

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,
14th August, 1907.

Hon. Sir W. J. Steward.

LEGISLATIVE COUNCIL ELECTION.

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A BILL INTITULED

AN ACT to provide for the Election of Members of the Legislative Council. Title.

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

1. This Act may be cited as the Legislative Council Election Act, 1907. Short Title.

2. In the construction of this Act the following terms, if not inconsistent with the subject-matter or context, shall have the meanings hereby severally assigned to them :— Interpretation.

" Clerk " means the Clerk of the House of Representatives :

" Council " means the Legislative Council :

" General Assembly " means the Council and the House collectively :

15 " House " means the House of Representatives :

" Maori " and " Maori race " mean and include aboriginal Natives of New Zealand, or half-castes, or the descendants of half-castes by Natives :

" Parliament " means both Houses of the General Assembly :

20 " Principal Act " means the Legislative Council Act, 1891 :

" Sitting-day " means a day on which the House of Representatives is appointed to sit.

Number of
members.

3. From and after the passing of this Act no further appointments to the Council shall be made by the Governor, except under the provisions of section twenty-three of this Act :

Provided always that all persons who at the date of the passing of this Act are members of the Council shall continue to be members thereof until their seats are vacated by death, resignation, disqualification, or effluxion of time. 5

Vacancies to be
notified.

4. When by reason of the causes aforesaid, or any of them, the number of members of the Council falls below forty, including two members of the Maori race, which shall be the normal number, the Speaker of the Council shall,— 10

(a.) If Parliament be then in session, forthwith lay upon the table of the Council a notification under his hand, in the form set forth in the *First* Schedule to this Act, of the number of new members required to bring up the total membership of the Council to forty ; and shall in such notification state whether the seats to be filled are those of European or Maori members, or both ; and shall also on the same day forward a like notification to the Speaker of the House (or, if there be no Speaker, then to the Clerk of the House), who shall forthwith lay the same on the table of the House : 15 20

(b.) If the vacancy or vacancies shall occur during a recess, lay the aforesaid notification on the table of the Council, and forward the duplicate thereof to the Speaker or Clerk of the House, as the case may be, on the first sitting-day of the next succeeding session of Parliament. 25

Members of House
of Representatives
to fill vacancies.

5. The members of the House of Representatives then in attendance on Parliament shall thereupon, in manner hereinafter prescribed, proceed to nominate and elect a person or persons to fill the vacancy or vacancies : 30

Who may be
elected.

Provided always that any person may be nominated or capable of being elected who is entitled to vote under the provisions of section six of the Electoral Act, 1893.

Returning Officer.

6. For every election held under this Act the Clerk shall be the Returning Officer ; and, with such assistance as he may require, shall conduct the election. 35

Nominations.

7. (1.) Any seven or more members of the House may nominate a candidate, or as many candidates as there are persons required to be elected, provided that each candidate shall be nominated on a separate nomination-paper. 40

(2.) All nomination-papers shall be in the form set forth in the *Second* Schedule to this Act, and shall be left with the Returning Officer not later than six *post meridiem* of the third sitting-day next after the day on which notification of the vacancy or vacancies is made to both Houses as provided in section *four* hereof. 45

When nominations
do not exceed
vacancies.

8. If the number of candidates nominated be not greater than the number required to fill the vacancy or vacancies, then the candidate or candidates nominated shall be deemed to be duly elected, and the Returning Officer shall sign two certificates in the form set forth in the *Third* Schedule to this Act, and shall deliver one of them to the Speaker of the Council and the other to the Speaker of the House, who 50

shall lay the same on the table of the Council and of the House respectively; and the person or persons declared in such certificates to have been elected shall, so soon as he or they have taken the oath or made the affirmation prescribed by law, become and be a member or members of the Council. Every such member shall hold his seat for a term of seven years, and no longer, but shall be eligible for re-election.

9. When the number of candidates nominated exceeds the number of persons required to be elected, the Returning Officer shall forthwith cause a printed notice in the form set forth in the *Fourth* Schedule to this Act, setting forth the names of the candidates, to be posted in at least four conspicuous places in the General Assembly buildings. In such notice he shall appoint the time and place at which the poll will be taken, and such time shall be between the hours of twelve noon and two *post meridiem* on the third sitting-day next after the day on which such notice is posted as aforesaid. A copy of such notice shall also be printed on the Order Papers of the Council and House.

10. If a session ends before the time appointed for receiving nominations, or before the day on which a poll is appointed to be taken, then the proceedings for an election then pending shall lapse, and an election shall take place in the next succeeding session as though the vacancy or vacancies requiring to be filled had occurred during a recess.

