

989

(Hon. Mr. Gisborne.)

The Provincial Electoral Act, 1872.

ANALYSIS.

- Title.
- Preamble.
- 1. Short Title.
- 2. Repeal of certain Acts.
- 3. Interpretation.

PART I.

QUALIFICATION OF SUPERINTENDENTS AND MEMBERS OF PROVINCIAL COUNCILS.

Superintendents.

- 4. Election of Superintendent.
- 5. Disallowance of election.
- 6. Superintendent may be removed on address from Provincial Council.

Members of Provincial Councils.

- 7. Qualification of Members of Provincial Council.
- 8. Miners' privileges preserved.

Disqualification of Superintendents and Members of Provincial Councils.

- 9. Disqualification of Superintendents and Members.
- 10. Penalty on Superintendent or Member sitting or voting.
- 11. Superintendent or Member accepting office, seat to become vacant.

PART II.

REGISTRATION OF ELECTORS AND PROCEEDINGS AT ELECTIONS.

- 12. Who to be voters at Provincial elections.
- 13. Province may be divided into Electoral Districts. Proviso as to existing districts.

- 14. Meaning of "electoral roll."
- 15. Electoral rolls of House of Representatives to be evidence of the rights of voters.
- 16. Governor may appoint Registration Officer for Province.
- 17. Who to be on roll for the election of Superintendents.
- 18. Power to Provincial Councils to provide for formation of new rolls in certain cases.
- 19. Validity of certain electoral rolls declared.

Conduct of Elections.

- 20. Elections to be conducted under "The Regulation of Elections Act, 1872."
- 21. Appointment of Returning Officers.
- 22. Election of a Superintendent.
- 23. Writs for election of a Superintendent and Members of Provincial Councils. Second Schedule.
- 24. Writs during continuance of Council to be issued by Superintendent.
- 25. Parcels and packets to be sent to the Supreme Court.

PART III.

MISCELLANEOUS.

- 26. Mode of determining controverted elections.
- 27. Writ of mandamus to lie in all cases where applicable.
- 28. Offences of bribery and treating, &c., to be punished under "The Regulation of Elections Act, 1872."
- 29. Application. Schedules.

A BILL INTITULED

AN ACT to consolidate and amend the Laws regulating ^{Title.} the Elections of Superintendents of Provinces and Members of Provincial Councils in certain cases, and for other purposes.

5 **W**HEREAS by divers Acts passed or intended to be passed in ^{Preamble.} this present Session of the General Assembly, the laws relating to the franchise to be exercised by persons entitled to vote at elections of Members of the House of Representatives, and for the regulation of such elections, and for the prevention of corrupt practices thereat, have been consolidated and amended: And whereas it is expedient to consolidate and amend the laws regulating the elections of Superintendents of Provinces and Members of the Provincial Councils in certain cases:

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. The Short Title of this Act shall be “The Provincial Electoral Act, 1872.” It shall come into operation on the day of one thousand eight hundred and seventy-two, and is divided into the following Parts :—

PART I.—Qualification of Superintendents and Members of Provincial Council.

PART II.—Registration of Electors and Proceedings at Elections.

PART III.—Miscellaneous.

Repeal of certain Acts.

2. The several Acts and parts of Acts mentioned in the First Schedule hereto, and to the extent therein mentioned, are hereby repealed: Provided that such repeal shall not have any effect until the coming into operation respectively of the Acts mentioned in the next succeeding election; nor shall repeal affect any act matter or thing whatsoever, done made suffered or performed under the said Acts and Parts of Acts or any of them; but all elections held and appointments made and all things lawfully done under the said Acts, or in the course of being done, may be completed enforced and carried out as if this Act had not been passed.

Interpretation.

3. For the purposes of this Act, the Act hereinafter referred to and called “The Electoral Act, 1872,” shall mean an Act passed or intended to be passed in this present Session of the General Assembly; and the Act hereinafter referred to and called “The Regulation of Elections Act, 1872,” shall mean another Act passed or intended to be passed in the said Session of the General Assembly.

PART I.

QUALIFICATION OF SUPERINTENDENTS AND MEMBERS OF PROVINCIAL COUNCILS.

Superintendents.

Election of Superintendent.
“Constitution Act,”
sec. 4.

