistakes.

**67.** No election shall be void in consequence only of there having been no Returning Officer at the time of the issue of the writ, or of any delay in the return of the writ; and where any accidental or 60

unavoidable impediment misfeasance or omission shall have happened, the Governor in Council may take all such measures as may be necessary for removing such impediment or rectifying such misfeasance or omission, or may declare any or all of the proceedings at or for any  
5 election valid as to and notwithstanding such impediment misfeasance or omission, and every such Order in Council shall state specifically the nature of the impediment misfeasance or omission, and shall be forthwith published in the *New Zealand Gazette*.

68. If any Returning Officer, or the Substitute of any Returning  
10 Officer, or any Deputy Returning Officer, Poll Clerk, or Scrutineer, shall, in the discharge of his duties under this Act at or concerning any election, learn or have the means of learning for what candidate any person shall vote or have voted at such election, he shall not by word or act or any other means whatsoever, directly or indirectly,  
15 divulge or discover or aid in divulging or discovering the same, save in answer to some question which he is legally bound to answer, or in compliance with the express provisions of the law relating to parliamentary elections; and every such Returning Officer, Substitute, Deputy, Poll Clerk, or Scrutineer, who shall knowingly and wilfully  
20 offend against the provisions of this section, shall be guilty of a misdemeanour.

Notes not to be disclosed.

69. If the Returning Officer of any district, or if any person  
having been appointed Substitute for a Returning Officer or Deputy  
Returning Officer at any election for the same respectively, and having  
25 undertaken so to act, shall be guilty of any wilful misfeasance or wilful or negligent act of commission or omission, contrary to any of the provisions herein contained and not otherwise provided for, he shall forfeit and pay for every such offence a penalty not less than ten nor more than two hundred pounds.

Penalty for neglect of duty.

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

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

31 & 32 Vict., cap. 125, sec. 48.

## PART II.

### PREVENTION OF CORRUPT PRACTICES AT ELECTIONS.

#### *Offences of bribery and undue influence.*

45 71. Throughout this part of Act and in the construction thereof the word "election" shall mean the election of any Member or  
Members of the House of Representatives;

Interpretation clause. 21 & 22 Vict., No. 57.

The word "elector" shall mean any person who shall have a right to vote at any such election; and

50 The word "candidate" shall mean any person who shall have been nominated as required by law at any such election, or who shall have declared himself a candidate at or before any such election.

72. The following persons shall be deemed guilty of bribery, and  
shall be punishable accordingly:—

Bribery defined. *Ib.*, sec. 1.

55 (1.) Every person who shall directly or indirectly, by himself or by any other person on his behalf, give lend or agree to give or lend, or shall offer promise or promise to procure or to endeavour to procure, any money or valuable consider-

ation to or for any elector, or to or for any person on behalf of any elector, or to or for any other person, in order to induce any elector to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of such elector having voted or refrained from voting at any 5 election.

- (2.) Every person who shall directly or indirectly, by himself or by any other person on his behalf, give or procure or agree to give or procure, or offer promise or promise to procure or endeavour to procure, any office or place of 10 employment to or for any elector, or to or for any person on behalf of any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of any elector having voted or refrained from voting at 15 such election.
- (3.) Every person who shall directly or indirectly, by himself or by any other person on his behalf, make any such gift loan offer promise procurement or agreement as aforesaid, to or for any person, in order to induce such person to procure 20 or endeavour to procure the return of any person to serve in the General Assembly, or the vote of any elector at any election.
- (4.) Every person who shall, upon or in consequence of any such gift loan offer promise procurement or agreement, 25 procure or engage promise or endeavour to procure, the return of any person to serve in the General Assembly, or the vote of any elector at any election.
- (5.) Every person who shall advance or pay or cause to be paid any money to or to the use of any other person, with the 30 intent that such money or any part thereof shall be expended in bribery at any election, or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election. 35

And any person so offending shall be guilty of a misdemeanour, punishable by fine and imprisonment, and shall also be liable to forfeit the sum of one hundred pounds to any person who shall sue for the same, together with full costs of suit.

**73.** The following persons shall also be deemed guilty of bribery, 40 and shall be punishable accordingly :—

- (1.) Every elector who shall, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receive agree or contract for any money gift loan or valuable consideration, office place or employment, 45 for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election.
- (2.) Every person who shall, after any election, directly or indirectly, by himself or by any other person on his behalf, 50 receive any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or to refrain from voting, at any election.

And any person so offending shall be guilty of a misdemeanour, punish- 55 able by fine and imprisonment, and shall also be liable to forfeit the sum of ten pounds to any person who shall sue for the same, together with full costs of suit.

**74.** Every candidate at any election who shall corruptly, by himself or by or with any person, or by any other ways or means on his behalf, 60

Bribery further defined.

21 & 22 Vict., No. 57,  
sec. 2.

