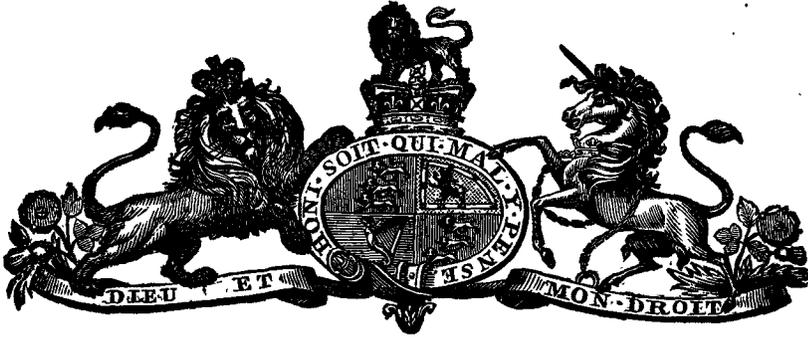


NEW ZEALAND.



QUADRAGESIMO

VICTORIÆ REGINÆ.

No. XXVI.

ANALYSIS.

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AN ACT for the Regulation of Local Elections.

Title.

[29th September, 1876.]

Supplement to the New Zealand Gazette, No. 54, of the 5th October, 1876.

Regulation of Local Elections.

Preamble.

WHEREAS it is expedient to provide for one uniform system of conducting the elections to all elective offices in counties, road districts, cities, boroughs, or other local bodies :

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

Short Title.

1. This Act shall be called “The Regulation of Local Elections Act, 1876.”

Interpretation.

2. Except where something in the subject or context is repugnant to such meaning, the several expressions following have in this Act the several meanings assigned to each respectively, that is to say,—

“Local body” means the Council of any Municipal Corporation or of any County, or Road Board, or Board of Commissioners or Trustees or other body empowered to levy rates, or any other elective or partly elective body to which this Act is made to apply.

“District” means the district comprised within the jurisdiction of any such local body, and includes the riding of a county, the ward of a borough, and any other subdivision of a district for electoral purposes.

An “elective office” means any office in under or in connection with any such local body required by law to be filled by the election of the citizens, burgesses, ratepayers, or other constituency of any district.

An “ordinary vacancy” means a vacancy occurring in any elective office at a time and in a manner specified by law.

An “extraordinary vacancy” means a vacancy occurring in any such office by the death, resignation, incapacity, or ouster from office of the person filling the same.

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

“Elector” and “voter” each means any person who is entitled under any law for the time being in force to vote at an election.

“Returning Officer” means any Returning Officer appointed under the provisions of this Act, and also any person who under any Act or Ordinance is or may be empowered to preside at or conduct the election of any local body, or of any member thereof.

“Miner’s right” includes a renewed miner’s right, and a business license, or renewed business license, within the meaning of any law for the time being in force relating to gold fields.

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

When this Act comes into force.

3. This Act shall come into force in respect to all elective offices to which it may be applied by any Act of the General Assembly, or on the written request of at least two-thirds of the members of the local body of any district, by Proclamation of the Governor; and any such Act or Proclamation shall be deemed to repeal, so far as regards the elections or disputed elections to which such Act or Proclamation

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relates, all the provisions of any Act of the General Assembly or any Act or Ordinance of any Provincial Legislature regulating the conduct of any such election or disputed election.

Provided always that no such written request shall be made until the question shall have been considered and agreed to at a public meeting of the ratepayers of the district, duly convened for that purpose.

4. If at any time the local body of any district in which this Act shall have been brought into force by such Proclamation as aforesaid shall, by written application of two-thirds of its members, request the Governor to rescind such Proclamation, such Proclamation may be rescinded accordingly, and thenceforward the elections or disputed elections in such district shall be regulated by any Act of the General Assembly or any Act or Ordinance of any Provincial Legislature by which they were so regulated before the issue of such Proclamation as aforesaid: Provided always that such written application shall not be made until it shall have been considered and agreed to at a public meeting of the ratepayers of the district, duly convened for that purpose.