11. At every poll taken under this Act every member of the House shall be entitled to vote for as many candidates as there are persons required to be elected, but not for any greater or lesser number, and no member shall be entitled to record more than one vote for any one candidate; and any ballot-paper which is not in accordance with these provisions shall be laid aside and not counted.

12. (1.) The election shall be by ballot, and there shall be provided 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, and such ballot-box shall be locked during the time of polling, and shall be in the charge of the Returning Officer or his assistant.

(2.) There shall also be provided by the Returning Officer a sufficient number of voting-papers in the form or to the effect set forth in the *Fifth* Schedule to this Act.

13. Every member of the House shall, on application to the person in charge of the ballot-box, be entitled to receive by delivery to such member a voting-paper with an official mark on the back thereof to authenticate the same; and, having dealt with it as thereon directed, shall deposit it in the ballot-box.

14. The time for depositing voting-papers shall be between the hours of twelve noon and *half past* two o'clock in the afternoon of the day appointed for the poll.

15. The name of every member who votes shall be marked off on a list of the members of the House by the person in charge of the ballot-box.

16. When the hour of *half past* two *post meridiem* aforesaid arrives, the ballot-box shall be opened in the presence of such members of the General Assembly as are in attendance, and the votes shall be counted by the Returning Officer.

17. If, on comparing the voting-papers with the list showing the number of members who have voted, it is found that there are more voting-papers in number than the number of such members, the ballot shall be treated as a nullity, and another ballot shall be taken in like manner on the next sitting-day.

When nominations exceed vacancies.

Notice of poll.

When session ends while proceedings pending.

Every member entitled to vote.

Election to be by ballot.

Voting-papers.

Procedure at poll.

Hours for voting.

Names of members voting to be marked off.

When voting-papers to be counted.

When voting-papers exceed number voting, fresh ballot to be taken.

Candidates having majority of votes to be elected.

18. The candidate or candidates, up to the number of persons required to be returned, having a majority of votes shall be declared by the Returning Officer to be duly elected.

In case of a tie.

19. If there be a tie between two or more candidates, a fresh ballot shall be taken as in manner aforesaid, on the next succeeding sitting-day or days until the question is decided by a majority : 5

Provided always that if after a third ballot there shall still be a tie, then such tie shall be decided by the casting-vote of the Speaker of the House.

Certificate of election.

20. Upon the conclusion of the ballot, or of the final ballot if there be more than one, or after any tie shall have been decided as aforesaid, as the case may be, the Returning Officer shall sign two certificates in the form set forth in the *Sixth* Schedule to this Act, and shall deliver one to the Speaker of the Council and the other to the Speaker of the House, who shall lay the same on the table of the Council and of the House respectively, and thereupon the person or persons declared in such certificates to have been elected shall, so soon as he or they have taken the oath or made the affirmation prescribed by law, become and be a member or members of the Council. Every such member shall hold his seat for a term of seven years, and no longer, but shall be eligible for re-election. 15 20

Questions as to validity of elections, &c., how decided.

21. Any question which shall arise as to any vacancy in the Council, or as to the validity of any election, or as to the right of any person to sit or vote in the Council, shall, both as to law and fact, be heard and determined in a summary way by two Judges of the Supreme Court to be nominated by the Chief Justice, of whom he may be one : 25

Provided that it shall be lawful, either for the person in respect of whom any such question shall have arisen, or for His Majesty's Attorney-General for New Zealand on His Majesty's behalf, to appeal from the determination of the said Court to His Majesty, and the judgment of His Majesty (given with the advice of His Privy Council) thereon shall be final and conclusive to all intents and purposes. 30

Chief Justice may make rules.

22. The Chief Justice of the Supreme Court may make any rules he may deem necessary or proper for the purpose of regulating the practice in respect of such questions as the Court is empowered to hear and determine under this Act. 35

Member of Executive may be appointed to the Council.

23. Notwithstanding the limitation contained in section *three* of this Act as to the normal number of members of the Council, whenever the Premier shall in writing inform the Governor that he desires that some person already appointed or to be forthwith appointed to be a member of the Executive Council should be appointed to be a member of the Council, it shall be lawful for the Governor to appoint such person accordingly, although there shall be no vacancy in the number of members : 40

Provided that any person so appointed shall continue to be a member of the Council so long as he holds office as a member of the Executive Council, and no longer. 45

Privileges.

24. Every member of the Council who shall hereafter voluntarily resign and cease to be a member of the Council after having been a member thereof for not less than ten years, or after a total period of service of twenty years in the House and Council, shall be allowed to retain the title of "Honourable," and to the privileges mentioned in section twelve of the principal Act. 50

25. Section four of the principal Act is hereby amended by inserting in the second line thereof, next before the words "subsequently thereto," the words "appointed or elected."

