

Regulation of Elections.

ANALYSIS.

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A BILL INTITULED

Title.

AN ACT to make provision for the Regulation and Conduct of Elections of Members of the House of Representatives.

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

PRELIMINARY.

Short Title.

1. The Short Title of this Act is "The Regulation of Elections Act, 1881." 5

Future elections to be under this Act.

2. After the commencement of this Act the members of the House of Representatives shall be chosen in conformity with the provisions of this Act, and not otherwise :

Interpretation.

3. In this Act, if not inconsistent with the context,— 10

"General election" means an election which shall take place after a dissolution of the General Assembly, or at the expiration of the term for which members of the House of Representatives are elected.

"Electoral district" or "district" means a division of the colony in respect of which one or more members are returned to serve in the House of Representatives. 15

"Roll" means a roll of electors formed for an electoral district.

"Clerk of the Writs" means the officer appointed to issue writs for the election of members of the House of Representatives; and includes the deputy of such officer. 20

"Writ" means a writ issued by the Clerk of the Writs directing a Returning Officer to proceed with the election of a member of the House of Representatives.

"Election" means election of a member of the House of Representatives. 25

"Elector" means any person whose name shall appear on an electoral roll and who shall have a right to vote at any such election.

"Residential qualification" means the qualification defined by subsection two of section two of "The Qualification of Electors Act, 1879."

"Candidate" means any person in respect of whom notice is given that he is a candidate for a seat in the House of Representatives. 30

"Returning Officer" means a person appointed to conduct elections under this Act, and shall, in respect of any polling booth for which a Deputy Returning Officer shall have been appointed, mean such Deputy Returning Officer. 35

"Booth" includes any house or building used for the purpose of taking the poll at any election.

"Speaker" means Speaker of the House of Representatives.

1874, No. 63, s. 2.

"Electric telegraph" means and includes any telegraph line established under "The Electric Telegraph Act, 1875," and any telegraph line the property of the Government and worked by electricity under their control within the colony. 40

Ibid.

"Telegraphic message"—Any message or other communication transmitted or intended for transmission or purporting to have been transmitted by electric telegraph. 45

Ibid.

"Telegraph station"—Any station appointed for the receipt and transmission of telegraphic messages.

"Public notice," or "public notification," means a notice published in some newspaper circulating in the district intended to be affected by such notice. 50

Appointment of officers.

1870, No. 18, s. 4.

4. The Governor from time to time may appoint such Returning Officers, clerks, and other officers as may be required to carry the provisions of this Act into execution.

The Governor may also from time to time appoint a substitute to any Returning Officer, to act in the case of the sickness or unavoidable 55

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absence of such officer. Every substitute Returning Officer, while acting for a Returning Officer, shall have all the duties, powers, and authorities of the officer for whom he is acting.

5 **5.** Every person appointed under this Act shall hold office during the Governor's pleasure. Tenure of office.

Such salaries shall be paid to the several persons appointed under this Act as shall be from time to time appropriated for that purpose by the General Assembly. Salaries.

POLLING-PLACES.

10 **6.** The Governor may from time to time appoint, alter, and abolish polling-places for each electoral district within of the limits thereof; and may appoint any one of such polling-places to be the principal polling-place of the district. Governor may appoint polling-places. 1870, No. 18, s. 7.

15 After the issue of a writ for an election in any district, and until such election is over, no change shall be made in the polling-places appointed for such district, unless such election cannot be held without some such change being made. Not to be altered after writ issued.

20 No polling-place shall be appointed unless the Governor shall be first satisfied that the place to be appointed is more convenient than any other for at least twenty electors to record their votes thereat.

GENERAL ELECTIONS—RETURNING MEMBERS.

25 **7.** The Governor, by warrant under his hand, shall from time to time appoint some fit person to be Clerk of the Writs, by whom writs for the election of members of the House of Representatives shall in all cases be issued, and to whom such writs shall also be returnable. Appointment of Clerk of the Writs. Ib., s. 8.

There shall be a deputy of the said Clerk, to be appointed in like manner, who shall act when the said Clerk is unable to act.

30 **8.** For every general election the Governor shall, by warrant under his hand, in the form or to the effect set forth in the *First* Schedule to this Act, direct the Clerk of the Writs to proceed with the elections. Governor's warrant for issue of writs for general election. First Schedule. Ib., s. 9.

35 **9.** On the receipt of such warrant the Clerk of the Writs shall forthwith cause writs to be issued to the several Returning Officers, in the form or to the effect set forth in the *Second* Schedule to this Act. Clerk of Writs to issue writs. Second Schedule. Ib., s. 8.

The writs shall be made returnable within forty days.

In the writs to be issued a day shall be named for the polling (if a poll is required) to take place, and the same day shall be appointed in each writ for the polling.