Governor may rescind Proclamation on application of two-thirds of members.

5. Every election to any elective office in respect of which this Act is in force shall be conducted in the manner provided by this Act, and not otherwise.

Elections to be conducted under this Act.

6. There shall be a Returning Officer for every district who shall be appointed by the local body, and shall hold office until his removal by such local body, resignation, incapacity, or death, in any of which events the local body shall appoint a Returning Officer in his stead.

Returning Officers.

7. Every election shall be held by the Returning Officer; but if he is unable from any cause to fulfil the duties of his office at any election, he shall by writing under his hand appoint a substitute, who shall for all purposes, in respect of such election, be deemed to be the Returning Officer.

Returning Officer may appoint substitute.

8. Every Returning Officer and every substitute for a Returning Officer shall, before entering on the duties of his office, make and sign before a Justice of the Peace or before the Chairman of the local body the declaration set forth in the First Schedule.

Declaration of Returning Officer.

First Schedule.

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

Returning Officer not to be member of local body.

10. Not less than fourteen clear days before any election to fill an ordinary vacancy, the Returning Officer shall give public notice thereof, and shall in such notice appoint a place within the district, and a day, not less than five nor more than ten days after such publication, for the nomination of candidates.

Notice of ordinary election.

11. No person shall be deemed to be a candidate for any local elective office unless nominated in the following manner, that is to say, a nomination paper, in the form in the Second Schedule, signed by two electors of the district and by the candidate in token of his assent to such nomination, shall be addressed to the Returning Officer, and delivered at the place named in the said notice at any time after the publication thereof and before noon of the day appointed therein.

Form of nomination.

Second Schedule.

12. At the hour of noon on the said day, the Returning Officer shall post the names of all the candidates so nominated in a conspicuous public place outside the place appointed in the said notice.

Names of candidates to be posted.

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

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

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

14. If the number of candidates exceeds the number of offices then to be filled, the Returning Officer shall forthwith give public notice of the day on which the poll is to be taken, of the names of the several candidates, and of the situation of the polling booths. The day on which the poll is to be taken shall be the day appointed for holding the election as hereinbefore provided.

Candidate may retire.

Third Schedule.

15. If a candidate at any election sign and deliver to the Returning Officer, not later than two clear days before the polling day, a paper, in the form in the Third Schedule, stating that such candidate retires from the election, the Returning Officer shall give public notice of such paper; and if by such retirement the number of candidates is reduced to the number of vacancies to be filled, the Returning Officer shall publicly declare the remaining candidates to be duly elected; but if the said number of candidates is not so reduced, the poll shall proceed, but the person so retiring shall not be capable of being elected.

Duration of poll.

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

Poll clerks.

17. The Returning Officer may appoint one or more poll clerks to assist him in taking the poll.

Booths, ballot-boxes, voting papers, &c.

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

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

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.

- (2.) In each booth a ballot-box, having a lock and key, and a slit in the upper side by which the voting papers may be put into the box.
- (3.) In each booth one or more copies of the roll for the district, and a sufficient number of voting papers.
- (4.) In each inner compartment pencils for the use of the voters.

Form of voting papers.

Fourth Schedule.

19. The voting papers shall be printed on white paper, and shall be in the form in the Fourth Schedule, and shall have nothing thereon, either written or printed, except as in such form and as hereinafter provided.

If a candidate retires after the voting papers have been printed, the Returning Officer shall, before the poll, erase the name of such candidate from every voting paper.

Scrutineers.

20. Each candidate may, by writing under his hand, appoint one scrutineer for each polling booth at any election.

Declaration of Scrutineers.

Fifth Schedule.

21. Every scrutineer shall, before the opening of the poll, make and subscribe before the Returning Officer the declaration set forth in the Fifth Schedule.

Deputy Returning Officers.

22. If there is more than one polling booth, the Returning Officer shall appoint a Deputy for each booth at which he cannot be present in person, and such Deputy shall have, in and about the polling booth to which he is appointed, and in taking the poll thereat, all the powers and duties of the Returning Officer.

Declaration of Deputy.