Section 4 of principal Act amended.

26. Section three of the Legislative Council Act Amendment Act, 1902, is hereby amended by omitting the word "reappointed," and substituting in lieu thereof the words "elected or re-elected."

Section 3 of "The Legislative Council Act Amendment Act, 1902," amended.

27. Section two of the principal Act is hereby repealed.

Repeal.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

The Legislative Council Election Act, 1907.

NOTIFICATION OF ELECTION TO FILL VACANT SEAT (OR SEATS).

I HEREBY give notice that it has been established to my satisfaction that a vacancy exists [or that vacancies exist] for European member [or members], and for Maori member [or members], and that an election to fill such vacancy [or vacancies] will take place forthwith pursuant to the provisions of the above-mentioned Act.

Dated this day of , 19 .

Speaker of Legislative Council.

SECOND SCHEDULE.

The Legislative Council Election Act, 1907.

NOMINATION-PAPER.

To the Returning Officer.

WE, the undersigned members of the House of Representatives, hereby give notice that we nominate

A. B. [*Residence and occupation, or description*]

as a candidate to fill a vacant seat for a European [or Maori] member in the Legislative Council at the election now about to take place.

Dated this day of , 19 .

[*Signatures, in full, of seven or more members of the House of Representatives.*]

THIRD SCHEDULE.

The Legislative Council Election Act, 1907.

CERTIFICATE OF UNOPPOSED ELECTION.

I, THE undersigned, do hereby certify that the undermentioned candidate has [or candidates have] been duly nominated to fill a vacancy [or vacancies] in the Legislative Council, viz. :—

*For European Member [or Members].

A. B.
C. D.

*For Maori Member [or Members].

E. F.
G. H.

And, as the number of the aforesaid nominations does not exceed the number of vacancies, I therefore declare the said

[*Here insert name or names*]

to be duly elected.

Dated this day of 19 .

, Clerk of House of Representatives,
Returning Officer.

* As the case may be.

FOURTH SCHEDULE.

The Legislative Council Election Act, 1907.

NOTICE OF POLL TO BE TAKEN.

IN pursuance of the provisions of the above-named Act, I, _____, Clerk of House of Representatives, Returning Officer, do hereby give notice that a poll will be taken on _____, the _____ day of _____, 19____, between the hours of 12 noon and 2 p.m., in _____ room for the return of _____ European member [or members] and _____ Maori member [or members], and that the following candidates have been duly nominated, that is to say:—

European.

A. B. [*Residence and occupation, or description.*]
 C. D. " "
 E. F. " "

Maori.

G. H. [*Residence and occupation, or description.*]
 J. K. " "

Dated this _____ day of _____, 19____, _____, Clerk of House of Representatives,
 _____ Returning Officer.

FIFTH SCHEDULE.

The Legislative Council Election Act, 1907.

VOTING-PAPER.

FOR poll to be taken on the _____ day of _____, 19____, for the return of _____ European member [or members] and _____ Maori member [or members].

CANDIDATES' NAMES.

European.[*Candidates' full names.*]*Maori.*[*Candidates' full names.*]

DIRECTIONS.—The voter is to strike out the name of every candidate for whom he does not vote. He must take care not to leave uncanceled the names of more persons than are required to be returned, or the voting-paper will be rejected.

The voting-paper is to be folded up so that the contents cannot be seen; and is to be put into the ballot-box by the voter himself, after he has shown the official mark on the back of the paper to the person in charge of the ballot-box.

SIXTH SCHEDULE.

The Legislative Council Election Act, 1907.

DECLARATION OF RESULT OF POLL.

Taken this _____ day of _____, 19____, for the return of _____ European member [or members] and _____ Maori member [or members].

I, THE undersigned, do hereby certify that the number of votes recorded for the several candidates is as follows, viz.:—

| | <i>European Candidates.</i> | | | | | <i>Number of Votes.</i> |
|-------|-----------------------------|----|----|----|----|-------------------------|
| A. B. | .. | .. | .. | .. | .. | .. |
| C. D. | .. | .. | .. | .. | .. | .. |
| E. F. | .. | .. | .. | .. | .. | .. |
| | <i>Maori Candidates.</i> | | | | | |
| G. H. | .. | .. | .. | .. | .. | .. |
| J. K. | .. | .. | .. | .. | .. | .. |

I therefore declare

[*Here insert name or names of successful candidate or candidates*]
 to be duly elected.

Dated this _____ day of _____, 19____, _____, Clerk of House of Representatives,
 _____ Returning Officer.