40 **10.** Every Returning Officer, on the receipt of a writ, shall indorse thereon the date of its receipt, and shall forthwith give at least fifteen days' notice of the day of nomination and of the day of polling, in the form or to the effect set forth in the *Third* Schedule to this Act. The day of nomination shall not be more than ten nor less than five days before the day appointed for the poll. Returning Officer to give notice of election day. Ib., s. 18. Third Schedule.

45 **11.** Every elector desiring to be a candidate for any district shall, on or before the day of nomination, give notice thereof to the Returning Officer, by a nomination paper in the form or to the effect set forth in the *Fourth* Schedule to this Act. Nominations. Ib., s. 21. Candidate may nominate himself. Fourth Schedule.

50 Any duly registered elector who has given his consent thereto in writing or by telegraph transmitted and certified in manner required by section *fifty-two*, may be nominated as a candidate for election for any district, in manner and within the time aforesaid, by not less than ten electors for the district. Ten electors may nominate a candidate.

55 Each candidate shall be nominated by a separate nomination paper, in such manner as in the opinion of the Returning Officer is calculated to sufficiently identify such candidate; but the same electors, or any of them, may subscribe as many nomination papers as there are vacancies to be filled, but no more.

No objection to a nomination paper on the ground of the description of the candidate being insufficient, or not being in compliance with this rule, shall be allowed or deemed valid unless such objection is made not less than three days before the day appointed for the poll.

Ten pounds to be deposited.

Every person nominating himself, and every body of ten electors nominating a candidate, shall, at the time of delivery of the nomination paper, deposit a sum of ten pounds in the hands of the Returning Officer. 5

The sum so deposited shall, after the election, be returned to the person or persons by whom it was deposited if the person on account of whose candidature it was so deposited shall have polled not less than one-fifth of the number of votes polled by the candidate who heads the poll at the election; but if a candidate shall not poll the aforesaid number of votes, the sum deposited shall be forfeited, and shall be paid into the Public Account. 10

Nominations to be advertised.

12. On receipt of every such notice or nomination, and of the sum of ten pounds as hereinbefore provided, the Returning Officer shall immediately publish the names of the several candidates in one or more newspapers circulating within the district. 15

Candidate may withdraw. Fifth Schedule. 1870, No. 18, s 24.

13. Any candidate may withdraw by giving to the Returning Officer a notice in the form or to the effect set forth in the Fifth Schedule to this Act, signed by the candidate and attested by a Justice of the Peace. 20

The Returning Officer shall forthwith publish such notice in such manner as he shall deem best calculated to give full publicity to the same. 25

Any candidate giving such notice shall not be capable of being elected, and all votes given for him (if any) shall be void and of no effect.

Proceeding where election not contested. Ib., s. 23.

14. If no more candidates than the number to be elected are nominated, or if any candidate who has been nominated withdraws in manner hereinbefore provided, so that there shall remain no more candidates than the number to be elected, the Returning Officer shall, by public notice to be given on or before the day appointed for taking the poll, declare such candidates duly elected. 30

The Returning Officer shall thereupon indorse and return and forward the writ as provided by section *forty-six* of this Act.

In cases of death before poll, proceedings *de novo*.

15. If a duly nominated candidate shall die after the last day on which nomination papers can be sent in, and before the day appointed for the poll at an election, the Returning Officer shall, upon being satisfied of the fact of such death, countermand notice of the poll, and all proceedings with reference to the election shall be commenced afresh in all respects as if the writ had been received by him on the day on which proof was given him of such death. 35

Provided that no fresh notice and deposit shall be necessary in the case of a candidate who has given the notice and made the deposit required by this Act at the time of the countermand of the poll. 40

Whenever the proceedings in any election are to be commenced afresh in consequence of the death of a candidate, the Returning Officer shall, previous to their commencement, indorse on the writ the fact of such death, the date of the proof thereof, and of the countermand of the poll in the consequence; and the return-day of the writ shall be forthwith after the conclusion of the election, whether such day be within or beyond the forty days mentioned in the writ. 45

POLLING AT ELECTIONS.

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Poll to be by ballot. Ib., s. 36.

16. The poll shall be taken by ballot; it shall commence at nine o'clock in the forenoon of the day appointed, and shall close at six o'clock in the afternoon of the same day.

Polling booths.

