

AN ACT

To provide for the Election of Members to serve in the Legislative Council and Legislative Assembly of Victoria respectively.

WHEREAS by an Act intituled “*An Act to enable Her Majesty to assent “to a Bill as amended of the Legislature of Victoria to establish a “Constitution in and for the Colony of Victoria”*” it was amongst other things enacted that there should be established in Victoria instead of the Legislative Council then subsisting one Legislative Council and one Legislative Assembly to be severally constituted as therein provided and it was also by the said Act enacted that the Legislature of Victoria in existence at the time of the proclamation of the said Act as thereafter mentioned should by an Act or Acts to be for that purpose made and passed in the manner and subject to the conditions required in respect of any Act or Acts made or passed by such Legislature make all necessary provision for the compilation and revision of lists of all persons qualified to vote at the elections of members to serve in the said Council and Assembly respectively and for the registration of such persons and for the appointing of returning officers at such elections and for the issuing executing and returning the necessary writs for the same and generally for declaring and filling up all vacancies in such Council and Assembly respectively and for regulating the proceedings and taking the poll at all such elections and for determining the validity of all disputed returns and elections and otherwise for ensuring the orderly effective and impartial conduct of all such elections And whereas the said Act was duly proclaimed in Victoria on the twenty-third day of November in the year of Our Lord One thousand eight hundred and fifty-five And whereas it is

Preamble.
18 & 19 Vic., cap. 55.

expedient

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expedient to make provision for the purposes aforesaid Be it therefore enacted by His Excellency the Governor of Victoria by and with the advice and consent of the Legislative Council thereof as follows :—

I. In the interpretation and construction of the provisions of this Act the following words shall have the respective meanings hereby assigned to them unless inconsistent with or repugnant to the context that is to say

Interpretation
clause.

The words “Governor in Council” shall mean the Governor of Victoria for the time being acting with the advice of the Executive Council thereof.

The word “election” shall mean and apply as well to the nomination as to the election of any member of either the Legislative Council or Legislative Assembly as the case may be.

The verb or word “poll” and the verb or word “vote” shall include and apply to the taking the voices or votes of electors by ballot.

The word “Council” shall mean and apply to the Legislative Council of Victoria.

The word “Assembly” shall mean and apply to the Legislative Assembly of Victoria.

The word “province” shall mean and apply to any electoral province mentioned or described in the said recited Act.

The word “district” shall mean and apply to any electoral district mentioned or described in the said recited Act.

The word “division” shall mean and apply to any portion of any electoral province or district to be defined by the Governor in Council as hereinafter mentioned.

The word “elector” shall mean any person who has or claims to have or is presumed by a collector as hereinafter mentioned to be entitled to a right to vote in the election of a member of the Legislative Council or the Legislative Assembly of Victoria respectively.

The words “candidate at an election” shall include any person nominated with his consent as a candidate or who shall have declared himself a candidate at any meeting held for the nomination of candidates for election for the Legislative Council or Legislative Assembly whether such person shall be subsequently elected or not.

The words “returning officer” shall apply to any person duly appointed to execute any writ or precept for the election of a member or members to serve in the said Legislative Council or Legislative Assembly or to discharge the duties of returning officer under the provisions of this Act.

The word “list” shall mean the unrevised electoral list or register of electors.

The word “roll” shall mean the electoral roll of electors entitled to vote at the election of members of either the said Legislative Council or Legislative Assembly respectively ; and

The word “qualification” shall mean the property or other qualification in respect of which any person may claim or be entitled to vote in the election of members to serve in the said Legislative Council or Legislative Assembly.

II. It shall be lawful for the Governor in Council from time to time to divide any of the said provinces or districts into any number of divisions and to assign the limits of the same and every such division to alter and vary as in his discretion he may think fit and also from

Provinces or
districts may be
divided and
persons appointed
collectors and
registrars

time

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time to time to appoint such and so many persons as may be necessary to collect compile and make out lists of the electors of each province district or division respectively and such persons so appointed shall for the purposes of this Act be deemed and considered collectors of the province or district or any division in or for which they are respectively appointed to act and also from time to time to appoint such and so many persons as may be necessary to be registrars under this Act and to fix or assign the limits of any province district or division for which every such person shall be appointed registrar and also to appoint one of such registrars in each province and district to be the chief registrar thereof respectively provided that whenever any court or courts of petty sessions is or are holden within any province district or division the person so to be appointed registrar shall be the clerk of such court or of one of such courts as the case may be and also for such Governor in Council to remove any person appointed under the provisions of this clause and appoint another in his place and every collector shall forthwith after he shall have been appointed to that office in the year One thousand eight hundred and fifty-six publish a notice according to the form contained in the Schedule to this Act annexed marked A and numbered 1 accompanied with a notice according to the form contained in the said Schedule numbered 3 or to the like purport or effect respectively and every collector shall between the first day of January and the seventh day of January in every succeeding year publish a notice according to the form in the said Schedule and numbered 2 or to the like purport or effect accompanied with such notice as aforesaid.

III. Every collector shall ascertain to the best of his ability the name place of abode and the nature of the qualification of every elector in his area of collection and shall before the first day of May in the year One thousand eight hundred and fifty-six and before the first day of March in each succeeding year make out in the form set out in the schedule hereunder written marked C a list of electors arranged in alphabetical order according to their surnames and in every year after the year One thousand eight hundred and fifty-six the collector shall include in such list the names which shall be upon the roll then in force for such area and every person claiming either in person or by a written notice or letter to be qualified as an elector and stating his name place of abode and qualification and if a freehold or leasehold qualification where the same is situate shall be inserted in such list.