4. On the termination of any Provincial Council to which this Part of this Act may be applicable, by expiration of the period fixed for its continuance, or by the previous dissolution thereof, the persons duly qualified as hereinafter mentioned in each of the said Provinces to elect Members of the Provincial Councils shall elect the same or some other person to be Superintendent, and so on from time to time, and every such Superintendent shall hold his office until the election of his successor.

Disallowance of election.

1866, No. 58.

5. It shall be lawful for the Governor of New Zealand, on behalf of Her Majesty, to disallow any such election; and if such disallowance be signified by the Governor by Proclamation published in the *New Zealand Gazette* at any time within three months after such election, the office of Superintendent shall become vacant, and on any vacancy occasioned by such disallowance, or by the death or resignation of such Superintendent (such resignation being accepted by the Governor on behalf of Her Majesty), a new election shall in like manner take place.

Superintendent may be removed on Address from Provincial Council.
“Constitution Act,”
sec. 4.

6. At any time during the office of such Superintendent it shall be lawful for Her Majesty to remove him from such office on receiving an Address signed by the majority of such Provincial Council praying for such removal, and thereupon the like proceedings shall be had as in the case of any such vacancy as above mentioned.

991

Members of Provincial Councils.

7. Every person within any Province established under the provisions of the "Constitution Act," or under the provisions of "The New Provinces Act, 1858," who shall be legally qualified as an elector, and duly registered as such elector, according to the provisions of "The Electoral Act, 1872," or who shall be otherwise legally qualified as an elector under the said Act, shall be qualified to be elected a Member of the Provincial Council thereof or to be elected Superintendent thereof: Provided always that it shall not be necessary that he reside or possess the qualification in the particular district for which he may be elected to serve as a Member.

Qualification of Members of Provincial Council. "Constitution Act," sec. 6.

8. Until the coming into operation of "The Electoral Act, 1872," every person qualified as the holder of a miner's right or a business license under the provisions of any of the Acts now in force relating to the representation of miners, shall have and be deemed to have and may exercise all or any rights to which he would be entitled under such Acts or any of them to the same extent and manner as he could or might have done before the passing of this Act.

Miners' privileges preserved.

Disqualification of Superintendents and Members of Provincial Councils.

9. No person holding any office of emolument or place of profit in any department of the General Government shall be capable of being elected a Superintendent of any Province or a Member of any Provincial Council within the Colony, and every election of any such person shall be null and void: Provided that nothing in this Act contained shall apply to any person being a Member of the Executive Council of the Colony, or being a Responsible Minister of the Crown holding any office in the Government of the Colony.

Disqualification of Superintendents and Members. 1858, No. 32.

10. Any person holding any such office of emolument or place of profit as aforesaid, who shall act as a Superintendent of any Province, or who shall presume to sit or vote as a Member of any Provincial Council, shall forfeit and pay the sum of twenty pounds for every day he shall so act or sit and vote respectively; and such sum may be recovered by action in the Supreme Court of New Zealand, with full costs of suit, by any person who shall sue for the same.

Penalty on Superintendent or Member sitting or voting. Ib.

11. If any Superintendent of any Province or any Member of a Provincial Council shall hereafter accept any such office of emolument or place of profit during such time as he shall be such Superintendent or a Member of a Provincial Council, his office as such Superintendent or his seat as a Member respectively shall thereby become vacant, and a writ shall issue for a new election in the same manner as though such Superintendent or Member had resigned his said office or seat: Provided that this section shall not apply to any person who shall have been elected to be such Superintendent or a Member of any Provincial Council as aforesaid before this Act shall come into operation.

Superintendent or Member accepting office, seat to become vacant. Ib.

PART II.

REGISTRATION OF ELECTORS AND PROCEEDINGS AT ELECTIONS.

12. The Members of Provincial Councils shall be chosen by the votes of the inhabitants of the Province who shall be legally qualified as electors for the House of Representatives within such Province, and who shall be duly registered as such electors, according to the provisions of "The Electoral Act, 1872," or who shall be otherwise legally qualified as electors under the said Act.

Who to be voters at Provincial elections.

13. It shall be lawful for the Superintendent of every Province, with the advice and consent of the Provincial Council thereof, from time to time to divide such Province into Electoral Districts for the

Province may be divided into Electoral Districts. 1858, No. 59.

election of Members of the Provincial Council, and any such division from time to time to annul and alter: Provided always that every Bill for such purpose shall be reserved for the signification of the Governor's pleasure thereon: Provided also that until any such division shall be made, the Electoral Districts existing at the time of the passing hereof in any Province shall continue to be the Electoral Districts for the election of Members of the Provincial Council of such Province.

