

NEW ZEALAND



ANNO VICESIMO PRIMO ET VICESIMO SECUNDO

VICTORIÆ REGINÆ.

No. 56.

ANALYSIS:

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**AN ACT to make provision for the Regulation and Conduct of Elections of Members of the House of Representatives.** Title.  
 [19th August, 1858.]

*Regulation of Elections.*

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

Governor to appoint  
Returning Officers.

I. 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.

Returning Officer to  
conduct Election at  
Principal Polling  
Place, and to appoint  
Deputies.

II. The Returning Officer of each Electoral District shall conduct the Election 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 each Election a Deputy for each Polling Place to conduct the Election at the several other Polling Places in the District; and such Deputies shall appoint such Clerks as may be required to assist in taking the Poll.

Returning Officer &  
Deputy Returning  
Officer to take Oath.

III. Every Returning Officer and Deputy Returning Officer shall, before acting in his Office, make and subscribe an Oath in the form numbered 1 in the Schedule to this Act annexed, before any Justice of the Peace, who is hereby authorised to administer the same, and is hereby required to transmit the record of the same by the first convenient opportunity to the Colonial Secretary.

Governor to appoint  
Polling Places.

IV. 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 without the limits thereof, and to appoint any one of such Places to be the Principal Polling Place for the District, and all or any of such Polling Places at any 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 to be appointed is more convenient than any other for at least thirty Electors to record their votes thereat: Provided also, that no new Polling place shall be appointed for any District after the day on which the notice of the day of nomination shall be published as hereinafter provided.

Returning Officer to  
endorse on Writ day  
of receiving same, and  
to give notice of  
Election.

V. Whenever a Writ for the Election of a Member of the House of Representatives shall be received by any Returning Officer, he shall endorse thereon the day on which he shall have received it, and shall forthwith fix and give not less than five nor more than fifty 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, will be taken, in the form numbered 2 in the said Schedule, by publishing the same together with the notice at the foot thereof, in the said form numbered 2, twice in one or two newspapers published within the Electoral District for which such Writ shall

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have been issued, and if there be no such newspaper, then in one or two newspapers 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.

VI. On the day of nomination so to be fixed as aforesaid 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.

Returning Officer to preside at meeting for nomination.

VII. 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 declare such Candidate or Candidates to be duly elected and shall make a return accordingly.

Candidates to be proposed and seconded.

VIII. In the event of there being more Candidates proposed and seconded than the number to be elected, 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.

Show of hands to be taken.

IX. The names of the persons so declared to be elected shall be endorsed 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 Governor forthwith.

Names of Persons elected to be endorsed on Writ, and Writ returned to Governor.

X. It shall be lawful for any Candidate, so nominated as aforesaid, at any time thereafter to withdraw his name as a Candidate by giving a notice in the form numbered 3 in the said Schedule, 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 persons to be elected, no Poll shall be taken, but the Returning Officer shall declare at the foot of such last mentioned notice in the form numbered 4 in the said Schedule, or to the like effect that such Candidates are duly elected, and shall endorse the Writ accordingly, and return the same to the Governor within the time by which the same shall have been made returnable.

Any Candidate may withdraw.

XI. If a Poll be demanded as aforesaid the Returning Officer shall then declare the day on which the same shall be taken, being the day so to be fixed as aforesaid, 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 at 9 o'clock in the morning, and shall finally close at 4 o'clock in the afternoon of the same day, unless adjourned as hereinafter provided by reason of riot or other interruption.

Poll to open at 9 a.m. and close at 4 p.m.

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Copy of Electoral Roll to be given to each Deputy Returning Officer and Poll Clerk.

XII. Every Deputy Returning Officer and every Poll Clerk shall be supplied by the Returning Officer with a written or printed copy of the Electoral Roll authenticated by his signature; and every such Copy shall be deemed sufficient to determine all questions and disputes which may arise before such Deputy Returning Officer or Poll Clerk in reference to anything contained in the Electoral Roll.

Persons who may be present in Polling Booths.