Treating defined.  
Ib., sec. 3.



at any time either before during or after any election, directly or indirectly, give or provide or cause to be given or provided, or shall be accessory to the giving or providing, or shall pay wholly or in part any expenses incurred for any meat drink entertainment or provision to or  
 5 for any person in order to be elected or for being elected, or for the purpose of corruptly influencing such person or any other person to give or refrain from giving his vote at such election, or on account of such person having voted or refrained from voting, or being about to vote or refrain from voting, at such election, shall be deemed guilty of  
 10 the offence of treating, and shall forfeit the sum of fifty pounds to any person who shall sue for the same, with full costs of suit. And every elector who shall corruptly accept or take any such meat drink entertainment or provision shall be incapable of voting at such election, and his vote if given shall be utterly void and of none effect.

15 **75.** Every person who shall directly or indirectly, by himself or by any other person on his behalf, make use of or threaten to make use of any force violence or restraint, or inflict or threaten the infliction, by himself or by or through any other person, of any injury damage or loss, or in any other manner practise intimidation, upon or  
 20 against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who by abduction duress or any fraudulent device or contrivance shall impede prevent or otherwise interfere with the free exercise of the franchise of any elector, or shall  
 25 thereby compel induce or prevail upon any elector either to give or to refrain from giving his vote at any election, shall be deemed to have committed the offence of undue influence, and shall be guilty of a misdemeanour, punishable by fine and imprisonment, and shall also be liable to forfeit the sum of fifty pounds to any person who shall sue  
 30 for the same, together with costs of suit.

Undue influence defined.

21 & 22 Vict. No. 57, sec. 4.

**76.** Every person who shall give or cause to be given to any elector on the day of polling, on account of such elector having polled or being about to poll, any meat drink or entertainment, by way of refreshment, or any money or ticket to enable such elector to obtain  
 35 refreshment, shall be deemed to have committed an illegal act, and shall forfeit the sum of forty shillings for each offence to any person who shall sue for the same, with full costs of suit.

Person giving refreshment on day of polling on account of vote to forfeit 40s.

Ib., sec. 6.

**77.** No candidate, before during or after any election, shall in regard to such election, by himself or agent, directly or indirectly,  
 40 give or provide to or for any elector, or to or for any other person whomsoever, any cockade ribbon or other mark of distinction; and every person so giving or providing shall for every such offence forfeit the sum of forty shillings to such person as shall sue for the same, with full costs of suit. And every person who shall during such  
 45 election display or cause to be displayed any flag banner or party emblem, or shall employ or cause to be employed publicly any band of music or musical instruments, shall for every such offence forfeit the sum of forty shillings to such person as shall sue for the same.

No cockades, &c., to be given at elections.

Ib., sec. 7.

**78.** No Committee or other body organized for promoting the return of any candidate at any election shall sit or hold meetings at any  
 50 licensed public house, or any building thereto annexed or belonging; and every person being a member of any such Committee or organized body who shall attend any such meetings at any such public house or building, shall forfeit the sum of five pounds to any person who shall  
 55 sue for the same, together with full costs of suit.

Committee for promoting return of candidates not to sit at licensed public house.

Ib., sec. 8.

*Proceedings to enforce penalties for corrupt practices.*

**79.** The pecuniary penalties hereby imposed for the offences of bribery treating or undue influence, shall respectively be recoverable

Penalties how recoverable.

Ib., sec. 10.

by suit in the Supreme Court of New Zealand; and all other penalties by the Act shall be recoverable in a summary manner under the provisions of "The Justices of the Peace Act, 1866."

Court may order costs of prosecution to be paid to prosecutor.

21 & 22 Vict., No. 57, sec. 11.

In case of private prosecution, defendant may recover costs.

Ib., sec. 12.

Prosecutor not to be entitled to costs unless he shall have entered into recognizance.

Ib., sec. 13.

Limitations of actions and prosecutions.

Ib., sec. 14.

80. Every indictment for bribery or undue influence shall be tried before the Supreme Court only, and it shall be lawful for the said Court to order payment to the prosecutor of such costs and expenses as to the said Court shall appear to have been reasonably incurred in and about the conduct of such prosecution.

81. In case of any indictment or information by a private person for any offence against the provisions of this part of this Act, if judgment shall be given for the defendant, he shall be entitled to recover from the prosecutor the costs, to be taxed by the proper officer of the Court, which the defendant shall have sustained by reason of such indictment or information.

82. It shall not be lawful for the said Court to order payment of the costs of a prosecution for any offence against the provisions of this part of this Act, unless the prosecutor shall, before or upon the finding of the indictment, or the granting of the information, enter into a recognizance, with two sufficient sureties, to be approved of by the Registrar or Deputy Registrar in the Supreme Court, in the sum of one hundred pounds, to be acknowledged before a Judge of the Supreme Court, with the condition following, that is to say, that the prosecutor shall conduct the prosecution with effect, and shall pay to the defendant or defendants, in case he or they shall be acquitted, his or their costs.

83. No person shall be liable to any penalty or forfeiture hereby imposed, unless some prosecution action or suit for the offence committed shall be commenced against such person within the space of one year next after such offence against this part of this Act shall have been committed, and unless such person shall be summoned or otherwise served with writ or process within the same space of time, so as such summons or service of writ or process shall not be prevented by such person absconding or withdrawing out of the jurisdiction of the Court out of which such writ or other process shall have been issued; and in case of any prosecution suit or process as aforesaid, the same shall be proceeded with and carried out without any wilful delay.

Punishment of Corrupt Practices.