Proviso as to existing districts.

Ib.

Meaning of "electoral roll."

14. The expression "electoral roll," used in this Part of this Act, shall mean and include any roll which may be in force under or prepared under the provisions of "The Electoral Act, 1872," and in force for the time being in the Electoral District to which the same shall relate.

Electoral Rolls of House of Representatives to be evidence of the rights of voters.

1858, No. 59.

Governor may appoint Registration Officer for Province.

Ib.

15. The electoral rolls for the House of Representatives shall be conclusive evidence of the right of the persons whose names shall be thereon as electors to vote at elections of Superintendents of Provinces and Members of the Provincial Councils, as hereinbefore provided.

16. A Registration Officer, to be appointed by the Governor for every Province in New Zealand, shall, as soon as the electoral rolls for the House of Representatives shall have been completed, under the provisions of "The Electoral Act, 1872," form therefrom electoral rolls for the election of the Superintendent of such Province, and of the Members of the Provincial Council thereof.

Who to be on roll for the election of Superintendents.

Ib.

17. There shall be placed on the roll for the election of a Superintendent of a Province, every elector registered in respect of any tenement or hereditament situate within such Province; and on the respective rolls for the election of Members of a Provincial Council, every elector registered in respect of any tenement or hereditament situate within the respective Electoral Districts for the election of such Members.

Power to Provincial Councils to provide for formation of new rolls in certain cases.

1869, No. 15.

18. It shall be lawful for the Provincial Council of any Province, in any Bill passed by it altering or affecting the extent of any of the several Electoral Districts now or hereafter to be established for the election of Members of such Provincial Council, or establishing new or other such districts, to provide that, before a time to be therein named, new rolls shall be formed for the Electoral Districts the extent of which shall be altered or affected, or for the Electoral Districts which shall be established thereby: And it is hereby provided that if such Bill shall be assented to by the Governor, the Registration Officer of such Province shall, notwithstanding that he may have already formed electoral rolls for such Province under the said Act, form new rolls for those districts for which in any such Provincial Acts or Ordinances it may be provided that new rolls shall be formed; and such rolls shall be formed within the time limited for the purpose in such Provincial Act or Ordinance, and in the manner provided by this Act, by such Registration Officer, from the electoral rolls for the House of Representatives for the time being in force, and such new rolls shall continue in force until new rolls shall have been formed for such districts under the sixteenth section of this Act.

Validity of certain electoral rolls declared.

Ib.

19. In any case in which any Registration Officer of any Province appointed under this Act shall, upon the alteration or new establishment of any Electoral District for the election of a Member or Members of the Provincial Council of such Province, have formed a new electoral roll for such district in the manner hereby provided notwithstanding that electoral rolls for such Province shall have been already formed under any of the Acts hereby repealed, every such new roll shall be deemed to have been legally made and to have been valid from the making thereof, and shall be deemed to have continued in force until new rolls have been formed under the sixteenth section of this Act; and unless rolls shall, before the passing of this Act and

99.3

after the formation of such new roll, have been formed for such Province under the said Acts hereby repealed, such new roll so formed shall continue in force until rolls shall be formed for such Province under the said sixteenth section of the said Act.

5 Conduct of Elections.

20. Subject to the provisions hereinafter contained, every election of the Superintendent of any Province not established under the "New Provinces Act, 1858," and every election of a Member of the Provincial Council of any Province, however established, shall be conducted in the manner prescribed by "The Regulation of Elections Act, 1872," for the election of Members of the House of Representatives.

Elections to be conducted under "The Regulation of Elections Act, 1872." 1870, No. 18.

21. The Governor shall from time to time appoint and remove Returning Officers for the several Electoral Districts within the Provinces as occasion may require; and the Governor shall have the same powers of appointing and altering polling places and principal polling places for Electoral Districts for the election of Superintendents and Members of Provincial Councils as, under the provisions of any Act of the General Assembly in force for the time being, he has for Electoral Districts for election of Members of the House of Representatives.

Appointment of Returning Officers. Ib.

22. When a Superintendent of any Province is to be elected under the provisions of this Part of this Act, the whole of such Province shall be deemed to be one Electoral District, and one writ only shall be issued for such election, and shall be addressed to the Returning Officer appointed under the last preceding section of this Act for the capital town of the Province, and the nomination shall be held at such town.