XIII. No other person except the Returning Officer or his Deputy, the necessary Poll Clerks, and not exceeding two agents at each Polling booth for each Candidate, to be appointed in writing by the Candidate or by his proposer on his behalf, together with a sufficient number of Constables to keep order, shall remain in any Polling Booth during the Polling, and no person whatever except the Returning Officer, or Deputy Returning Officer and the Poll Clerk to whom any vote shall be tendered, shall speak to any Elector after he shall have entered the Polling Booth and before he shall have signed the entry thereof to be made as hereinafter provided, and any person offending against any of the provisions of this section shall forfeit a sum not exceeding £20, to be recovered in a summary way: Provided always that no such Poll Clerk or Agent shall be employed or be permitted to be present and to remain in any Polling Booth during the Polling, unless he shall have made and subscribed in the presence of the Returning Officer or his Deputy, a Declaration in the form numbered 5 in the schedule hereunto annexed.

State of the Poll not to be declared until close.

XIV. The number of Votes which may be given for any Candidate at any such Polling Booth shall not be published or made known until after the close of the Poll, and every Returning Officer, Deputy Returning Officer, Poll Clerk, Agent, or Constable, who shall directly or indirectly by any means whatsoever, publish or make known before the close of the Poll, the number of votes which may have been given for any Candidate, shall forfeit and pay for every such offence any sum not exceeding £50, to be recovered in a summary way.

Mode of conducting Elections.

XV. On the day of Election the voting at each Polling place shall be conducted in manner following:—

1. Every Elector may vote for any number of candidates not exceeding the number of members then to be chosen.
2. When any Elector tenders his vote the Deputy Returning Officer or Poll Clerk to whom the same is tendered shall state explicitly in alphabetical order the names of the several Candidates, and shall then enquire of the Elector for which of the said Candidates he intends to vote.
3. On such Candidate or Candidates being named by the Elector the Deputy Returning Officer or Poll Clerk shall enter the vote accordingly in a Poll Book to be

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kept for that purpose, and the Elector shall affix his signature to the entry: Provided always, that when the Elector affixes his mark, it shall be witnessed by the Returning Officer, Deputy Returning Officer or Poll Clerk.

4. It shall be lawful for the Elector at any time before he has affixed his signature as aforesaid, to have the entry of the names of the Candidate for whom he desires to record his vote altered, but no alteration shall be made after the entry is signed.
5. As soon as the Elector has signed the entry he shall immediately leave the Polling Booth, and on his refusal to do so, shall be forthwith removed by order of the Returning Officer or Deputy Returning Officer.

XVI. No inquiry shall be permitted at the time of Polling as to the right of any person to vote except only as follows, that is to say, the Returning Officer, or Deputy Returning Officer shall, if he think fit, or if required by any Candidate, or his Agent authorised in writing, or by any Elector of the Electoral District for which the Election is being held, put to any Elector before he shall have affixed his signature as hereinbefore provided, and not afterwards, the following questions, or either of them :

What enquiries may be made at the time of Polling.

1. Are you the person whose name appears as (A. B.) in the Electoral Roll now in force for the Electoral District of (*here state the name of the District*) ?
2. Have you already voted here or elsewhere at this present Election for the Electoral District of (*here state the name of the District*) ?

XVII. The Returning Officer or Deputy Returning Officer shall also, if he think fit, or if required as aforesaid, administer an Oath in the form numbered 6, in the said Schedule to any Elector before he shall have affixed his signature as aforesaid, and not afterwards, and such Returning Officer or his Deputy shall likewise, if he think fit, or if required as aforesaid, administer an Oath against Bribery, in the Form numbered 7 in the said Schedule.

Oaths may be administered by Returning Officer or his Deputy.

XVIII. No person so required to answer any such Question or take any Oath as aforesaid shall be permitted to vote until he shall have answered such Question or taken such Oath; and if any person shall wilfully make a false answer to any such Question, or shall upon any such Oath wilfully swear falsely, such person shall be deemed guilty of a Misdemeanour, and on conviction of making such false answer shall be punished by fine and imprisonment with or without hard labour, for a term not exceeding two years, and on conviction of wilfully swearing falsely shall suffer the like penalties as persons convicted of wilful and corrupt perjury.

No person to vote till questions answered & Oaths taken. Penalty for false answers or Oath.

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No other Oath to be required, and persons answering questions & taking Oath to be permitted to vote.