First Schedule.

23. Every Deputy Returning Officer shall before the poll make and subscribe before the Returning Officer the declaration set forth in the First Schedule.

Ballot-box to be kept locked during poll.

24. The Returning Officer shall before the opening of the poll, and in the sight of any of the scrutineers who may be present, see that

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the ballot-box is empty, and shall close and lock it, and retain the key in his possession, and the ballot-box shall not again be opened till after the close of the poll.

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

Persons to remain in polling booth.

26. No person shall speak to any voter in a polling booth before such voter has given his vote, except only that the Returning Officer may ask the questions he is herein authorized to put, or give such general directions as may enable any voter to give his vote.

No one to speak to voter in booth.

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, or by inspection of the miner's right shown, that such person is entitled to vote, and has not already voted, and shall thereupon deliver to him as many voting papers as he requires, not exceeding the number of votes which he is entitled to give.

Returning Officer to give voting papers to voter.

All the voting papers to which any voter is entitled shall be given to him at the same time.

28. Before giving any voting paper the Returning Officer shall write upon the left-hand corner of the back thereof his initials and, except where the voter is voting on a miner's right, the number appearing in the roll against the name of the voter to whom he gives such paper.

Returning Officer to initial and number voting paper.

If the names in the roll are not numbered, the Returning Officer shall cause consecutive numbers to be affixed thereto before the opening of the poll.

29. The Returning Officer, before giving any voting paper at an election,

And to mark the voter's name in roll, and mark miner's right.

(1.) In the case of an enrolled elector,—

Shall place a mark, and a number denoting the number of voting papers given, against the name of such elector on the roll, as evidence that he has proposed to vote at such election.

(2.) In the case of a person voting on a miner's right,—

Shall place a distinguishing mark or stamp, which he shall appoint for the purpose, upon the miner's right, as evidence that it has been used for the purpose of voting at such election.

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

Questions may be put to voter.

(1.) In the case of an enrolled elector,—

(a.) Are you the person whose name appears as A.B. in the citizens' [or burgesses', ratepayers', or other] roll now in force for this [naming the district], being enrolled in respect of property described as situated in [Here read the description in the roll]?

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

(c.) Have you already voted at the present election in this [naming the district]?

And any person not answering such questions, or not answering the two first in the affirmative and the third in the negative, shall not be permitted to vote.

(2.) In the case of a person voting on a miner's right,—

(a.) Are you the person whose name appears as A.B. on the miner's right now presented?

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(b.) Are you now residing, and have you resided for two months immediately preceding the nomination of candidates for this election, in this district [*Here name the district for which the election is being held*]?

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

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

And any person not answering such questions, or not answering the first three in the affirmative and the fourth in the negative, shall not be permitted to vote.

Voter how to vote.

31. The voter, having received the voting paper or papers, shall immediately retire into one of the inner compartments provided, and shall there alone and secretly on each voting paper draw a line through the name of each candidate for whom he desires not to vote. He shall, before leaving the inner compartment, fold the paper so that the contents cannot be seen, and shall then deposit it so folded in the ballot-box.

If voter blind or not able to read.

32. If any voter is blind or is unable to read, the Returning Officer shall, at the request of the voter, and before any scrutineer present, read to him the names of all the candidates on the voting paper, and shall on each voting paper draw a line through the names of such of the candidates as the voter states he desires not to vote for, and shall initial, number, and fold the paper as above provided, and deposit it in the ballot-box.

Only one person at a time to be in inner compartment.

33. Not more than one person shall be allowed to be in any inner compartment of a polling-booth at one and the same time.

At close of poll, numbers to be made up from voting papers.

34. Immediately on the close of the poll, the Returning Officer and each of his Deputies, if any, shall, in the sight of such of the scrutineers as may be present, open their respective ballot-boxes and make up from the voting papers deposited therein the number of votes received by each candidate; and the Deputy Returning Officers shall forthwith send the said numbers to the Returning Officer, who shall make up the whole number of votes received by each candidate at the election.

Candidates having most votes to be declared to be elected.