IV. In case the collector shall have any reasonable doubt of the qualification ny elector he shall nevertheless include his name in such list and shall add the word "objected" before the name of any such person in the margin of the list and in every r after the year One thousand eight hundred and fifty-six such collector shall lude in such list all names which shall be upon the roll then in force for his area of lection but shall add the word "objected" before the name of any person so taken m such electoral roll of whose qualification he has reasonable doubt specifying in such cases the grounds of such objections and such collector shall add the word ad" before the name of any person in the list whom he shall have reasonable cause elieve dead whether such name be or be not taken from the said electoral roll then orce and such words "objected" or "dead" having been so added shall be deemed an ection duly made to such name being inserted or retained on the electoral roll.

V. Every collector shall on or before the first day of May in the year One thousand eight hundred and fifty-six and on or before the

Collectors to make out list of electors in their area of collection with marginal notes.

Collectors to include doubtful claims in lists and object thereto.

Collectors to deliver lists to registrars and to permit perusal thereof gratis.

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first day of March in every succeeding year deliver the lists so made out by him as aforesaid to the registrar appointed for the province or district or division respectively to which such lists relate and every collector shall retain a true copy of such list to be perused by any person without payment or fee at any hour from ten o'clock in the forenoon to four o'clock in the afternoon (Sunday excepted) during the period of fifteen days next after his having delivered a copy to the said registrar.

VI. The registrar of each province district and division respectively shall on or before the eighth day of May in the year One thousand eight hundred and fifty-six and on or before the eighth day of April in each succeeding year from the lists so delivered to him cause a list of the electors of such province or district or division to be printed or fairly and legibly written and arranged according to the surnames in alphabetical order and he shall cause the same to be published as hereinafter directed for the period of fourteen days ending on the twenty-second day of May in the year One thousand eight hundred and fifty-six and on the twenty-second day of April in every succeeding year.

VII. Any person whose name shall have been omitted from any such list and who shall claim to have his name inserted therein shall on or before the twenty-fourth day of May in the year One thousand eight hundred and fifty-six and on or before the twenty-fourth day of April in each subsequent year give notice to the registrar in the form in the said Schedule to this Act annexed marked A and numbered 3 or to the like effect and the said registrar shall include the names of all persons so claiming as aforesaid in a list according to the form in the Schedule to this Act annexed marked C and shall cause such lists to be published during the period of seven days commencing on the twenty-sixth day of May and ending on the first day of June in the year One thousand eight hundred and fifty-six and commencing on the twenty-sixth day of April and ending on the second day of May in each succeeding year and any person whose name shall have been omitted or who shall claim to have his name inserted in any list or whose name after the year One thousand eight hundred and fifty-six shall be on the roll then in force may object to any other person as not entitled to have his name retained or inserted in the list for the same division of a province or district and any person so objecting shall on or before the third day of June in the year One thousand eight hundred and fifty-six and on or before the fourth day of May in each succeeding year give or cause to be given to the said registrar and also to the person objected to or leave at his usual place of abode or business or at the premises for which his name shall appear to be inserted in the list notice thereof in writing according to the form in the Schedule to this Act annexed marked B or to the like effect specifying the grounds of his objections and to which objections and grounds he shall be limited and the said registrar shall include the names of all persons objected to either by an elector or by a collector as aforesaid in a list according to the form in the Schedule to this Act annexed marked D and shall publish such list during the seven days commencing on the sixth day of June and ending on the twelfth day of June in the year One thousand eight hundred and fifty-six and commencing on the sixth day of May and ending on the twelfth day of May in each succeeding year and the said registrar shall likewise keep a list of all persons so claiming as aforesaid and also a list of the names of all persons so objected to as aforesaid to be perused by any person without payment

Registrars to publish alphabetical list of their province district or division as in Schedule C.

Elector omitted shall send in claim.

List of electors making such claim to be published as in Schedule C.

Any elector may object to any name on list of his province district or division as in Schedule B.

Lists of such claimants and of persons objected to be kept for perusal gratis and sold for 1s. per list.

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of any fee from ten o'clock in the forenoon until four o'clock in the afternoon during the said last mentioned period of seven days (Sunday excepted) and shall deliver a copy of such lists to any person requiring the same on payment of a sum of one shilling for each such list.

VIII. Every list or other document herein required to be published except where some other mode or place of publication is in this Act expressly provided shall be published by being inserted as an advertisement at least twice in each week during the period herein allotted for publication and if no period be allotted then at least twice in one or more of the journals (if any) circulating in the province or district or division in which such publication is to be made and also by being affixed or posted in some public or conspicuous situation on the outside door or outer wall near the door of the following buildings that is to say every court house police office or other place where petty sessions are ordinarily held and in districts beyond the limits of any town and in towns where no court of petty sessions shall be held then in some public and conspicuous situation within the province district or division in which the same is required to be published.

How lists, &c., to be published.

IX. In all cases in which any list or other document shall be affixed or posted as aforesaid the same shall continue so affixed or posted for a period of seven consecutive days at the least and in case the same shall be destroyed mutilated effaced defaced or removed before the expiration of such period the person causing such document to be published shall as soon as conveniently may be after he shall have become aware thereof publish in like manner in its place another list or other document to the like purport and effect as the one so destroyed mutilated effaced defaced or removed.

Duration of publication.

X. Every person who shall wilfully destroy mutilate efface deface or remove any list or other document so affixed or posted as aforesaid during the period for which the same is hereinbefore required to remain so affixed or posted shall for every such offence forfeit any sum not exceeding five pounds.