Candidates guilty of bribery, &c., incapable of being elected for same district before next general election.

31 & 32 Vict., cap. 125, sec. 43.

84. Where it is found, by the report of the Judge upon an election petition under the Third Part of this Act, that bribery has been committed by or with the knowledge or consent of any candidate at an election, such candidate shall be deemed to have been personally guilty of bribery at such election, and his election, if he has been elected, shall be void, and he shall be incapable of being elected to and of sitting in the House of Representatives during the seven years next after the date of his being found guilty, and he shall further be incapable during the said period of seven years—

- (1.) Of being registered as a voter and voting at any election in New Zealand; or of voting at any such election as the holder of a miner's right or business license; and
- (2.) Of holding any office under the Crown or the Government of the Colony, or in any Provincial Government, or under the Government of the County of Westland; and
- (3.) Of holding any judicial office, and of being appointed and of acting as a Justice of the Peace.

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85. If on the trial of any election petition under the Third Part of this Act any candidate is proved to have personally engaged, at the election to which such petition relates, as a canvasser or agent for the management of the election, any person knowing that such person has  
 5 within seven years previous to such engagement been found guilty of any corrupt practice by any competent legal tribunal, or been reported guilty of any corrupt practice by a Committee of the House of Representatives, or by the report of the Judge upon an election petition under this Act, the election of such candidate shall be void.

Penalty for employing corrupt agent. 31 & 32 Vict., cap. 125, sec. 44.

10 86. Any person, other than a candidate, found guilty of bribery in any proceeding in which, after notice of the charge, he has had an opportunity of being heard, shall, during the seven years next after the time at which he is so found guilty, be incapable of being elected to and sitting in the House of Representatives, and also be incapable—

Disqualification of persons found guilty of bribery. Ib., sec. 45.

- 15 (1.) Of being registered as a voter and voting at any election in New Zealand; or of voting at any such election as the holder of a miner's right or business license; and  
 20 (2.) Of holding any office under the Crown or Government of the Colony, or under any Provincial Government, or under the Government of the County of Westland; and  
 (3.) Of holding any judicial office, and of being appointed and of acting as a Justice of the Peace.

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

Removal of disqualification, on proof that disqualification was procured by perjury. Ib., sec. 46.

PART. III.

ELECTION PETITIONS AND PROCEEDINGS THEREON.

35 88. From and after the coming into operation of this Act, no election or return to the House of Representatives shall be questioned except in accordance with the provisions of this Act; but until such Act shall come into operation, elections and returns to the House of Representatives may be questioned in manner heretofore in use.

Controverted elections to be tried under Act. Ib., sec. 50.

40 89. For the purposes of this Part of this Act the expression "the Court" shall mean the Supreme Court of New Zealand, and such Court shall, subject to the provisions herein contained, have the same powers jurisdiction and authority with reference to an election petition and the proceedings thereon, as it would have if such petition were an ordinary cause within its jurisdiction.

Definition and jurisdiction of Court. Ib., sec. 2.

Interpretation.  
31 & 32 Vict., cap.  
125, sec. 3.

**90.** The following terms shall in this Part of this Act have the meanings hereinafter assigned to them, unless there is something in the context repugnant to such construction (that it to say) :—

- “ Election ” shall mean an election of a Member or Members to serve in the House of Representatives. 5
- “ Electoral district ” shall mean any district city town place or combination of places returning a Member or Members to serve in the House of Representatives.
- “ Province ” shall include the County of Westland.
- “ Candidate ” shall mean any person elected to serve in the 10 House of Representatives at an election, and any person who has been nominated as or declared himself a candidate at an election.
- “ Corrupt practices ” or “ corrupt practice ” shall mean bribery treating and undue influence, or any of such offences as 15 defined by this Act or any other Act of the General Assembly, or recognized by the common law of Parliament.
- “ Rules of Court ” shall mean rules to be made as hereinafter mentioned.

Provision as to  
Speaker.

Ib., sec. 4.

“ Prescribed ” shall mean “ prescribed by the Rules of Court.” 20

**91.** For the purposes of this Act “ Speaker ” shall be deemed to include Deputy Speaker, and when the office of Speaker is vacant, the Clerk of the House of Representatives or any other officer for the time being performing the duties of the Clerk of the House of Representatives, shall be deemed to be substituted for and to be included in the 25 expression “ the Speaker.”

*Presentation and Service of Petition.*

To whom and by  
whom election  
petition may be  
presented.

Ib., sec. 5.

**92.** From and after the coming into operation of this Act, a petition complaining of an undue return or undue election may be presented to the Supreme Court sitting at the chief town of the Province 30 within which the Electoral District shall be which gives occasion for or in respect of which any petition may be presented under this Part of this Act. Such petition may be presented by any one or more of the following persons :—

- (1.) Some person who voted or who had a right to vote at the 35 election to which the petition relates ; or
- (2.) Some person claiming to have had a right to be returned or elected at such election ; or
- (3.) Some person alleging himself to have been a candidate at such election. 40

And such petition is hereinafter referred to as an election petition.

Regulations as to  
presentation of  
election petition.

Ib., sec. 6.