17. The Returning Officer shall provide the following things for taking the poll:— 60

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- (1.) One or more compartments for polling-booths; and in each booth one or more inner compartments separated from, but opening into the booth : 1870, No. 18, ss. 28, 29.
- 5 No polling-booth shall be in any house licensed for the sale of spirituous or fermented liquors, or in any premises belonging to such house : 1871, No. 60, s. 2.
- (2.) In each booth one or more ballot-boxes having a lock and key and a slit in the upper side by which the voting papers may be put into the box :
- 10 (3.) A sufficient number of voting-papers in the form or to the effect set forth in the *Sixth* Schedule to this Act : Form of voting papers. Sixth Schedule.
- (4.) In each inner compartment pencils for the use of the voters.
- 15 **18.** The Returning Officer shall conduct the election at the principal polling-place, with such clerks appointed by him as he may require. Returning Officer to preside at principal polling-place.
- 19.** The Returning Officer shall appoint in writing a deputy to act for him and take the poll at each of the other polling-places of the district, and so many clerks as may be required to assist. Deputy Returning Officers to be appointed.
- 20 **20.** Every such Deputy shall have and discharge all the powers, duties, and functions, at the polling-place for which he is appointed, as are given to or to be performed by the Returning Officer. Their duties and powers.
- 21.** Every Deputy Returning Officer shall, before the poll, make and subscribe before the Returning Officer or any Justice of the Peace the declaration set forth in the *Seventh* Schedule. To make declaration. 1870, No. 18, ss. 30, 31. Seventh Schedule.
- 22.** Each candidate may, by writing under his hand, appoint one scrutineer for each ballot-box used in the booth. Scrutineers for each booth.
- 23.** Every scrutineer and clerk shall, before he shall be admitted to act, make and subscribe before the Returning Officer, or his Deputy, the declaration set forth in the *Eighth* Schedule. To make declaration. Ib., ss. 32, 33. Eighth Schedule.
- 24.** The Returning Officer shall, immediately before the opening of the poll, and in sight of any of the scrutineers who may be present, see that the ballot-box is empty, and shall close and lock it, and retain the key in his possession. Ballot-boxes to be emptied before polling, then locked and kept so till after close of poll. Ib., s. 35.
- 35 **25.** The ballot-box shall not again be opened until after the close of the poll.
- 25.** Not more than six voters, to be, if necessary, designated by the Returning Officer shall be allowed in a polling-booth at one and the same time, and no person not actually engaged in voting shall be allowed to remain there except the Returning Officer and his clerks, any of the scrutineers, an interpreter, and as many constables as the Returning Officer thinks necessary to keep order. No persons permitted to remain in polling-booth. Ib., s. 34.
- 40 **26.** No person shall speak to any voter in a polling-booth before such voter has given his vote, except only the Returning Officer may ask the questions he is authorized to put, and give such general directions as may assist any voter to give his vote. Voters not to be spoken to in booth.
- 45 **27.** Every person proposing to vote shall inform the Returning Officer of his name, and the Returning Officer shall satisfy himself, by reference to the roll, that such person is entitled to vote, and has Voting paper to be given to voter within booth. Ib., s. 39.

37. Immediately after ascertaining the total number of votes as last aforesaid, each Deputy Returning Officer shall—
 (1.) Make up in one parcel the voting papers which shall have been used in voting at his polling-booth during the election;
 Books and papers to be made up in parcels. Ib., s. 68.

either of the above questions, he shall be deemed guilty of an offence, and shall be liable on conviction to a penalty not exceeding *fifty* pounds; and any person not answering such questions, or not answering the first and second in the affirmative, and the third in the negative, shall not be permitted to vote.

Before given, voting paper to be marked. 1870, No. 18, s. 43. Compare 35 and 36 Vict., c. 33, s. 2.

29. Before giving any voting paper, the Returning Officer shall write upon the bottom of the left-hand corner of the back thereof his initials and the number appearing on the roll against the name of the voter to whom he gives such paper, and after securing the said corner by gum or otherwise shall stamp thereon an official mark.

And shall place a mark against the name of such elector on the roll as evidence that he has proposed to vote.

Returning Officer to be satisfied of person's right to vote. *Ib.*, s. 43.

30. The Returning Officer or his Deputy, having satisfied himself that the person proposing to vote is entitled to do so, shall deliver to him a voting paper.

Voter to be alone when making up voting paper. *Ib.*, s. 44.

31. The voter, having received a voting paper, shall retire into one of the inner compartments provided, and shall there alone and secretly strike out from the voting paper the names of the candidates for whom he does not intend to vote.

Provision where voter cannot write. *Ib.*, s. 46.

32. If any voter desires it, the Returning Officer, and, if necessary, an interpreter, shall retire with him into the inner compartment, and there make up the voting paper according to the instruction of the voter; and such Returning Officer or his Deputy shall sign his own name at the foot thereof.

Voting paper to be folded and put in ballot-box by voter.

33. Every voter, before leaving the inner compartment, shall fold up his voting paper so that the contents cannot be seen, and after showing the Returning Officer the official mark thereon, shall then deposit the voting paper, so folded, in the ballot-box.

Number of votes to be given by each voter. *Ib.*, s. 45.

34. Except as next hereinafter provided, every voter for the district may vote for any number of candidates at an election not exceeding the number of members then to be returned for the district, but may not give more than one vote to each such candidate.

When any district is represented by three members no person shall vote for more than two candidates.

30 and 31 Vict., c. 102, s. 9.