Penalty for defacing lists &c.

XI. No list or other document shall be invalidated by reason that it shall not have been published as aforesaid or affixed or posted in every place and for the full time hereinbefore required for publication thereof but the collector registrar or other person charged with the duty of publishing such list or other document as aforesaid shall be liable to the penalties of his neglect or wilful default as herein mentioned.

List not to be invalidated by reason of non-publication.

XII. In case no list shall have been made out for any province or district or division by the collector thereof respectively by the day herein appointed for such purpose in the year One thousand eight hundred and fifty-six it shall be lawful for the Governor in Council at any time before the first election shall be holden for such province or district under the provisions of this Act to extend the time hereby appointed for the purpose aforesaid and whenever any such extension shall be made the various times hereby appointed for the completion of the lists prior to the revision thereof and for such revision shall also be extended in the like proportion as nearly as may be and if after the year One thousand eight hundred and fifty-six no list shall have been made out for any province district or division for any year or in case such list shall have been wholly unpublished the roll of electors for such province or district or division then in force shall be taken to be the list for such province or district or division for the year then next ensuing and the provisions in this Act contained respecting any list shall be taken

In case list of electors shall not be made out existing roll to be in force for following year.

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to apply to such roll as aforesaid and in case no list or roll in lieu of a list shall be revised or prepared before the thirtieth day of June in any year then such roll then in force shall be the roll for such province or district or division for the twelve months then next ensuing.

XIII. The revision of the electoral lists of each province and district and any division thereof shall be made by the court of petty sessions in or for such province district or division or some or one of them and in case there shall be no court of petty session in any province or district or division thereof respectively such revision shall be made by such court of petty sessions in any adjacent province or district or division as shall be directed by the Governor in Council and the appointment of such court of petty sessions for such purpose shall be published in the *Gazette* and a notification thereof shall also be revision of whose list has been assigned to such court of petty sessions.

Revision of lists to be made by Justices in Petty Sessions.

XIV. The registrars shall on or before the twelfth day of June in the year One thousand eight hundred and fifty-six and on or before the twelfth day of May in every succeeding year or as soon thereafter as may be deliver or transmit the said lists with the marginal additions as aforesaid to the courts of petty sessions by which the same are to be respectively revised.

Registrars to transmit lists to Courts of Petty Sessions.

XV. Revision Courts shall be held between the twelfth and thirtieth days of June in the year One thousand eight hundred and fifty-six and between the sixth day of May and the sixth day of June in each succeeding year and every such court shall be an open court and may be adjourned from time to time Provided that no such adjournment shall be for a period beyond the thirtieth day of June in the year One thousand eight hundred and fifty-six and the sixth day of June in any succeeding year.

Revision Courts when to be held.

XVI. At the time of opening every such court or commencing the business of revision and during the whole sitting of such court the registrar appointed under this Act for the province or district or division for which such court shall be held shall attend and produce the list and after the present year a copy of the roll then in force for each province or district or division and also the claims and a list of persons claiming to be inserted on the electoral roll then to be prepared and the list of the persons objected to as aforesaid respectively and the justices presiding in such revision court or conducting such revision shall have full power to summon such registrars and the registrars of the last or any preceding year and also all actual or late collectors of names or claims clerks of petty sessions or persons having possession or custody of any book or document relating to any such claim and to compel them to produce the same not being a private book or document and also to summon any other necessary witness and to examine such persons and witnesses and also all persons claiming to be inserted in or making or opposing objections to the insertion or omission of any name in the said list on oath or affirmation and if any person taking any oath or making any affirmation shall wilfully and falsely swear or affirm such person shall be deemed guilty of perjury and shall be punished accordingly.

Powers of Revision Court to summon witnesses &c.

XVII. It shall be lawful for the revision court upon the revision of any list to insert therein the name of any elector omitted therefrom in case it shall be proved to the satisfaction of such court that such person gave due notice of his claim to the registrar as aforesaid and that he was entitled on the twenty-fourth day of May in the year

Revision Court may insert names.

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One thousand eight hundred and fifty-six or on the twenty-fourth day of April in any succeeding year to have his name inserted in the said list and the twenty-fourth day of May in the year One thousand eight hundred and fifty-six and the twenty-fourth day of April in every succeeding year shall be deemed and considered as the period of the registration mentioned in the said recited Act with reference to the qualification of electors.

XVIII. It shall be lawful for any elector whose name appears in the year One thousand eight hundred and fifty-six on the list or in any subsequent year on the roll of any province or district to oppose the claim of any such last mentioned person to have his name inserted by the revision court in any list for the same division of any province or district as the case may be and such elector shall in the court and before the hearing of the said claim give notice in writing to the revision court of his intention to oppose the said claim and shall thereupon be admitted to oppose the same by evidence or otherwise without any previous or other notice and shall have the same rights powers and liabilities as to costs and other matters relating to the hearing and determination of the said claim as any person who shall have duly objected to the name of any other person being retained on any list of electors and who shall appear and prove the requisite notices as herein mentioned.

Electors may oppose such insertion.

XIX. It shall be lawful for any revision court to admit evidence as to the ability or attainment to read or write of any elector of whom such qualification may be required by the said recited Act without requiring the personal attendance of such elector or to require such attendance and to cause such elector to be examined or otherwise as the said revision court shall deem fit.

Evidence may be taken as to elector's ability to read and write without his attendance.