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

Voting papers to be sealed up and sent to Returning Officer.

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

Returning Officer to send the whole to Clerk to Resident Magistrate's Court.

37. The Returning Officer shall seal up all such packets, and transmit the whole to the Clerk of the nearest Resident Magistrate's Court, who shall keep the same for six months thereafter, and shall not open or permit to be opened such packet, except on the order of some Court of competent jurisdiction; and shall, at the end of six months, effectually destroy the same. And if any person, save on the order of any such Court, opens any such packet or destroys any of the contents thereof, he shall be liable to a penalty of fifty pounds for every such offence.

Returning Officer's power to keep the peace.

38. Every Returning Officer shall have power to enforce order and keep the peace at any election, and may, without other warrant than this Act, cause to be arrested and taken before a Justice any person reasonably suspected of knowingly and wilfully making a false

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answer to any of the questions which the Returning Officer is hereby authorized to put, or of attempting to personate any voter, or of attempting unlawfully to vote more than once in virtue of the same roll or the same miner's right, or upon both a roll and a miner's right, or upon more than one miner's right, at the same election, or obstructing the approaches to any polling booth, or otherwise behaving in a disorderly manner or causing disturbance in any election; and all peace officers and constables shall aid and assist such Returning Officer in the performance of his duty.

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

Poll to be adjourned when riot takes place.

40. Every person who wilfully does any of the following things:—

Penalties for double voting, &c.

- (1.) Makes a false answer to any question which the Returning Officer is authorized to put;
- (2.) Polls or offers to poll more than once in virtue of the same roll or of the same miner's right, or in virtue of both a roll and a miner's right, or upon more than one miner's right, at the same election;
- (3.) Personates any other person for the purpose of polling at any election;
- (4.) Presents any miner's right not issued to him with intent to vote thereon;
- (5.) Puts into the ballot-box any voting paper not given to him by the Returning Officer;
- (6.) Fraudulently abstracts any voting paper which has been put into the ballot-box;
- (7.) Is guilty of bribery at any election,

shall be guilty of a misdemeanour.

41. Any person who, whether before or after any election under this Act,—

Definition of bribery.

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

shall be deemed to be guilty of bribery under this Act.

42. Any person who does any of the following things:—

Penalties for illegal nomination, &c.

- (1.) Procures himself to be nominated as a candidate for any office under this Act, knowing himself to be incapable under the provisions of any Act or Ordinance of holding such office;
- (2.) Signs any nomination paper purporting to nominate to any such office a person who is, and whom the person so signing knows to be, incapable under any Act or Ordinance of holding such office;
- (3.) Signs any nomination paper, knowing himself not to be qualified to vote at the election of the candidate so nominated;

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(4.) Having received any voting paper from the Returning Officer, carries such paper out of the polling booth ;

(5.) Gives or causes 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 refreshment ;

shall be liable to a penalty not exceeding twenty pounds.

Penalties for disclosing poll, &c.

43. Any Returning Officer, Deputy Returning Officer, Scrutineer, Clerk, or other person, who shall make known the state of the poll, or give or pretend to give any information by which the state of the poll may be known before the final declaration thereof by the Returning Officer, or who shall make known for which candidate any voter has voted, shall be liable to a penalty of not more than fifty pounds.

Penalty on Returning Officers.

44. If any Returning Officer, or substitute for a Returning Officer, or Deputy Returning Officer, is guilty of any wilful or negligent act of commission or omission contrary to the provisions of this Act in respect of any election, he shall be liable to a penalty of not more than fifty pounds.

If no candidate returned, to be an extraordinary vacancy.

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

Election to extraordinary vacancy.

46. In the case of any extraordinary vacancy in an office, the Clerk or proper officer of the local body shall forthwith give notice of such vacancy to the Returning Officer, and the Returning Officer shall forthwith, by public notice, appoint a day, not less than twenty nor more than twenty-five clear days from the occurrence of such vacancy, for the election to fill the same ; and shall in such notice appoint a place within the district, and a day, not less than seven nor more than twelve days after the publication of such notice, for receiving the nomination of candidates ; and except as provided by this section, all the proceedings in an election to fill an extraordinary vacancy shall be the same as provided for filling an ordinary vacancy by this Act.