**93.** The following enactments shall be made with respect to the presentation of an election petition under this Act :—

- (1.) The petition shall be signed by the petitioner, or all the petitioners if more than one. 45
- (2.) The petition shall be presented within twenty-one days after the return has been made to the Clerk of the Writs appointed under the first Part of this Act, of the Member to whose election the petition relates, unless it question the return or election upon an allegation of 50 corrupt practices, and specifically alleges a payment of money or other reward to have been made by any Member, or on his account or with his privity, since the time of such

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return, in pursuance or in furtherance of such corrupt practices, in which case the petition may be presented at any time within twenty-eight days after the date of such payment.

5 (3.) Presentation of a petition shall be made by delivering it to the prescribed officer, or otherwise dealing with the same in manner prescribed.

10 (4.) At the time of the presentation of the petition, or within seven days afterwards, security for the payment of all costs charges and expenses that may become payable by the petitioner—

(a.) to any person summoned as a witness on his behalf; or

(b.) to the Member whose election or return is complained of (who is hereinafter referred to as the respondent)

15 shall be given on behalf of the petitioner.

20 (5.) The security shall be to an amount of two hundred pounds : it shall be given either by recognizance to be entered into by any number of sureties not exceeding four, or by a deposit of money in manner prescribed, or partly in one way and partly in the other.

94. On presentation of the petition, the prescribed officer shall send a copy thereof to the Returning Officer of the Electoral District to which the petition relates, who shall forthwith publish the same in the Electoral District

Copy of petition after presentation to be sent to Returning Officer.

31 & 32 Vict., cap. 125, sec. 7.

25 95. Notice of the presentation of a petition under this Act, and of the nature of the proposed security, accompanied with a copy of the petition, shall within the prescribed time, not exceeding fourteen days after the presentation of the petition, be served by the petitioner on the respondent ; and it shall be lawful for the respondent, where the security

Recognizance may be objected to.

Ib., sec. 8.

30 is given wholly or partially by recognizance, within a further prescribed time not exceeding five days from the date of the service on him of the notice, to object in writing to such recognizance, on the ground that the sureties or any of them are insufficient, or that a surety is dead or that he cannot be found or ascertained from the want of a sufficient description in the recognizance, or that a person named in the recognizance has not duly acknowledged the same.

35 96. Any objection made to the security given shall be heard and decided on in the prescribed manner. If an objection to the security is allowed, it shall be lawful for the petitioner, within a further

Determination of objection to recognizance.

Ib., sec. 9.

40 prescribed time not exceeding five days, to remove such objection by a deposit in the prescribed manner of such sum of money as may be deemed by the Court or officer having cognizance of the matter to make the security sufficient,

45 If on objection made the security is decided to be insufficient, and such objection is not removed in manner hereinbefore mentioned, no further proceedings shall be had on the petition ; otherwise, on the expiration of the time limited for making objections, or after objection made, on the sufficiency of the security being established, the petition shall be deemed to be at issue.

50 97. The prescribed officer shall, as soon as may be, make out a list of all petitions under this Act presented to the Court of which he is such officer, and which are at issue, placing them in the order in which they were presented, and shall keep at his office a copy of such list, hereinafter referred to as the election list, open to the inspection in the

List of petitions at issue to be made.

Ib., sec. 10.

55 prescribed manner of any person making application. Such petitions, as far as conveniently may be, shall be tried in the order in which they stand in such list.

*Trial of a Petition.*

60 98. The following enactments shall be made with respect to the trial of election petitions under this Act :—

Mode of trial of election petitions.

Ib., sec. 11.

- (1.) The trial of every election petition shall be conducted before a Judge of the Supreme Court of New Zealand acting in and for the Judicial District of such Court within which the Electoral District shall be which gives occasion for or in respect of which any petition shall be presented 5 under this Part of this Act.
- (2.) Where it appears to any such Judge, either that the discharge of his judicial duties in some other part of his Judicial District will tend inconveniently to delay the trial of such election petitions, or from any other cause that 10 such Judge will be unable to try any such petitions, the Judge shall forthwith notify the same to the Governor, stating the facts of the case, and if the Governor shall be satisfied with the reasons alleged by the Judge he shall, by Order in Council, appoint and direct some other Judge of 15 the Supreme Court to proceed to the place where such petition may be for trial, and to proceed and act therein as if such last-mentioned Judge were the Judge of the district before whom the same ought to be tried.
- (3.) For the period during which the Judge appointed under 20 any such Order in Council shall be acting under the powers conferred upon him thereby, or by this Act, he shall for all purposes under this Part of this Act have and be deemed to have all the powers jurisdiction and authority of the Judge before whom such election petitions would 25 but for such causes as hereinbefore mentioned have been tried and determined, but not further or otherwise.
- (4.) Every election petition shall, except where it raises a question of law for the determination of the Court as hereinafter mentioned, be tried by the Judge hereinbefore in 30 that behalf mentioned, hereinafter referred to as the Judge sitting in open Court without a jury.
- (5.) Notice of the time and place at which an election petition will be tried shall be given not less than fourteen days before the day on which the trial is held, in the prescribed 35 manner.
- (6.) The trial of election petitions shall take place in the chief town of the Province within the Judicial District of the Judge of the Supreme Court appointed for and acting in such judicial district: Provided always that if it shall appear to 40 the Court that special circumstances exist which render it desirable that the petition should be tried elsewhere than in such chief town, it shall be lawful for the Court to appoint such other place for the trial as shall appear most convenient. 45
- (7.) The Judge presiding at the trial may adjourn the same from time to time, and from any one place to any other place within his Judicial District, as to him may seem expedient.
- (8.) At the conclusion of the trial the Judge who tried the 50 petition shall determine whether the Member whose return or election is complained of, or any and what other person, was duly returned or elected, or whether the election was void, and shall forthwith certify in writing such determination to the Speaker, and upon such certificate being given 55 such determination shall be final to all intents and purposes.
- (9.) Where any charge is made in an election petition of any corrupt practice having been committed at the election to which the petition refers, the Judge shall, in addition to