XX. It shall be lawful for any revision court in determining on the respective claims of the holders of Miners' Rights leases or licences or of graduates of universities barristers solicitors medical practitioners officiating ministers and of unemployed naval and military officers respectively to have their names inserted in any list to admit counterfoils or blocks of receipts university calenders or lists law medical clerical navy and army lists or such other evidence although not strictly legal as such court shall deem fit in support of or opposition to such respective claims.

Revision Court to admit such evidence as it may see fit in proof of qualification of solicitors doctors &c.

XXI. No elector for any province or district shall be obliged to appear in person to make proof of the nature and sufficiency of his qualification unless required by the revision court so to do and if such personal attendance shall be rendered requisite on the application of any person objecting to any such elector's name being retained or inserted in any list such objector not being a collector under this Act shall if his objection be not sustained pay to the elector such sum as the revision court may award.

Personal appearance of elector not necessary to substantiate qualifications except required.

XXII. Every revision court shall insert in the list under revision by such court the names of all persons who shall be proved as aforesaid to be entitled to be inserted therein and shall retain on such list the names of all persons to whom no objection shall have been duly made and shall also retain thereon the name of every person who shall have been objected to by any elector not being a collector unless the party so objecting shall appear by himself or by some one on his behalf in support of such objection and prove the service and publication of the requisite notices and when the name of any person inserted in any list shall have been duly objected to and the objector shall appear by himself or by some one on his behalf in support of such objection and

Revision Court to correct electoral lists.

such

such objector not being a collector shall give such proof as aforesaid or being a collector shall produce a list with such words added as aforesaid or prove that such words have been so added as aforesaid the revision court shall require proof of the qualification of the person objected to and in case the qualification of the person so objected to shall not be proved to the satisfaction of the said revision court the name of such person shall be expunged from such list and such court shall also expunge from such list the name of every person who shall be proved to be dead or to have become disqualified or incapable of voting in any manner whatsoever and shall correct any mistake or supply any omission in any of the said lists in respect of the name or the place of abode of any person included therein or in respect of the nature or local description of his property or in respect of any qualification Provided that it shall not be necessary for any collector to give proof of the death of any person objected to by him Provided also that no person's name shall be expunged by such court from any list except in case of death or conviction of any felony unless notice as herein required in such case shall have been given or the word "objected" shall have been added to his name by the collector as aforesaid and the chairman of such court shall in open court write his initials against the name of any person so struck out and against any part of the list in which any mistake shall have been corrected or omission supplied and shall sign his name to every page of the several lists so settled and there shall be no appeal from the decision of such court to any superior court of law.

XXIII. If it shall appear to any revision court as aforesaid that any person shall under this Act have made or attempted to sustain any groundless frivolous or vexatious claim or objection to have any name inserted or retained in any list it shall be lawful for such court in its discretion to make such order for the payment by such person of the costs or of any part of the costs of any person in resisting such claim or objection and in every such case such court shall make an order in writing specifying the amount of such costs and by and to whom the same is to be paid and shall deliver the said order to the person to whom the said sum shall be ordered to be paid Provided that such sum shall not in any case exceed the sum of twenty pounds Provided also that whenever any court shall have made any such order for the payment of any sum by any person until such sum of money be paid to the person entitled to receive the same or to be paid into court for the use of the person so entitled.

XXIV. It shall be lawful for the Governor in Council from time to time to appoint a fit and proper person to be the returning officer of each province and district and to cause such appointment to be notified in the *Government Gazette* and from time to time in his discretion to revoke any such appointment and remove any person so appointed and to appoint another returning officer in the stead of the person so removed or whose appointment is so revoked and if any returning officer shall die before all the proceedings of any election shall have been terminated it shall be lawful for the poll clerk or if more than one the senior poll clerk to act as returning officer during such election until a returning officer shall have been appointed by the Governor in Council as hereinbefore mentioned And any person being a resident in any province or district refusing to perform the duty of returning officer for such province or district after having received a writ of election accompanied or

Costs may be awarded where any frivolous or vexatious objection shall have been made.

Governor in Council to appoint a Returning Officer for each province and district.

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preceded by an appointment shall unless incapacitated by sickness or by being a candidate for the province or district to which such writ refers forfeit any sum not exceeding twenty pounds. Provided that nothing herein contained shall be construed to exclude any returning officer from being appointed a returning officer for a province as well as for a district or from being elected a member for any province or district except that for which he shall at such election act as returning officer.

XXV. Every person who may under the provisions of this Act be appointed a returning officer deputy returning officer or poll clerk shall before he enter upon the performance of the duty of his office make and subscribe the following declaration before any justice of the peace :—

“I (A.B.) do hereby declare that I accept the office of Returning “Officer (*Deputy Returning Officer or Poll Clerk*) for the “province (*or district as the case may be*) of and I “do hereby promise and declare that I will faithfully perform the “duties of the same to the best of my understanding and ability “and I do further promise and declare that if in the discharge “of my duties I shall become acquainted with the name or names “of the candidate or candidates for whom any elector shall have “voted I will not divulge the same neither will I by any word or “action directly or indirectly aid in the discovery of the same “unless in answer to any question I am legally bound to answer “or in compliance with the provisions of this Act.”

And such justice is hereby required to transmit such declaration by the first convenient opportunity to the Chief Secretary.