XIX. No Elector at any Election shall be required to take any Oath except as aforesaid, either in proof of his qualification or right to vote or otherwise, and no persons claiming to vote at any Election shall be excluded from voting thereat, except it shall appear to the Returning Officer or Deputy Returning Officer upon putting such questions as aforesaid, or either of them, that the person so claiming to vote is not the person whose name appears on such Electoral Roll as aforesaid, or that he has previously voted at the same Election; or except such person refuse or neglect to answer either of the said questions, or to take either of the said Oaths, when required as aforesaid.

Personating a misdemeanour.

XX. If at any Election any person shall knowingly personate and falsely assume to vote in the name of any other person whose name appears on the Electoral Roll then in force, whether such other person be then living or dead, or if the name of the said other person be the name of a fictitious person, every such person shall be guilty of a Misdemeanour, and on being convicted thereof, shall be punished by imprisonment for a term not exceeding two years, together with hard labour.

Returning Officer may order persons charged with Personation to be taken in custody.

XXI. If during the time any person shall be in any Polling Booth, any agent appointed in writing as aforesaid, by or on behalf of any Candidate, shall declare in writing to the Returning Officer or his Deputy that he verily believes and undertakes to prove that the said person is not in fact the person in whose name he assumes to vote, or to the like effect, then, and in such case, it shall be lawful for the said Returning Officer or his Deputy, and he is required, by word of mouth, to order any Constable (if any such be present) to take the person so assuming to vote into custody, which order shall be a sufficient warrant and authority to the said Constable for so doing: Provided always that if such Person shall insist on voting notwithstanding such charge of Personation is made against him, he shall be permitted to vote before he is removed.

Persons charged with Personation to be taken before two Justices, and bail to be taken by one Justice in certain cases.

XXII. Every such Constable shall take the person so in his custody at the earliest convenient time before two Justices of the Peace having jurisdiction at the Polling-place at which such person shall have voted as aforesaid: Provided always that in case the attendance of any such Justices cannot be procured within the space of three hours after the close of the Poll, on the same day on which such person shall have been taken into custody, it shall be lawful for the same Constable, and he is hereby required at the request of such person in his custody, to take him before any one Justice of the Peace having jurisdiction as aforesaid, and such Justice is hereby authorised and required to liberate such person on his entering into a recognizance with one sufficient surety conditioned to appear before any two such Justices as aforesaid, at a time and place to be specified in such recognizance, to answer the said charge; and if no such Justice shall be found within four hours after the closing of the said Poll, then such person shall be discharged from custody: Provided also that if in consequence of the absence

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of such Justice as aforesaid, or from any other cause, the said charge cannot be inquired into within the time aforesaid, it shall be lawful nevertheless for any two such Justices as aforesaid, to enquire into the same on the next or some other subsequent day, and if necessary to issue their warrant for the apprehension of the person so charged.

XXIII. If on the hearing of the said charge, the said two Justices shall be satisfied upon the evidence on Oath of not less than two credible witnesses, that the said person so brought before them has knowingly personated and falsely assumed to vote in the name of some other person within the meaning of this Act, and is not in fact the person in whose name he voted, or has offered to vote, then it shall be lawful for the said two Justices to commit the said offender to any gaol, to take his trial according to law, and to bind over the witnesses in their respective recognizances to appear and give evidence on such trial as in the case of other Misdemeanours.

If Justices are satisfied of guilt on Oath of two credible witnesses, they are to commit for trial.

XXIV. If the said Justices shall, on the hearing of the charge be satisfied that the person so charged with Personation is really and in truth the person in whose name he voted or offered to vote, and that the charge of Personation has been made against him without reasonable or just cause, or if the person so declaring as aforesaid, or some one on his behalf shall not appear to support such charge, then it shall be lawful for the said Justices, and they are hereby required to make an order in writing under their hands on the person so declaring as aforesaid to pay to the person so falsely charged, if he shall consent to accept the same, any sum not exceeding the sum of £20, nor less than £5 by way of Damages and Costs; and if the said sum shall not be paid within twenty-four hours after such order shall have been made, the same may be levied by warrant under the hand of any Justice of the Peace having jurisdiction as aforesaid, by distress and sale of the goods and chattels of the person so declaring as aforesaid, and in case no sufficient goods and chattels of the said person so declaring can be found on which such levy can be made, then it shall be lawful for the said person to whom the said sum of money was ordered to be paid to recover the same from the person so declaring with full Costs of Suit, in an Action or Suit to be brought in any Court within the Colony having jurisdiction to the amount of the said sum so ordered to be paid: Provided always that if the person so falsely charged shall consent in writing to accept such sum as aforesaid by way of damages and costs, and if the whole of the amount so ordered to be paid shall be paid or tendered to such person, in any such case, but not otherwise, the said person so declaring as aforesaid, and every other person shall be released from all Actions, Suits, and other proceedings, Civil or Criminal, for or in respect of the said charge and apprehension.