Election of a Superintendent. Ib.

23. Every writ for the election of a Superintendent under this Part of this Act, or for the election of a Member of a Provincial Council of a Province where no such Council is in existence, shall be issued by the Governor under the Public Seal of the Colony, and it shall not be necessary for the Governor to sign the same. Every such writ shall be returnable to the Governor within such time not exceeding seventy days from the issue as shall be appointed in the writ, and such writ may be in the form in the Second Schedule hereto.

Writs for election of a Superintendent and Members of Provincial Councils. Ib.

24. Every writ for the election of a Member of a Provincial Council shall, during the continuance of such Council, be issued by and returnable to the Superintendent, and the return day shall be appointed by the Superintendent and stated in the writ, and such writ shall be under the Public Seal of the Province, and need not be signed by the Superintendent, and such writ may be in the form in the Second Schedule hereto.

Second Schedule. Writs during continuance of Council to be issued by Superintendent. Ib.

25. The parcels and packets by this Act required to be made and sealed up shall, in the case of an election of a Superintendent or Member of a Provincial Council of a Province, be sent to the Registrar or Deputy Registrar of the Supreme Court for the Judicial District comprising the town at which the nomination for the election of the Superintendent of the Province ought under this Part of this Act to be held; and the provisions of "The Regulation of Elections Act, 1872," relating to parcels and packets deposited with the Clerk of the House of Representatives, and to the keeping thereof, and to the proof of the contents thereof, and to the effect thereof as evidence, and to the offences which may be committed in relation thereto, shall apply to the parcels and packets in this section mentioned, with the substitution of the Registrar or Deputy Registrar of the Supreme Court for the time being having the custody of such parcels and packets for the Clerk of the House of Representatives.

Parcels and packets to be sent to the Supreme Court. Ib.

PART III.

MISCELLANEOUS.

Mode of determining
controversed
elections.

1858, No. 59.

26. The right of any person claiming to hold the office of Superintendent, or to be a Member of a Provincial Council, shall be determined on information in the nature of a *quo warranto*, and by no other mode, except in such cases as are provided for by the eleventh section of the "Constitution Act."

Writ of mandamus
to lie in all cases
where applicable.

1b.

27. The writ of mandamus shall lie in respect of Superintendents of Provinces, and Provincial Councils and Members thereof, in all cases whatsoever to which such a mode of proceeding is applicable.

Offences of bribery
and treating, &c., to
be punished under
"The Regulation of
Elections Act, 1872."

28. "The Regulation of Elections Act, 1872," shall be deemed to apply to any election of Superintendent of a Province, and of any Member of a Provincial Council of any Province, in so far as the same defines the offences of bribery treating and undue influence, and the punishment thereof.

Application.

29. This Act shall apply to the Provinces already established in New Zealand; and so much thereof as relates to Provincial Councils and Members thereof shall apply to Provinces established under the "New Provinces Act, 1858," and sections thirteen, twenty-six, twenty-seven, and twenty-eight only shall apply to Superintendents of Provinces established under the said last-mentioned Act.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

Date of Act.	Short Title of Act.	Extent of Repeal.
15 and 16 Vict. c. 72 (Imperial).	The "Constitution Act."	Sections 4, 6, and 7.
21 and 22 Vict., No. 32.	"The Disqualification Act, 1858."	The whole.
30 Vict., No. 58.	"The Superintendents Election Signification Disallowance Act, 1866."	The whole.
21 and 22 Vict., No. 59.	"The Provincial Elections Act, 1858."	The whole.
32 and 33 Vict., No. 16.	"The Provincial Elections Act Amendment Act, 1869."	The whole.

SECOND SCHEDULE.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to the Returning Officer [appointed under the twenty-second section of "The Provincial Electoral Act, 1872," for the Town of] [for the Electoral District of], Greeting:

We command you that you proceed according to law to the election of [a Superintendent of the Province of] [Member to serve in the Provincial Council of 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, be returned to the [Governor of our Colony of New Zealand] [Superintendent of the said Province] at on or before the day of

In witness whereof we have caused this our writ to be sealed with the Public Seal of [our said Colony] [the said Province] this day of 18 .

By Authority: GEORGE DIDSBUZZ, Government Printer, Wellington.