XXVI. The lists signed as aforesaid shall as soon as the same shall have been revised by the revision court be delivered or transmitted by such court to the chief registrar for each province or district who shall cause each such list to be copied and printed or written in a book or roll with every division arranged in alphabetical order and shall prefix to every name so copied printed or written its proper number beginning the numbers from the first name and continuing them in a regular series down to the last name and shall complete and deliver such book or roll together with the said original lists and a sufficient number of printed copies thereof on or before the twentieth day of July in the year One thousand eight hundred and fifty-six and on or before the twenty-ninth day of June in every succeeding year to the returning officer of the province or district to which such list shall relate who shall safely keep the same and when any returning officer to whom any such book or roll and lists shall have been delivered shall cease to hold that office he shall deliver over the book or roll then in force and all printed copies of such roll then in his possession together with the original lists so delivered to him as aforesaid to the person succeeding him in such office and every such book or roll shall be the roll for the province or district of which it purports to be the roll from the twenty-first day of July in the year One thousand eight hundred and fifty-six to the thirtieth day of June in the year One thousand eight hundred and fifty-seven both inclusive and afterwards for the twelve months from the first day of July in the year in and for which such roll shall have been made to the thirtieth day of June in the succeeding year both inclusive.

XXVII. The returning officer of each province and district shall cause the roll of such province or district to be printed forthwith after the receipt thereof and also allow the same or copies thereof to be inspected and copies to be taken without any fee or payment and shall furnish or cause to be furnished a copy thereof printed or legibly

Declaration of
Returning Officer
&c.

Revision Court to
transmit revised
list to Registrar
who is to send it
to Returning
Officer.

Returning Officer
to permit
inspection of roll
and furnish copy
on payment of 2s.

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written to any person applying for the same on payment of the sum of two shillings.

XXVIII. For the purposes of the first election of the Council and Assembly respectively and for the election of members to serve in the Council in the place of those retiring by rotation resigning or whose seats shall be otherwise vacated in the said Council as provided in the said recited Act and for all general elections for members of the Assembly the writs for the several provinces and districts shall be issued by the Governor and no writ for any election when the Council or Assembly are not in session shall be made returnable in less than thirty or more than sixty days from the issue thereof Provided that as to the said first election the elections for the Council shall be held before the elections for the Assembly.

Governor to issue writs for first election for all general elections and for all elections of Members of Council.

XXIX. Whenever after the first election or after any general election and during the continuance of any Assembly it shall be established to the satisfaction of the Speaker of the said Assembly that the seat of any member hath become vacant either by death or resignation or any other cause the said Speaker shall forthwith issue a writ under his hand and seal for the election of a member to serve in the place so become vacant during the continuance of the same Assembly and until the dissolution thereof and no longer Provided that if at the time of the occurrence in the Assembly after any general election of such vacancy from any of the causes aforesaid there be no Speaker and the Assembly be not in Session or if the Speaker for the time being be absent from the Colony then in any such case the Governor shall if he be satisfied of the existence of such vacancy issue a writ for the election of a member to serve in the place so become vacant during the continuance of the said Assembly and no longer.

Speaker of Assembly to issue writ.

XXX. Every writ for the election of a member shall be directed to the returning officer of the province or district as the case may require and in every such writ shall be named the day and place of nomination for such election such day not being less than seven nor more than twenty-one days from the issue of the writ and also the day and places for taking the poll in the event of the election being contested and the day on which such writ shall be returnable and every returning officer receiving any such writ shall endorse thereon the day on which he received it and shall forthwith give public notice of the day and place of nomination the day and places of polling and the day such writ is made returnable as mentioned in such writ.

Writ to be directed to Returning Officer who is to notify its receipt and the day of nomination, &c.

XXXI. When any matter or thing shall be directed by this Act or by any writ issued in pursuance thereof to be performed on a certain day and that day shall happen to be Sunday Good Friday or Christmas Day such matter or thing shall be performed on the next succeeding day not being Sunday or Christmas Day.

Acts to be performed on a day falling on Sunday, &c. shall be performed on next day.

XXXII. It shall be lawful for the Governor in Council to appoint by proclamation so many places for each province and district respectively within the limits of such province or district as polling places for the purpose of taking the poll at any contested election and to appoint one of such polling places as the place for nomination of candidates and such polling places to abolish and in the same way to appoint others in their stead or to appoint any additional polling places within the limits aforesaid as to the Governor in Council shall seem fit and at the time of appointing every such polling place to define the boundaries and limits within which all votes in respect of qualifications therein shall be taken at any election and such boundaries and limits to vary and alter as may be considered necessary Provided that in fixing the boundaries and limits last aforesaid regard shall be had that

Governor in Council to appoint polling places.

such

such limits shall be co-extensive with one or more of the divisions for which a roll or rolls shall have been prepared as aforesaid.

XXXIII. The returning officer shall preside at a meeting to be holden at noon on the day of nomination and at the place named in the writ for the nomination of candidates and shall read aloud the said writ or otherwise make known the purpose for which such meeting is held and if there be no more candidates proposed at such meeting than the number of members to be returned the returning officer shall declare the candidate or candidates so proposed to be duly elected and make his return accordingly and in the event of there being more candidates proposed than the number of members to be returned the returning officer shall call for a show of hands separately in favor of each candidate and after such show of hands shall declare the person or persons on whom the election has fallen and shall make his return accordingly unless a poll be then and there demanded either by some one of the candidates or by not less than six of the electors of the province or district on behalf of any candidate and if such demand be made for a poll the polling shall unless prevented as hereinafter mentioned take place at the different polling places for the province or district respectively on the day appointed in the writ for that purpose and no person shall be permitted to become a candidate who shall not have been proposed or have offered himself as a candidate at such nomination.

Proceedings at
nomination.