If Justices satisfied that charge is unfounded they are to order compensation.

XXV. When the proceedings at any Polling Place shall be interrupted by any riot or open violence, the Returning Officer or his Deputy, may from time to time adjourn the taking of the Poll, until after such interruption shall have ceased, when the

Proceedings in case of riot or violence.

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Returning Officer or his Deputy shall again proceed with the taking of the Poll, at the point at which the same may have been interrupted, so that the Poll shall be kept open for seven hours in the whole; and all the Votes given under such circumstances, shall be as valid and effectual as if the same had been recorded during the regular hours on the day fixed for the Polling: Provided always, that no such adjournment shall extend beyond the day fixed for the return of the Writ, and if the Polling shall not have been completed by that day, or the election cannot be regularly completed within such time, from any cause whatever, the Returning Officer shall make a special return stating what has been done, and the facts which have prevented the Election from being duly completed.

Returning Officer to fix time and place for declaring Poll.

XXVI. The Returning Officer for each Electoral District, as soon as may be practicable after he shall have received the state of the Poll at all the Polling Places within the District, shall proceed to ascertain the numbers Polled for each Candidate at such Places collectively, 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, publicly declare the persons found to have the greatest number of Votes, to be duly elected: Provided always that if the number of Votes for any two or more Candidates be equal, the Returning Officer shall then and there decide by his Casting Vote which of the Candidates shall be elected: Provided also, that no Returning Officer shall vote at any Election for the Electoral District of which he is Returning Officer except as aforesaid: Provided also, that it shall be lawful for any Deputy Returning Officer notwithstanding his acting as such, to vote as an Elector for any Electoral District for which he may be duly registered.

Writ to be endorsed.

XXVII. The Returning Officer on the day on which such declaration is made, shall endorse on the Writ the names of the persons so declared to be elected as aforesaid, and shall add thereto a declaration that such persons are elected in pursuance of the said Writ, and shall also date such endorsement on the day on which the same is made; and shall then forthwith despatch the Writ to the Governor.

Delay or technical objection not to invalidate proceedings.

XXVIII. No election shall be held to be void in consequence of there being no Returning Officer at the time of the issue of any Writ, or in consequence of any delay in the holding of the Election at the time appointed, or in the taking of the Poll, or in the return of the Writ, such delay not extending beyond the day named for the return of the Writ, or in consequence of any impediment of a technical or formal nature.

Penalty on Returning Officer for neglecting duty.

XXIX. Any Returning Officer, or Deputy Returning Officer or Poll Clerk, or other person employed in the conduct of an Election, who shall wilfully neglect or refuse to perform any of the duties which, by the provisions of this Act he is required to perform, or shall misbehave himself in the performance of such

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duties shall for each offence forfeit and pay a sum not exceeding £50, to be recovered in a summary way before two Justices of the Peace.

XXX. It shall be lawful for the Governor to authorise the payment of all necessary expenses to be incurred in carrying the provisions of this Act into execution, to be defrayed out of any sums to be voted by the General Assembly for that purpose.

Governor may authorise payment of necessary expenses.

XXXI. When any matter or thing shall be required under the provisions of this Act, to be performed on a certain day, and that day happen to be Sunday, Christmas Day, or Good Friday, the said matter or thing shall be performed on the next succeeding day.