such certificate and at the same time, report in writing to the Speaker as follows:—

(a.) Whether any corrupt practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at such election, and the nature of such corrupt practice.

(b.) The names of all persons (if any) who have been proved at the trial to have been guilty of any corrupt practice.

(c.) Whether corrupt practices have, or whether there is reason to believe that corrupt practices have, extensively prevailed at the election to which the petition relates.

(10.) The Judge may at the same time make a special report to the Speaker as to any matters arising in the course of the trial, an account of which, in his judgment, ought to be submitted to the House of Representatives.

(11.) Where, upon the application of any party to a petition made in the prescribed manner to the Court, it appears to the Court that the case raised by the petition can be conveniently stated as a special case, the Court may direct the same to be stated accordingly; and any such special case shall, as far as may be, be heard before the Court, and the decision of the Court shall be final; and the Court shall certify to the Speaker its determination in reference to such special case.

99. Provided always that if it shall appear to the Judge, on the trial of the said petition, that any question or questions of law, as to the admissibility of evidence or otherwise, require further consideration by the Court, then it shall be lawful for the said Judge to postpone the granting of the said certificate until the determination of such question or questions by the Court, and for this purpose to reserve any such question or questions in like manner as questions are usually reserved by a Judge on a trial at *nisi prius*.

100. The House of Representatives, on being informed by the Speaker of such certificate and report or reports, if any, shall order the same to be entered in their Journals, and shall give the necessary directions for confirming or altering the return, or for issuing a writ for a new election, or for carrying the determination into execution, as circumstances may require.

101. Where the Judge makes a special report, the House of Representatives may make such order in respect of such special report as they think proper.

102. If the Judge states in his report that certain persons named by him have been guilty of bribery or treating, and that such persons have not been furnished with certificates of indemnity, as is hereinafter provided, such report with the evidence taken thereon before such Judge, shall be laid before the Attorney-General with a view to his instituting a prosecution against such person if the evidence should in his opinion be sufficient to support a prosecution.

103. On the trial of an election petition under this Part of this Act, unless the Judge otherwise directs, any charge of a corrupt practice may be gone into and evidence in relation thereto received, before any proof has been given of agency on the part of any candidate in respect of such corrupt practice.

104. The trial of an election petition under this Act shall be proceeded with, notwithstanding the acceptance by the respondent of an office of profit under the Crown.

105. The trial of an election petition under this Act shall be proceeded with, notwithstanding the prorogation of the General Assembly.

Applications to the Court respecting trials.  
31 & 32 Vict., cap. 125, sec. 12.

House of Representatives to carry out report.  
Ib., sec. 13.

House of Representatives may make order on special report.  
Ib., sec. 14.

Prosecutions for bribery.  
26 & 27 Vic., cap. 29, sec. 9.

Evidence of corrupt practices how received.  
31 & 32 Vict., cap. 125, sec. 17.

Acceptance of office not to stop petition.  
Ib., sec. 18.

Prorogation of Parliament.  
Ib., sec. 19.

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*Proceedings.*

Form of petition.  
31 & 32 Vict., cap.  
125, sec. 20.

Service of petition.  
Ib., sec. 21.

Joint respondents to  
petition.  
Ib., sec. 22.

Provision in cases  
where more than one  
petition is presented.  
Ib., sec. 23.

Shorthand writer to  
attend trial of election  
petition.  
Ib., sec. 24.

**106.** An election petition under this Act shall be in such form and state such matters as may be prescribed.

**107.** An election petition under this Act shall be served as nearly as may be in the manner in which a writ or summons is served, or in such other manner as may be prescribed.

**108.** Two or more candidates may be made respondents to the same petition, and their case may, for the sake of convenience, be tried at the same time; but for all the purposes of this Act, such petition shall be deemed to be a separate petition against each respondent. 10

**109.** Where under this Act more petitions than one are presented relating to the same election or return, all such petitions shall in the election list be bracketed together, and shall be dealt with as one petition; but such petitions shall stand in the election list in the place where the last of such petitions would have stood if it had been the only petition presented, unless the Court shall otherwise direct. 15

**110.** On the trial of an election petition under this Act, the Court may appoint a competent person as shorthand writer, and such person shall attend and shall be sworn by the Judge faithfully and truly to take down the evidence given at the trial, and from time to time, as occasion 20 requires, to write or cause the same to be written in words at length; and it shall be the duty of such shorthand writer to take down such evidence, and from time to time to write or cause the same to be written at length, and a copy of such evidence shall accompany the certificate made by the Judge to the Speaker, and the expenses of the shorthand 25 writer shall be deemed to be part of the expenses incurred in the trial of any such petition, and shall, at the discretion of the Judge, be included in the costs of such trial in the manner hereinafter provided.