XXXIV. The returning officer shall cause a booth to be erected or rooms to be hired at every polling place within his province or district for the purpose of taking the poll at any election and shall divide the same into compartments and may appoint one or more clerk or clerks for taking the poll at every such booth or polling place and shall furnish each of such clerks with a copy of the roll of the province or district for which the poll is to be taken certified under the hand of such returning officer as being a true copy Provided that there shall be at least one booth in each province or district or division thereof respectively for every six hundred electors entitled to vote at such polling place and there shall be affixed over the entrance of each compartment certain letters (the entire letters of the alphabet being divided according to the number of compartments of the booth) and no elector shall be permitted to poll in any compartment unless his surname shall commence with one of the letters which shall be so fixed over the entrance of such compartment.

Returning Officer
to cause booths to
be erected.

XXXV. At every booth or polling place there shall be one or more compartments or ballot rooms provided with ink and pens for the purpose of enabling the elector to mark the ballot paper as hereinafter provided in which room no person other than the returning officer or his deputy the poll clerk and the scrutineers of the several candidates to be appointed as hereinafter provided and the electors who shall for that time be tendering their votes shall be entitled to be present and any person other than such returning officer poll clerk scrutineers and electors actually recording their votes who shall intrude into such room shall be deemed guilty of a misdemeanour Provided always that it shall be lawful for the returning-officer and deputy returning officer or poll clerk to summon to his assistance in such compartment or room any member or members of the police force for the purpose of preserving the public peace quelling any breach thereof that may have arisen and for removing out of such room any person or persons who may in his opinion be obstructing the polling or wilfully violating any of the provisions of this Act.

Returning Officer
to provide a ballot
room.

XXXVI.

[DOCUMENT ELEVENTH PAGE ENDS HERE]

Election of Members.

XXXVI. The returning officer or his deputy shall provide a locked box of which he shall keep the key with a cleft or opening in such box capable of receiving the ballot paper and which box shall stand upon the table at which the returning officer deputy returning officer or poll clerk and scrutineers preside And each elector shall having previously satisfied as herein provided the returning officer or his deputy that he is entitled to vote at such election then receive from the returning officer or deputy returning officer or poll clerk a ballot paper in the form in the schedule hereunto annexed marked F and which ballot paper shall be signed upon the back by the returning officer with his name and such elector shall in the compartment or ballot room provided for the purpose strike out the names of such candidates as he does not intend to vote for and shall forthwith fold up the same in such manner as will conceal the names of the candidates and display that of the returning officer written upon the back and deposit it in the ballot box in the presence of the returning officer or deputy returning officer or poll clerk and scrutineers and in case such elector shall be unable to read or shall be blind he shall signify the same to the returning officer or deputy returning officer or poll clerk who shall thereupon mark or strike out the names of such candidates as the elector may designate and no elector shall take out of such room any such ballot paper either before or after he has marked the same and any elector wilfully infringing any of the provisions of this clause or obstructing the polling by any unnecessary delay in performing any act within the ballot room shall be deemed guilty of a misdemeanour.

Returning officer to provide ballot box and papers.

Mode of voting.

XXXVII. After the nomination of the several candidates for the province or district shall have taken place the returning officer shall cause to be printed a number of ballot papers in the form F which ballot papers he shall keep in his own custody and before the day of polling he shall deliver to each deputy returning officer such number of ballot papers signed by himself as shall be sufficient for the electors who may poll at the booth or polling place within such deputy's division and he shall also sign a sufficient number of ballot papers for the electors who may poll at the booth or polling place over which he himself preside and it shall be the duty of the returning officer and deputy returning officers to keep an exact account of such signed ballot papers.

Ballot Papers.

XXXVIII. Before delivering the ballot paper to the elector as hereinbefore provided the returning officer or deputy returning officer or poll clerk shall write upon each ballot paper so delivered to such elector the number corresponding to the number set opposite to the elector's name in the electoral roll and shall thereupon check or mark off upon a certified copy of the electoral roll such voter's name as having voted and such numbers so corresponding as aforesaid shall be sufficient *primâ facie* evidence of the identity of the electors whose names shall appear on the roll and of the fact of their having voted at the election at which such ballot papers were delivered.

Ballot papers to be numbered.

XXXIX. The returning officer shall preside at one polling place within his province or district and shall appoint by writing under his hand a deputy or deputies or poll clerk to act for him and preside at each of the other polling places or booths appointed as aforesaid for taking the poll for such province or district or any division thereof respectively and a poll clerk for each compartment or ballot room when there are more than one.

Returning Officer to preside at one polling place.

XL. At every poll the voting shall commence at nine o'clock in the forenoon and shall finally close at four o'clock in the afternoon of the same day unless adjourned as herein provided by

Proceedings at election.

reason

[DOCUMENT TWELFTH PAGE ENDS HERE]

reason of riot or other interruption and shall be conducted in manner following that is to say every elector shall vote at the polling place appointed for the division of the province or district respectively upon the roll for which his name shall be and every such elector may vote for any number of candidates not exceeding the number of members then to be chosen and any ballot paper recording a greater number of votes shall be rejected at the close of the poll.

XLI. Each candidate may appoint one person to be scrutineer at each booth or polling place and in every compartment thereof at the election and every person so appointed scrutineer shall upon his appointment make and subscribe the following declaration in the presence of the returning officer or deputy returning officer—

Appointment of scrutineers.