Matters requiring to be done on a certain day, and that day Sunday &c., may be done on following day

XXXII. And whereas divers of the Electoral Districts under this Act are far distant from the Seat of Government, and of great extent, and unforeseen difficulties or delays may arise in carrying into effect the several provisions herein contained with regard to Elections for the said Districts: Be it therefore enacted that within the period of forty days, before or after the day appointed for the holding of any Election, it shall be lawful for the Governor in Council, to extend the time allowed for the holding of such Election, or for the return of the Writ issued for the same notwithstanding the day may have passed on which such Writ shall be returnable, and to adopt, or cause to be adopted, such measures as may be necessary to remove any obstacle of a technical or formal nature by which the due course of any such Election may be impeded, and to supply any deficiency that may otherwise affect the same: Provided always, that any such measure so adopted by the Governor in Council, shall be duly notified in the *New Zealand Gazette*.

Elections not to be declared void by reason of delay in holding same or any formal impediment.

XXXIII. Throughout this Act in the construction thereof the Term "Polling Booth" shall include any house, building, or other place at which any Poll is being taken; and the day of the return of the Writ shall be deemed to be the day on which the Returning Officer shall have endorsed thereon the names of the persons declared to be duly elected, and not the day on which the Governor shall receive the same.

Interpretation clause.

XXXIV. This Act shall come into operation on the first day of January, 1859.

Commencement of Act.

XXXV. The Short Title of this Act shall be "The Regulation of Elections Act, 1858."

Short Title.

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## SCHEDULE.

## FORM NO. 1.

I, (A. B.) Returning Officer for the Electoral District of  
 (or one of the Deputy Returning Officers for the Electoral District of )  
 do promise and swear that I will faithfully perform the duties of Returning Officer  
 (or of Deputy Returning Officer) to the best of my ability—So help me God.

## FORM NO. 2.

## ELECTION NOTICE.

Electoral District of (*Name*)

In pursuance of the provisions of an Act of the General Assembly of New Zealand, intituled "The Regulation of Elections Act, 1858," I, Returning Officer for the Electoral District of , do hereby give notice that by virtue of a Writ, bearing date the . day of 18 , issued under the hand of his Excellency the Governor of New Zealand, an Election will be held for the return of a qualified person (or persons) to serve as a Member (or as Members) of the House of Representatives for the said Electoral District, and that the nomination of Candidates will take place at (*place to be designated*) on Monday, the day of 18 ; and that the Poll (if necessary) will be taken on Tuesday, the day of 18 .

Dated this day of 18 .

A. B.,  
 Returning Officer.

The following places are Polling places for the Electoral District of  
 Polling place

(*Insert here a list of the Polling places of the Electoral district.*)

A. B.,  
 Returning Officer.

Dated the day of 18 .

## FORM NO. 3.

To the Returning Officer of the Electoral District of

I, the undersigned, do hereby give notice that I withdraw my name as a Candidate at the Election to be held on the day of 18 , of a Member (or Members) of the House of Representatives for the Electoral District of

Dated the day of 18 .

(*Signature*).  
 (*Place of abode, and nature of Qualification.*)

Signed in the presence of

E. F.,  
 J.P.

## FORM NO. 4.

I, (A. B.,) the Returning Officer for the Electoral District of  
 do hereby declare, that in pursuance of the Writ to me directed, bearing date the  
 day of 18 , the undermentioned Candidate (or Candidates),

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is (*or are*) duly elected a Member (*or Members*) of the House of Representatives for the said District.

Dated this                    day of                    18 .

A. B.,  
Returning Officer.

Christian Name and Surname of Candidate,	Place of Abode,	Nature of Qualification	Names of Proposers.

FORM NO. 5.

I, A. B., do hereby solemnly declare that I will not either directly or indirectly by any means whatever publish or make known before the close of the Poll the number of votes which may have been given for any candidate at this present election.

(Signed) A.B.

FORM NO. 6.

I do swear that I am the person whose name appears as (*here specify name*) on the Electoral Roll now in force for the Electoral District of (*here specify name*) and that I have not already voted either at this Polling-place or elsewhere, at this present election—So help me God.

FORM NO. 7.

I, A. B., do swear that I have not received or had by myself or any person whomsoever 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 or sums of money, office, employment, gift, or reward, or any promise, or security for any money, office, place of emolument, gift or reward, by way of consideration, expressed or implied, for giving my vote at this election—So help me God.