*Jurisdiction and Rules of Court.*

Rules to be made by  
Court.  
Ib., sec. 25.

**111.** The Judges of the Supreme Court or not less than three of 30 such Judges, of whom the Chief Justice shall be one, may from time to time make and may from time to time revoke and alter general rules and orders (in this Part of this Act referred to as the Rules of Court) for the effectual execution of this Act, and of the intention and object thereof, and the regulation of the practice procedure and costs of election petitions, and the trial thereof, and the certifying and 35 reporting thereon.

Any general rules and orders made as aforesaid shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if they were enacted in the body of this Act.

Any general rules and orders made in pursuance of this section 40 shall be laid before the General Assembly within three weeks after they are made, if Parliament be then sitting, and if Parliament be not then sitting, within three weeks after the beginning of the then next Session of the General Assembly.

Practice of House of  
Representatives to  
be observed.  
Ib., sec. 26.

**112.** Until Rules of Court have been made in pursuance of this 45 Act, and so far as such rules do not extend, the principles practice and rules on which Committees of the House of Representatives have heretofore acted in dealing with election petitions shall be observed, so far as may be, by the Court and Judge in the case of election petitions under this Act. 50

Performance of  
duties by prescribed  
officer.  
Ib., sec. 27.

**113.** The duties to be performed by the prescribed officer under this Act shall be performed by the Registrars of the Supreme Court, within the Judicial Districts of the said Court for which they respectively shall act, and there shall be awarded to such Registrars respectively, in addition to their existing salaries, such remuneration for the 55



performance of the duties imposed on them in pursuance of this Act as the Judges, by any rules to be made as aforesaid, may of the said Court, with the consent of the Colonial Treasurer, determine.

*Jurisdiction of Judge—Witnesses.*

- 5     **114.** On the trial of an election petition under this Act, the Judge shall, subject to the provisions of this Act, have the same powers jurisdiction and authority as a Judge of the Supreme Court, and the Court held by him shall be a Court of Record. Power of Judge. 31 & 32 Vict., cap. 125, sec. 31.
- 10     **115.** Witnesses shall be subpoenaed and sworn in the same manner, as nearly as circumstances admit, as in a trial at *nisi prius*, and shall be subject to the same penalties for perjury. Summons of witnesses. Ib., sec. 32.
- 15     **116.** On the trial of an election petition under this Act, the Judge may, by order under his hand, compel the attendance of any person as a witness who appears to him to have been concerned in the election to which the petition refers, and any person refusing to obey such order shall be guilty of contempt of Court. The Judge may examine any witness so compelled to attend, or any person in Court, although such witness is not called and examined by any party to the petition. After the examination of a witness as aforesaid by a Judge, such witness may  
20 be cross-examined by or on behalf of the petitioner and respondent, or either of them. Judge may summon and examine witnesses. Ib., sec. 33.
- 25     **117.** No person who is called as a witness on any trial had under this Part of this Act shall be excused from answering any question relating to any corrupt practice at or connected with any election, forming the subject of inquiry before such Judge, on the ground that the answer thereto may criminate or tend to criminate himself: Provided always that where any witness shall answer every question relating to the matters aforesaid which he shall be required by the Court or a Judge to answer, and the answer to which may criminate or tend to criminate,  
30 he shall be entitled to receive from the Judge before whom such trial is heard, a certificate under the hand of such Judge, stating that such witness was, upon his examination, required by the Court or the Judge to answer questions or a question relating to matters aforesaid, the answers or answer to which criminated or tended to criminate him,  
35 and had answered all such question or questions. Evidence of witnesses, and indemnity to them in certain cases. 26 & 27 Vict., cap. 29, sec. 7.
- And if any information, indictment, or action be at any time thereafter pending in any Court against such witness for any offence under this Part of this Act, or for which he might have been prosecuted or proceeded against under such Act, committed by him previously to  
40 the time of his giving his evidence, and at or in relation to the election concerning or in relation to which the witness may have been so examined, the Court shall, on production and proof of such certificate, stay the proceedings in such last-mentioned information indictment or action, and may at its discretion award to such witness such costs  
45 as he may have been put to in such information indictment or action: Provided that no statement made by any person in answer to any question put by the Court or Judge as aforesaid shall, except in cases of indictment for perjury, be admissible in evidence in any proceeding, civil or criminal.
- 50     **118.** The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition under this Act, according to the scale allowed to witnesses on the trial of civil actions in the Supreme Court, may be allowed to such person by a certificate under the hand of the Judge or of the prescribed officer, and such  
55 expenses, if the witness was called and examined by the Judge shall be deemed part of the expenses of providing a Court, and shall be defrayed out of moneys appropriated for that purpose by the General Assembly, and in other cases shall be deemed to be costs of the petition. Expenses of witnesses. 31 & 32 Vict., cap. 125, secs. 31, 34.