Every voting paper recording more than the legal number of votes at any election shall be rejected at the close of the poll.

Proceeding where second vote tendered in same name.

35. If any person proposing to vote at any election tenders his name as of the same person to whom a voting paper has already been given at the same election, he shall be dealt with in all respects in like manner as any voter proposing to vote, but the voting paper of such person shall not be deposited in the ballot-box, or allowed by the Returning Officer or his Deputy, who shall set the voting paper aside for separate custody.

RESULT OF POLL.

Number of votes to be ascertained on close of poll. *Ib.*, s. 52.

36. 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 Scrutineers 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 for each candidate, and shall, upon and after such opening, both abstain himself from inspecting the writing upon the back of the voting 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.

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5 in another separate parcel the voting papers which shall have remained unused thereat; in another separate parcel the voting papers which shall, as herein provided, have been set aside for separate custody thereat; in another separate

- 10 (2.) And shall seal up the said several parcels;
- (3.) 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
- 15 name of the place of polling, and the date of the polling, and sign with his name the said indorsement, and shall transmit the said parcels to the Returning Officer.

38. Each Deputy shall, together with the parcels aforesaid, transmit to the Returning Officer—

- 20 (1.) The certified copies of rolls supplied to the said Deputy on which the fact of any person having received a voting paper has been noted, as by this Act provided;
- (2.) A list of the total number of votes received by each candidate;
- 25 (3.) An account in which such Deputy shall charge himself with the number of voting papers originally delivered to him specified therein, the number thereof delivered to and used by voters, and the number not so delivered, or left unused, and the number set aside as aforesaid for separate
- 30 custody.

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 **39.** The Returning Officer shall, in respect of any polling-booth at which he himself shall have presided,—

- (1.) Make up in separate parcels, in like manner as is herein required of Deputy Returning Officers, all voting papers used, unused, or set aside as aforesaid, and all books, rolls,
- 40 and papers, except the certified copies of rolls on which the fact of any person having received a voting paper has been noted, as by this Act provided, kept or used by him at such polling-booth;
- (2.) Seal up and also permit to be sealed up by the Scrutineers, and shall indorse in like manner as aforesaid, the
- 45 said several parcels, and deal with the same as herein-after provided, and shall also make out in respect of the said booth the like list as herein required in the case of Deputy Returning Officers, which said list shall be verified
- 50 by the signature of the Returning Officer, the Poll Clerks (if any), and Scrutineers in manner aforesaid.

40. The Returning Officer shall make arrangements for counting the votes as soon as practicable after the close of the poll, in the presence of Scrutineers appointed by the candidates for that purpose, and shall

55 give notice in writing to the candidates or their Scrutineers of the time and place at which he will commence to count the same.

No person except the candidates, one Scrutineer appointed by each candidate, the Returning Officer and his assistants and clerks, and no other person, unless with the sanction of the Returning Officer, may

60 be present at the counting of the votes.

Deputies to make returns to Returning Officer.

1870, No. 18, s. 54.

Returning Officer to make up parcels.

Ib., s. 55.

Votes to be counted. Ib., s. 59.

Returning Officer to compare rolls.
1870, No. 18, s. 56.

41. The Returning Officer shall, in the presence and hearing of 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 voting paper has been noted by himself or any Deputy, as by this Act provided.

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May select voting papers and disallow votes in certain cases.
Ibid.

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

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Provided that, upon and after the opening of such parcel, the Returning Officer shall both abstain himself from inspecting the faces of the voting papers in the several parcels other than the voting papers selected therefrom so opened, and shall take care that the faces of the same are not seen by any person present.

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After selection, parcels to be sealed up.
Ib., s. 57.

42. When the Returning Officer has selected from any parcel all the voting papers which he is required to select therefrom, he shall forthwith close and seal up the said parcel, and shall also permit the Scrutineers to close and seal up the same, and shall indorse thereon a memorandum of the fact of voting 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 indorsement with his name.

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Selected papers to be sealed up.
Ib., s. 58.

43. The Returning Officer shall set aside all voting 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 thereof, and shall sign the indorsement with his name.

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State of poll to be made up, and result declared.
Ib., s. 59.

44. The Returning Officer shall make up, from the list made out by him as last aforesaid, and from the list 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 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 in the aggregate at all the polling-places the greatest number of votes to be duly elected as members for the district.

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Casting vote of Returning Officer.
Ibid.

45. If two or more candidates have received an equal number of votes, the Returning Officer shall give a casting vote, but shall not otherwise vote.

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Names of persons elected to be indorsed on writ, and writ returned.
Ibid.

46. The names of the persons so elected shall be indorsed on the writ by the Returning Officer, and the writ shall be by him returned to the Clerk of the Writs forthwith, and within the time specified therein.

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Date of return of writ.
Ib., s. 60.