I A.B., a scrutineer appointed by C.D., a candidate at the election of a member to serve in the Legislative Council (*or in the Legislative Assembly as the case may be*) for X., do hereby solemnly declare that I will faithfully assist at such election and that I will not attempt to ascertain for whom any elector shall vote neither will I by any word or action directly or indirectly aid in the discovery of the same unless in answer to any question which I am legally bound to answer or in compliance with the provisions of this Act.

XLII. No person shall vote in more than one division of any province or district though he shall be possessed of distinct properties in each such division.

Persons having distinct properties in different divisions. How much qualification may be sold.

XLIII. No person having a freehold qualification at the time of registration or being qualified at such time in virtue of a leasehold estate in possession shall be precluded from voting on account of having sold aliened or disposed of any part of such freehold or leasehold estate respectively between the date of such registration and the day he shall offer his vote if he shall have retained an amount of such qualification sufficient in value or annual value to qualify him as such elector as aforesaid.

XLIV. No enquiry 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 or scrutineer or by any two electors entitled to vote in the same electoral province or district or division thereof respectively put to any elector before the elector shall have entered the ballot room or compartment hereinbefore mentioned and not afterwards the following questions or any of them and no other that is to say

What enquiries may be made at time of election.

1st. Are you the same person whose name appears as [A.B.] in the roll now in force for the province [*or district*] of [*here state the name of the province or district*].

2nd. Have you already voted either here or elsewhere at this present election for the province [*or district*] of [*here state the name of the province or district*].

3rd. Have you now the same qualification you had when you registered or sufficient thereof to qualify you as an elector for the province [*or district*] of [*here state the name of the province or district*].

4th. Have you voted at an election for any other province [*or district*] since the first day of July last in respect of the qualification attached to your name in the roll now in force in this province [*or district*] of [*here state the name of the province or district*].

XLV. The returning officer or deputy returning officer shall if

Person voting may be required to write his name.

he

he has reason to suspect that any person is personating or attempting or about to personate any elector or deceased elector or if called upon so to do by any scrutineer require such person to sign his name in a book to be kept for that purpose or on any ballot paper tendered by him and any person signing or writing the name of such elector not being his own name shall be deemed guilty of forgery and liable on conviction to be punished accordingly And any person being so required who unless unable to write shall decline or refuse to sign his name shall on conviction forfeit a sum not exceeding twenty pounds.

XLVI. The returning officer or deputy returning officer shall if he think fit or if called upon so to do by any candidate or his agent before any elector shall have entered the ballot room or compartment hereinbefore mentioned and not afterwards require such elector to make a solemn declaration in the manner following that is to say :—

Declaration may
be required.

“I A. B. do solemnly declare that I have not directly or indirectly received or had or been promised for myself or for any other person any sum or sums of money office place of emolument or reward by way of consideration for giving my vote at this election or because of my voting at this election.” And no person so required to answer the said questions or to make the said declaration shall be qualified or permitted to vote until he shall have satisfactorily answered such questions and made such declaration and if any person shall wilfully make a false answer to any of the questions aforesaid or shall wilfully make a false declaration in manner aforesaid he be deemed guilty of a misdemeanour and on conviction thereof shall suffer the like penalties as persons convicted of wilful and corrupt perjury.

XLVII. No elector at any election shall be required to take any oath or affirmation except as aforesaid and no person claiming to vote at any election shall be excluded from voting thereat except by reason of its appearing to the returning officer upon putting such questions as aforesaid or any of them that the person so claiming to vote is not the person whose name appears in such roll as aforesaid or that he has previously voted at the same election or has exercised his right to vote in respect of the same qualification in some other province or district or has become disqualified or except by reason of such person refusing to answer the questions aforesaid or to make the said declaration.

No other oath &c.
to be required.

XLVIII. Where the proceedings at any election shall be interrupted or obstructed by any riot or open violence whether such proceedings shall consist of the nomination of candidates or of the taking the poll the presiding returning or deputy returning officer or poll clerk shall not for such cause terminate the business of such nomination or finally close the poll but shall adjourn the nomination or the taking the poll at the particular polling place at which such interruption or obstruction shall have happened to the following day and if necessary shall further adjourn such nomination or poll as the case may be until such interruption or obstruction shall have ceased when the returning or deputy returning officer shall again proceed with the business of the nomination or with the taking of the poll as the case may be at the place at which the same may respectively have been interrupted or obstructed and the day on which the business of the nomination shall be concluded shall be deemed to have been the day fixed for the nomination and the commencement of the poll shall if practicable be put off for an equal number of days for which any such nomination may have been adjourned and any day whereto the poll shall have been so put off or adjourned shall as to such place or places be reckoned

Proceedings in
case of riot
violence &c.

the

the day of polling at such election within the meaning of this Act Provided that no adjournment shall be made to any day beyond that named as the return day in the writ and if the election shall not have been completed by that day the returning officer shall specially return that fact and where any such poll shall have been adjourned by the deputy of any returning officer he shall forthwith give notice of such adjournment to the returning officer who shall not finally declare the state of the poll or the name or names of the member or members chosen until the poll so adjourned as aforesaid shall have been finally closed and the ballot papers delivered or transmitted to such returning officer and every returning officer and deputy returning officer shall have power and authority to maintain and enforce order and keep the peace at the election held by him and to cause to be arrested and taken before a justice of the peace any person reasonably suspected of personating or attempting to personate any other person for the purpose of polling at such election or who shall poll a second time or attempt to poll a second time or who shall cause a disturbance and the persons so respectively offending shall be deemed guilty of a misdemeanour and be punished by fine or imprisonment.