Rules as to agents practising in cases of election petitions.

31 & 32 Vict., cap. 125, sec. 57.

**119.** Any person who, at the time of the passing of this Act, was entitled to practice as agent according to the principles practice and rules of the House of Representatives, in cases of election petitions and matters relating to election of Members of the House of Representatives, shall be entitled to practice as a solicitor or agent in cases of 5 election petitions, and all matters relating to elections before the Court and Judges prescribed by this Act: Provided that every such person so practising as aforesaid shall, in respect of such practice and everything relating thereto, be subject to the jurisdiction and orders of the Court as if he were a solicitor of the said Court: And further 10 provided that no such person shall practice as aforesaid until his name shall have been entered on a roll to be made and kept, and which is hereby authorized to be made and kept, by the prescribed officer in the prescribed manner.

*Withdrawal and Abatement of Election Petitions.* 15

Withdrawal of petition and substitution of new petitioners.

Ib., sec. 35.

**120.** An election petition under this Act shall not be withdrawn without the leave of the Court or Judge, upon special application to be made in and at the prescribed manner time and place.

No such application shall be made for the withdrawal of a petition until the prescribed notice has been given, in the Electoral District 20 to which the petition relates, of the intention of the petitioner to make an application for the withdrawal of his petition.

On the hearing of the application for withdrawal, any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the Court or Judge to be substituted as a 25 petitioner for the petitioner so desirous of withdrawing the petition.

The Court or Judge may, if it or he think fit, substitute as a petitioner any such applicant as aforesaid, and may further, if the proposed withdrawal is in the opinion of the Court or Judge induced by any corrupt bargain or consideration, by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that, to the extent of the sum named in such security, the original petitioner shall be liable to pay the costs of the substituted petitioner.

If no such order is made with respect to the security given on 35 behalf of the original petitioner, security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition, and within the prescribed time after the order of substitution. 40

Subject as aforesaid, a substituted petitioner shall stand in the same position, as nearly as may be, and be subject to the same liabilities, as the original petitioner.

If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent. 45

Where there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.

Court to report to the Speaker circumstances of withdrawal.

Ib., sec. 36.

**121.** In every case of the withdrawal of an election petition under this Act, the Court or Judge shall report to the Speaker whether in its 50 or his opinion the withdrawal of such petition was the result of any corrupt arrangement, or in consideration of the withdrawal of any other petition, and if so, the circumstances attending the withdrawal.

Abatement of petition.

Ib., sec. 37.

**122.** An election petition under this Act shall be abated by the death of a sole petitioner or of the survivor of several petitioners. 55

The abatement of a petition shall not affect the liability of the petitioner to the payment of costs previously incurred.

On the abatement of a petition, the prescribed notice of such abatement having taken place shall be given in the county or borough

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to which the petition relates, and within the prescribed time after the notice is given any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the Court or Judge, in and at the prescribed manner time and place, to be substituted as a petitioner.

The Court or Judge may, if it or he think fit, substitute as a petitioner any such applicant who is desirous of being substituted, and on whose behalf security to the same amount is given as is required in the case of a new petition.

123. If before the trial of any election petition under this Act any of the following events happen in the case of the respondent (that is to say):—

Admission in certain cases of voters to be respondents.  
31 & 32 Vict., cap. 125, sec. 38.

- (1.) If he dies ;
- (2.) If the House of Representatives have resolved that his seat is vacant ;
- (3.) If he gives, in and at the prescribed manner and time, notice to the Court that he does not intend to oppose the petition ;

notice of such event having taken place shall be given in the chief town of the Province within which the electoral district to which the petition relates ; and within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the Court or Judge to be admitted as a respondent to oppose the petition, and such person shall, on such application, be admitted accordingly either with the respondent if there be a respondent, or in place of the respondent, and any number of persons not exceeding three may be so admitted.

124. A respondent who has given the prescribed notice that he does not intend to oppose the petition, shall not be allowed to appear or act as a party against such petition in any proceedings thereon, and shall not sit or vote in the House of Representatives until the House of Representatives has been informed of the report on the petition ; and the Court or Judge shall, in all cases in which such notice has been given in the prescribed time and manner, report the same to the Speaker of the House of Representatives.

Respondent not opposing, not to appear as party or to sit.  
Ib., sec. 39.

125. Where an election petition under this Act complains of a double return, and the respondent has given notice to the prescribed officer that it is not his intention to oppose the petition, and no party has been admitted in pursuance of this Act to defend such return, then the petitioner, if there be no petition complaining of the other member returned on such double return, may withdraw his petition by notice addressed to the prescribed officer, and upon the receipt of such notice, the prescribed officer shall report the fact of the withdrawal of such petition to the Speaker, and the House of Representatives shall thereupon give the necessary directions for amending the said double return, by taking off the file the indenture by which the respondent so declining to oppose the petition was returned, or otherwise as the case may require.

Provisions for cases of double return where the Member complained of declines to defend his return.  
Ib., sec. 40.

126. Where an election petition under this Act complains of the conduct of a Returning Officer, such Returning Officer shall, for all the purposes of this Act except the admission of respondents in his place, be deemed to be a respondent.

Returning Officer, if complained of, to be respondent.  
Ib., sec. 51.