47. The day on which the writ so indorsed comes into the possession of the Clerk of the Writs shall be indorsed by him on the writ, and his signature subscribed thereto; and such day shall be deemed to be the day of the return thereof.

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

48. The Returning Officer shall, as soon as practicable after the day of polling, at any election, enclose in separate packets, in manner hereinafter mentioned, as well 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,—

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(1.) He shall enclose in one separate packet all parcels of used voting papers, in another all parcels of unused voting papers, in another all parcels of voting papers set aside as aforesaid, and in another all parcels containing copies of rolls, books, or other papers, as herein provided ;

(2.) He 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 indorsement, and shall forthwith forward the said packets, and also the parcel of voting papers selected as aforesaid, to the Clerk of the House of Representatives.

(3.) And he shall also at the same time seal up and transmit to the said Clerk a parcel containing all voting papers which shall have been printed for the said election and not used by the Returning Officer or distributed for use to his Deputies.

The said Clerk shall forthwith give or send to the Returning Officer a receipt under his hand for the said packets and parcel.

The sealed packets and parcels shall be safely kept for one year unopened, except by the command of a competent Court or the House of Representatives.

At the end of one year the packets and parcels shall be burnt unopened, in the presence of the said Clerk and the Clerk of the Writs.

49. If at a general election any member shall be returned for two or more districts he shall make his election for which he will serve within seven days after it shall appear that there is no question upon his return for the district for which he elects to serve.

If a petition is presented against his return for either district, he shall, if his return for both districts is valid, make his election within seven days after the petition has been disposed of.

50. Any voting papers, and any copy of a roll, and any book purporting to be taken from any such parcel as aforesaid, and having 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 the same was so taken, and that the same, if a voting 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.

51. Every such voting paper so certified shall be evidence of a vote given at such election, and the correspondence of the number appearing on such voting paper with the number appearing on any roll so certified as of the same election and booth, and according to the tenor of the said voting paper ; except in the case of the voting papers set aside or selected and set aside by a Deputy 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.

NOTICES BY TELEGRAPH.

52. It shall be lawful for the Governor, the Speaker of the House of Representatives, the Clerk of the Writs and his Deputy, and any member desiring to resign his seat, and any Returning Officer or substitute for a Returning Officer, to cause to be transmitted by electric telegraph the contents of any writ, warrant, return, notice, authority, or other communication which under the provisions of this Act are required or authorized to be made or issued by the Governor, Speaker, or any or such other officer or person as aforesaid, whether requiring signature or seal or not, subject to the provisions following, that is to say,—

A member returned for two districts at a general election to elect.

House of Commons sessional order.

Papers taken from parcels to be evidence in certain cases. *Ib.*, s. 61.

Of what a voting paper used at election shall be evidence.

Ibid.

Certain documents may be transmitted by telegraph under restrictions. 1874, No. 63, s. 3.

1874, No. 68, s. 3.

- (1.) The original document shall be delivered at a telegraph station, and in the case of any officers and persons as aforesaid, other than the Governor or Speaker, such delivery shall be made in the presence and under the inspection of some Justice of the Peace. 5
- (2.) The person to whom the contents of any such document shall be sent shall forthwith, in the presence and under the supervision of a Justice of the Peace, cause to be sent back by electric telegraph a copy of the message received by him; and in the event of any error appearing therein, the process shall be repeated, under the like supervision, until it shall appear that a true copy of such document has been received by the person to whom it shall have been sent. 10
- (3.) When it shall appear that such true copy has been so received, the officer or person who delivered the original document to the Telegraph Officer shall indorse upon the original document a certificate that a true copy thereof has been sent, under the provisions of this section, to the person to whom the same shall have been so sent, and shall forthwith, by electric telegraph, inform such person that such certificate has been so indorsed; and in the case of every officer or person other than the Governor or Speaker, the certificate shall be indorsed in the presence of the Justice of the Peace who was present at the delivery of the original document. 20 25
- (4.) The person so receiving such true copy shall, upon receiving information of such certificate, indorse upon the copy of the original document received by him a certificate that the same has been duly received under the provisions of this section, which certificate shall be signed by him and by the Justice so supervising the receipt of such copy as hereinbefore provided. 30

Copies so transmitted to be as valid and effectual as originals. Ibid.

Every copy so indorsed and certified shall be as valid to all intents and purposes as the original whereof it purports to be a copy would have been, and shall be admissible in evidence in any case in which the original would have been so admissible; and any person by whom such copy shall have been so received, or who shall be thereby authorized instructed or commanded, or who shall or may be lawfully charged with any duty in respect thereof, shall have and become liable to the same rights and duties in respect thereof as if he had received such original document duly signed and sealed, or signed or sealed, as the case may be. 35 40

Original documents of which copies transmitted to be open to inspection. Ibid., s. 4.