Costs of election.

47. All reasonable costs and expenses incident to any election under this Act, except expenses of the scrutineers and other expenses incurred by or on behalf of candidates, shall be paid out of the revenues at the disposal of the local body of the district in which such election occurs.

OF DISPUTED ELECTIONS.

In disputed election, Resident Magistrate to hold inquiry. Sixth Schedule.

48. If within fourteen days after any election any candidate and two electors, or any six electors, make and sign before a Justice a declaration in the form in the Sixth Schedule, and file the same in any Resident Magistrate's Court in the district in which such election took place, or if there is no such Court in the district then in the Resident Magistrate's Court nearest thereto, the Resident Magistrate of such Court shall hold an inquiry as to the matter alleged in such petition, and upon due hearing of the case may declare such election, or the election of any candidate thereat, to be void, and may declare any other candidate to be duly elected, subject to the following conditions :—

When inquiry to be held.

49. Such inquiry shall be commenced within fourteen days after such petition is filed, and the Resident Magistrate shall give not less than seven days' public notice of the time of holding the same.

Cases in which whole election void.

50. If upon any such inquiry it appears—

Firstly.—(1.) That any notice of the time or place of an election,

Regulation of Local Elections.

or the situation of the polling booths, was not given within the time or in the manner herein required ;

- (2.) That the poll was open beyond, or was not open within, the hours hereby required ;
- (3.) That intimidation or violence was used at any election to such a degree as to prevent any electors from polling ;
- (4.) That the name of any candidate was omitted from, or the name of any person not a candidate was entered upon, the polling papers ;
- (5.) That any voting paper made or obtained otherwise than as provided by this Act was put into a ballot-box, or that any voting paper was taken out of a ballot-box otherwise than as provided by this Act, so as to affect the result of the election ;
- (6.) That any other irregularity occurred in the proceedings which, in the opinion of the Resident Magistrate, tended to defeat the fairness of the election,

—in any such case the whole election shall be void.

Secondly.—(1.) That the nomination of any candidate was not given within the time or in the manner required ;

Cases in which election of any candidate void.

- (2.) That the persons signing the nomination paper of any candidate were not entitled to sign ;
- (3.) That the candidate was not capable of being elected to or of holding the office to which he was declared to be elected ;
- (4.) That some person voted for a candidate induced thereto by wilful and corrupt bribery, with the privity or consent of such candidate ;
- (5.) That some person voted for a candidate by fraudulently impersonating another person with the privity and consent of such candidate ;

—in any such case the election of such candidate shall be void, and the candidate next highest on the poll, not being already declared to be duly elected, and whose election is not void, shall be declared to be duly elected.

Thirdly.—That any person voted who was not entitled to vote or gave more votes than he was entitled to give at an election,

Case of a scrutiny of votes.

—in such case any such votes shall be struck off the poll, and the candidates then appearing to have the highest numbers of votes shall be declared to be duly elected ; and the election of any other candidate who may have been declared to be duly elected shall be void.

51. No inquiry shall be made as to any election except as to the truth of any of the allegations set forth in the foregoing section, nor into any such allegation unless set forth in a petition as aforesaid.

No inquiry to be made except on petition.

52. For the purpose of any such inquiry, the Resident Magistrate shall have all the powers to summon and compel the attendance of witnesses, and to compel the answering of questions and the production of papers touching such inquiry, which may be exercised by Justices in any matters in which they have summary jurisdiction.

Powers of Resident Magistrate.

53. If the Resident Magistrate is satisfied that, in order to inquire into the truth of the allegation in a petition, a scrutiny of the voting papers is necessary, he may direct the custodian of any packet of voting papers to open such packet and extract any voting paper therefrom.

Scrutiny of votes.

Every voting paper so extracted shall be evidence of a vote given at the election to which it relates, and the correspondence of the number appearing on such ballot paper with the number appearing on any roll used at the same election shall be evidence of the person