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

Petition complaining of no return.  
Ib., sec. 52.

Recrimination when  
petition for undue  
return.

31 & 32 Vict., cap.  
125, sec. 53.

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

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*Expenses and Costs.*

Expenses of proceed-  
ings.

**129.** All charges and expenses of and incidental to or upon the trial of a petition under this Act, and of the due conduct of proceedings therein in accordance herewith, shall, except where otherwise provided by this Act, be defrayed out of moneys to be appropriated for that purpose by the General Assembly.

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General costs of  
petition.

Ib., sec. 41.

**130.** All costs charges and expenses of and incidental to the presentation of a petition under this Act, and to the proceedings consequent thereon, with the exception of such costs charges and expenses as are by this Act otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportions as the Court or Judge may determine, regard being had to the disallowance of any costs charges or expenses which may, in the opinion of the Court or Judge, have been caused by vexatious conduct, unfounded allegations, or unfounded objections, on the part either of the petitioner or the respondent, and regard being had to the discouragement of any needless expense by throwing the burden of defraying the same on the parties by whom it has been caused, whether such parties are or not on the whole successful.

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The costs may be taxed in the prescribed manner but according to the same principles as costs between solicitor and client are taxed in a suit in the Supreme Court, and such costs may be recovered in the same manner as the costs of an action at law, or in such other manner as may be prescribed.

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Recognizance when  
to be estreated, &c.

Ib., sec. 42.

**131.** If any petitioner, in an election petition presented under this Act, neglect or refuse, for the space of six months after demand, to pay to any person summoned as a witness on his behalf, or to the respondent, any sum certified to be due to him for his costs charges and expenses, and if such neglect or refusal be, within one year after such demand, proved to the satisfaction of the Court before which the petition shall have been tried, then and in every such case every person who has entered into a recognizance relating to such petition under the provisions of this Act, shall be held to have made default in his said recognizance, and the prescribed officer shall thereupon certify such recognizance to be forfeited, and the same shall be dealt with and may be enforced as if the same were a debt due on a judgment obtained by the Crown as and in manner provided by "The Crown Debts Act, 1866."

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SCHEDULES.

FIRST SCHEDULE.

Date of Act.	Short Title of Act repealed.	Extent of Repeal.
33 and 34 Vict. No. 18	"The Regulation of Elections Act, 1870"	The whole.
35 Vict. No. 60	"The Regulation of Elections Act Amendment Act, 1871."	The whole.
21 and 22 Vict. No. 57	"The Corrupt Practices Prevention Act, 1858."	The whole.
21 and 22 Vict. No. 58	"The Election Petitions Act, 1858."	The whole.
26 Vict. No. 4	"The Election Petitions Act Amendment Act, 1862"	The whole.

SECOND SCHEDULE.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, To the Returning Officer of the Electoral District of \_\_\_\_\_, Greeting.

We command you that you proceed according to law to the election of \_\_\_\_\_ Member to serve in the House of Representatives for the said district: And we do further command you that this our writ, with the name of the person so elected indorsed hereon by you, shall be returned to the Clerk of the Writs on or before the day of \_\_\_\_\_

Witness A.B., Clerk of the Writs at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_.

THIRD SCHEDULE.

In pursuance of "The Regulation of Elections Act, 1872," I \_\_\_\_\_ Returning Officer for the Electoral District of \_\_\_\_\_, do hereby give notice that, by virtue of a writ bearing date the \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_, under the Public Seal of the Colony, an election will be held for the return of \_\_\_\_\_ qualified person to serve as Member of the House of Representatives for the said Electoral District, and that the nomination of candidates will take place at \_\_\_\_\_ at noon, on the \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_, and that the poll, if necessary, will be taken on the \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_.

A.B.,  
Returning Officer.

The following are polling places for the Electoral District of \_\_\_\_\_:  
[Insert a List of Polling Places]

A.B.,  
Returning Officer.

FOURTH SCHEDULE.

To the Returning Officer for the Electoral District of \_\_\_\_\_, I, the undersigned, hereby give notice that I withdraw my name as a candidate at the election of \_\_\_\_\_ Member of the House of Representatives for the Electoral District of \_\_\_\_\_, the nomination whereof was held on the \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_.

Signature—  
Abode—  
Qualification—

Signed in the presence of \_\_\_\_\_  
C.D., a Justice of the Peace.

FIFTH SCHEDULE.

In consequence of the withdrawal of the above-named candidate, the following person[s] is [are] duly elected for the above-named district.

Name.	Place of Abode.	Qualification.

A.B.,  
Returning Officer.

## SIXTH SCHEDULE.

Electoral District of  
Candidates' names (*arranged in alphabetical order of surnames*).

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

## DIRECTIONS.

THE Voter is to strike out the name of every candidate for whom he does not intend to vote, by drawing a line through the name with a pen or pencil. He must be careful not to leave uncanceled the names of more than [*Insert number of Members to be returned*] or this paper will be invalid. The ballot papers must then be folded so as to conceal the names of the candidates, and the number written on the lower edge of the back, and so as to show the stamp on the back.

The ballot paper must then be put in the ballot box by the voter.

The ballot paper must not be taken out of the booth.