53. Every original document, a copy whereof shall have been transmitted under the preceding section of this Act, shall be kept at the telegraph station at which it was delivered for the purposes of such transmission, and shall, after the expiration of two days from the date of the certificate under subsection *three* of the said section being indorsed upon it, be open within reasonable hours to the inspection of any person upon the payment of a fee of one shilling. 45 50

Penalty for wilful delivery of message to wrong person. Ibid., s. 5.

54. Any person who, being charged with the delivery of any such telegraphic message as aforesaid, shall wilfully deliver the same to any person other than the person to whom the same shall be addressed, shall be guilty of a misdemeanour, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding two years, with or without hard labour. 55

Penalty for signing another's name to message to be sent. Ibid., s. 6.

55. Whosoever without lawful authority or excuse (the proof whereof shall be on the person accused) shall sign the name of any other person to any such telegraphic message as aforesaid, with intent

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to procure such message to be sent as a message from such other person, shall be guilty of a misdemeanour, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding two years, with or without hard labour.

5 **56.** Any person who shall wilfully and falsely indorse upon any original document delivered at a telegraph station for the purpose of being transmitted under the provisions of this Act a certificate that a true copy thereof has been sent under section *fifty-two*, or
10 whom such document shall have been so sent that a certificate under the provisions of this Act has been indorsed thereon, shall forfeit a sum not exceeding *one hundred* pounds, which may be sued for and recovered by the first person who shall for his own benefit and without collusion sue for the same.

Penalty for false certificate of sending message under provisions of this Act. 1874, No. 63, s. 7.

15 **57.** Any person by this Act required to sign any certificate upon any copy of a document that such copy has been duly received, under the provisions of section *fifty-two*, who shall wilfully sign any such certificate knowing the same to be false, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be kept in penal servitude for any term not exceeding
20 fourteen years and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Signing false certificate upon copy to be felony. *Ib.*, s. 8.

VACANCIES.

25 **58.** The seat of any member of the House of Representatives shall become vacant—

How vacancies may be created. Constitution Act, s. 50.

(1.) If for one whole session of the General Assembly he fails, without permission of the House, to give his attendance in the House :

30 (2.) If he takes any oath or makes any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign Prince or Power :

(3.) If he does, or concurs in, or adopts any act whereby he may become a subject or citizen of any foreign State or
35 Power, or is entitled to the rights, privileges, or immunities of a subject of any foreign State or Power :

(4.) If he is a bankrupt, or an insolvent debtor within the meaning of the laws relating to insolvent debtors :

40 (5.) If he is a public defaulter, or is attainted of treason, or is convicted of felony or any infamous crime :

(6.) If he resigns his seat by writing under his hand addressed to the Speaker of the House, or, if there be no Speaker or he be absent from the colony, or if the resigning member be the Speaker, to the Governor.

Ib., s. 49.

45 **59.** No member for one district shall be capable of being elected to supply a vacancy in another district; and in the event of his being returned with his consent for one district whilst he is a member for another both districts shall thereupon become vacant.

No member to be elected for another district. House of Commons sessional order.

50 **60.** If a vacancy exists at the commencement of any session, and no writ has been issued to supply the same; or if a vacancy occurs during a session, the Speaker shall forthwith, upon being ordered to do so by the House, issue his warrant to the Clerk of the Writs, directing him to issue a writ to supply the vacancy.

During session, Speaker by warrant directs issue of writ. 1870, No. 18, s. 12.

55 **61.** Whenever during a recess of the House, whether by prorogation or adjournment, it appears to the Speaker that a vacancy exists, he shall cause a notification of the same, and of the cause thereof, to be inserted in the *Gazette*.

During recess, vacancy to be gazetted. *Ib.*, s. 13.

Ten days thereafter,
Speaker directs writ
to issue.

1870, No. 18, s. 13.

When no Speaker,
Governor to act in
lieu of Speaker.

Clerk of Writs to
issue writ.

Ib., s. 17.

Second Schedule.

Previous provisions
of Act to apply to
elections for
vacancies.

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

35 and 36 Vict.,
c. 33, s. 3.

Attempt to commit
an offence.

Property may be
stated as being in
Returning Officer.

Infringement of
secrecy.

1870, No. 18, s. 68.
35 and 36 Vict.,
c. 33, s. 4.

62. As soon as conveniently may be after the expiration of ten days after such notification shall have appeared in the *Gazette*, the Speaker, on its being established to his satisfaction that a vacancy does exist, shall issue his warrant to the Clerk of the Writs, directing him to issue a writ to supply the vacancy. 5

63. Whenever a vacancy occurs at a time when there is no Speaker, or he be absent from the colony, the Governor shall cause a like notification to be inserted in the *Gazette*, and the like proceedings taken as are provided for in the two preceding sections of this Act.

64. On receipt of a warrant, the Clerk of the Writs shall forth- 10 with cause a writ to be issued to the Returning Officer of the district in which the vacancy has occurred, in the form or to the effect set forth in the Second Schedule to this Act.

The writ shall be made returnable within forty days.

65. Sections *ten to fifty-seven*, both inclusive, of this Act, shall 15 apply to and be acted on at elections to supply vacancies.

OFFENCES AT ELECTIONS.

66. Every person who—

- (1.) Forges, or fraudulently defaces, or fraudulently destroys 20 any nomination paper, or delivers to the Returning Officer any nomination paper knowing the same to be forged; or,
- (2.) Forges, or counterfeits, or fraudulently defaces, or fraudulently destroys any voting paper, or the official mark on any voting paper; or,
- (3.) Without due authority supplies any voting paper to any 25 person; or,
- (4.) Fraudulently puts into any ballot-box any paper other than the voting paper which he is authorized by law to put in; or,
- (5.) Fraudulently takes out of the polling booth any voting 30 paper; or,
- (6.) Without due authority destroys, takes, opens, or otherwise interferes with any ballot-box, or box or packet or parcel of voting papers, then in use for the purposes of the election, or in course of transmission by post or otherwise, or there- 35 after wherever the same may be kept as a record of such election,

shall be guilty of a misdemeanour, and be liable, if he is a Returning Officer, or an officer or clerk in attendance at a polling-booth, to imprisonment for any term not exceeding two years with or without 40 hard labour, and if he is any other person, to imprisonment for any term not exceeding six months with or without hard labour.

Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence is punishable.

In any indictment or other prosecution for an offence in relation 45 to the nomination papers, ballot-boxes, voting papers, or marking instrument at an election, the property in such papers, boxes, and instrument may be stated to be in the Returning Officer at such election.

67. Every officer, clerk, scrutineer, interpreter, and constable 50 in attendance at a polling-booth shall maintain and aid in maintaining the secrecy of the voting in such booth, and shall not communicate, except for some purpose authorized by law, before the poll is closed, to any person any intimation as to the name or number on the register of voters of any elector who has or has not applied for a voting paper at that booth, or as to the official mark. 55

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No person whosoever, except as hereinbefore provided, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling-booth information as to any candidate for whom any voter in such booth is about to vote

5 or has voted, or communicate at any time to any person any information obtained in a polling-booth as to the candidate for whom any voter at such booth is about to vote or has voted, or as to the number on the back of the voting paper given to any voter at such booth.

10 Every person in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any voting paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular voting paper.

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

35 and 36 Vict.,
c 33, s. 4.

20 Every person who acts in contravention of the provisions of this section shall be liable, on summary conviction before two Justices of the Peace, to imprisonment for any term not exceeding six months with or without hard labour.

Punishment therefor.

25 **68.** If any Returning Officer wilfully delays, neglects, or refuses to return any person who ought to be returned, such person may, in case it has been determined on the hearing of an election petition by a competent tribunal that such person was entitled to have been returned, sue in the Supreme Court the officer having so wilfully delayed, neglected, or refused duly to make such return, and recover double the damages he has sustained by reason thereof, together with full costs of suit: Provided such action be commenced

Returning Officer
refusing to return
any person duly
elected may be sued.
Compare, 1870,
No. 18, s. 69.

30 within one year after the commission of the act on which it is grounded, or within six months after the conclusion of the trial relating to such election.

35 MISCELLANEOUS.

40 **69.** Every Returning Officer has power and authority to maintain order and keep the peace at any polling-place where he is conducting the poll, and, without any other warrant than this Act, to cause to be arrested and taken before a Justice of the Peace any person reasonably suspected of committing or attempting to commit at a polling-place any of the offences which are made misdemeanours by this Act:

Returning Officers
to maintain order.
Ib., s. 51.

45 Also to cause to be removed any person who obstructs the approaches to a polling-booth, or wilfully and unnecessarily obstructs or delays the proceedings at the polling, or conducts himself in a disorderly manner, or causes a disturbance, or wilfully acts in any manner in defiance of the lawful directions of the Returning Officer.

Ib., s. 49.

50 All constables shall aid and assist the Returning Officer in the performance of his duty.

55 **70.** When the proceedings for taking the poll at any election are interrupted or obstructed at any place by riot, open violence, or otherwise, the Returning Officer shall 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 happens to the following day, and, if necessary, from day to day, until the poll can be taken without such interruption or obstruction, when the Returning Officer shall again proceed with taking the poll: Provided that the poll shall not be kept open for more than nine hours on the whole.

Poll to be adjourned
in case of riot.
Ib., s. 63.

Election not to be invalid for defect in appointment of person taking the poll. 1870, No. 18, s. 66.

Election not to be void for want of appointment of Returning Officer. *Ib.*, s. 67.

Unavoidable impediments may be removed by Governor in Council. *Ibid.*

Nature of impediment removed to be gazetted. *Ibid.*

Time may be extended in cases of a technical nature.

Repeals.

Schedules.

Sec. 8.

Secs. 9, 64.

Sec. 10.

71. 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 shall have been held, if such person has been actually appointed or has been acting in the office giving a right to preside at such election or polling. 5

72. No election shall be void in consequence of there being no Returning Officer for any district at the time of the issue of the writ, or of any delay in the return of the writ.

73. When any accidental or unavoidable impediment, misfeasance, or omission happens, the Governor in Council may take all such measures as may be necessary for removing or rectifying the same, or may declare any or all of the proceedings at or for any election valid, notwithstanding such impediment, misfeasance, or omission. 10

74. Every such Order in Council shall state specifically the nature of the impediment, misfeasance, or omission, and shall be forthwith published in the *Gazette*. 15

75. Within twenty-one days before or after the day appointed for doing any act, matter, or thing by this Act required to be done on or before a day certain, it shall be lawful for the Governor in Council to extend the time allowed for doing any such act, matter, or thing, and to adopt or cause to be adopted such measures as may be necessary to remove any obstacle or difficulty of a technical or formal nature by which the carrying out of the provisions of this Act may be impeded, and to supply any deficiency which may be required to be supplied in order to enable the said provisions to be carried out. 20

76. The Acts and parts of an Act mentioned in the *Ninth* Schedule are hereby repealed. 25

SCHEDULES.

FIRST SCHEDULE.

WARRANT FOR ISSUE OF WRITS.

To the Clerk of the Writs.

You are hereby authorized and directed to proceed forthwith to issue writs for the election of members for the House of Representatives for all the electoral districts within the Colony of New Zealand.

Dated this day of , 18 .

Governor.

SECOND SCHEDULE.

FORM OF WRIT.

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 , 18 .

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

THIRD SCHEDULE.

NOTICE OF POLLING DAY.

IN pursuance of "The Regulation of Elections Act, 1881," 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 hand of the Clerk of the Writs, an election will be held for the return of a qualified person to serve as a member for the said electoral district, and that the poll, if necessary, will be taken at the several polling-places of the said district on the day of , 18 .

Every person desirous of becoming a candidate must give notice to the Returning Officer, or must be nominated by ten electors, on or before the day of , by a nomination paper as prescribed by section nine of the Act.

The following are the polling-places [*Insert list of polling-places*] for the Electoral District of .

A.B.,
Returning Officer.

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FOURTH SCHEDULE.

Sec. 11.

NOMINATION PAPER.

To the Returning Officer for the Electoral District of
I [*or We*], the undersigned, hereby give notice that I am [*or that we nominate A.B.*,
of (*residence, occupation*), as] a candidate at the election of member of the
House of Representatives for the Electoral District of , the poll wherefor is
appointed for the day of , 18 .

(Signature.)
(Residence.)
(Occupation or addition.)

[*or full names of ten electors nominating, residence, and occupation.*]

FIFTH SCHEDULE.

Sec. 13.

NOTICE OF WITHDRAWAL FROM CANDIDATURE.

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

(Signature.)
(Abode.)
(Qualification.)

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

SIXTH SCHEDULE.

Sec. 17.

FORM OF VOTING PAPER.

Electoral District of

A.B. }
C.D. } Names of candidates (arranged in alphabetical order of surnames).
E.F. }

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 take care not to leave uncanceled the names of more than [*Insert number
of members to be returned*], or this paper will be invalid.

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

No voting paper is to be taken out of the polling-booth.

SEVENTH SCHEDULE.

Sec. 21.

DECLARATION BY DEPUTY RETURNING OFFICER.

I, A.B., do solemnly declare that I will well and truly serve our Sovereign Lady Queen
Victoria in the office of Deputy Returning Officer for the Electoral District of ,
and that I will not do anything forbidden by section *sixty-seven** of "The Regulation
of Elections Act, 1881," which has been read to me.

Declared before me , this day of , 18 .
C.D.,
Returning Officer [*or a J.P.*].

* This section must be read to the declarant by the person taking the declaration.

EIGHTH SCHEDULE.

Sec. 23.

DECLARATION BY SCRUTINEER.

I, E.F. (Scrutineer for X.Y., a candidate at the present election for the Electoral
District of), do solemnly declare that I will not at this election do anything
forbidden by section *sixty-seven** of "The Regulation of Elections Act, 1881," which
has been read to me.

Declared before me , this day of , 18 .
C.D. or G.H.,
Returning [*or Deputy Returning*] Officer.

* This section must be read to the declarant by the person taking the declaration.

NINTH SCHEDULE.

15 and 16 Vict., cap. 72.—The Constitution Act. In part, namely, sections 43, 49,
and 50.

1870, No. 18.—The Regulation of Elections Act, 1870.

1871, No. 60.—The Regulation of Elections Act Amendment Act, 1871.

1874, No. 63.—The Regulation of Elections Act Amendment Act, 1874.