XLIX. In case the ballot paper as of any person shall have been received and any other person shall afterwards tender his ballot paper as of the same person the returning officer or deputy returning officer shall receive every such ballot paper but not allow such vote nor permit the same to be put into the ballot box and shall enter thereon a mark to distinguish the same from the ballot papers admitted and allowed at such election Provided such person shall duly answer the questions hereinbefore authorised to be put to and make the declaration herein required to be made by any elector at the time of tendering his ballot paper and sign his name in such book or on such ballot paper as aforesaid.

Second ballot paper purporting to be of same elector may be received.

L. Each deputy returning officer shall immediately on the close of the poll collect and seal up all the ballot papers which have been taken at the polling whereat he presided and shall with the least possible delay deliver or cause them to be delivered together with the roll supplied to him and signed by him and the poll clerk or poll clerks to the returning officer for whom he shall have been acting as deputy And such deputy returning officer shall also seal up in a separate parcel such ballot papers delivered to him by the returning officer as shall not have been used and also in a separate parcel all balloting papers received but not allowed by him as aforesaid (together with all books kept by him during the polling) and shall deliver or cause the same to be delivered to the returning officer for whom he shall have been acting as deputy and he shall at the same time deliver to such returning officer an account in which he shall state the numbers polled for each candidate and charge himself with the number of ballot papers originally delivered to him by the returning officer and specifying the number delivered to and used by voters and the number left unused and such account shall be verified by his signature and the signatures of such of the scrutineers as shall be then present.

Deputy Returning Officer to seal and forward voting papers to Returning Officer.

State of poll to be announced.

LI. The returning officer of each province or district as the case may be shall at the place of nomination and as soon as may be practicable after any election shall have been held and before the day named for the return of the writ openly declare the general state of the poll at the close of polling as the same shall have been made up by him and he shall at the same time and place declare the name or names of the person or persons who may have been duly elected at such election And in the event of the number of votes being found to have been equal for any two or more candidates one or more

Returning Officer to have casting vote.

of

Election of Members.

of whom but not all of such candidates being by the state of the poll and the number of members to be elected entitled to be declared elected such returning officer shall by a casting vote or votes as the case may be and whether he be an elector for such province or district or not decide which of the candidates for whom the votes may be equal shall be elected Provided that no returning officer shall vote at any election for the electoral province or district of which he is the returning officer except in the case of any equality of votes as aforesaid.

LII. The name or names of the person or persons so elected shall be endorsed on the writ by the returning officer and the writ shall be by him returned to the Governor or Speaker issuing the same as the case may be within the time specified therein.

LIII. All ballot papers which shall have been deposited in the ballot boxes and all ballot papers received by any returning officer as aforesaid and all ballot papers signed by the returning officer which shall not have been used shall be sealed up separately in three parcels by the returning officer and shall be transmitted to the clerk of the Council or Assembly as the case may be who shall give or send a receipt for the same and shall safely keep the same for the period of two years after the receipt thereof and the sealed packets containing the same shall on the outside thereof be described to be "voting papers" "used" or "unused" as the case may be of the province or district to which they relate and such memorandum shall be signed by the said returning officer and in case any question shall at any time arise touching any vote alleged to have been given at any election the ballot paper numbered as aforesaid containing such vote or a copy thereof with a certificate thereon under the hand of the clerk or other proper officer of the Council or Assembly as the case may be that the same was transmitted in due course by the returning officer of the province or district to which the same shall relate shall be received in evidence as a proof of such vote in any court of justice or by "The committee of elections and qualifications" hereinafter mentioned And the returning officer shall also make out and transmit as hereinbefore mentioned an exact account specifying the number of ballot papers originally signed by him the number delivered to voters and the number not used.

LIV. No election shall be held to be void in consequence of there being no returning officer at the time of the issue of such writ or in consequence of the non-appointment absence or inability to be present of the scrutineers or any of them as hereinbefore mentioned or in consequence of any delay in the holding of the election at the time appointed or in the taking 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 impediments of a technical or formal nature and it shall be lawful for the Governor in Council to cause to be adopted such measures as may be necessary for removing any obstacle or the doing of or the omission to do any act of a technical or formal nature by which or the want of which the due course of any election may be impeded Provided that the measures so taken as aforesaid shall be forthwith declared by the Governor by a proclamation to be for that purpose published in the *Government Gazette*.

LV. It shall be lawful for the Governor in Council to authorise the payment of all necessary expenses incurred by the returning officers deputy returning officers collectors registrars clerks and others in arranging copying printing and publishing lists and notices and otherwise in and about any election and also to cause to be paid such reasonable remuneration to the polling clerks and collectors as to the Governor in Council may seem proper and such expenses and remuneration shall be defrayed out of the consolidated revenue of the Colony.

LVI.

[DOCUMENT SIXTEENTH PAGE ENDS HERE]

Name of person
elected to be
endorsed on writ.

Voting papers to
be sealed up and
transmitted to
Clerk of Council
or Assembly.

Delay or technical
objections not to
invalidate
proceedings.

Necessary
expenses may be
defrayed out of
consolidated
revenue.

LVI. Any Returning officer or deputy returning officer who having accepted office shall neglect or refuse to perform any of the duties which by the provisions of this Act he is required to perform shall for each such offence forfeit and pay any sum not exceeding fifty pounds and any registrar or clerk at any polling booth as herein mentioned or any other officer or person not being a returning officer or deputy returning officer as aforesaid who shall neglect or refuse to perform any of the duties which by the provisions of this Act he is required to perform shall for each such offence forfeit and pay any sum not exceeding twenty pounds.

Penalty on Returning Officer &c. neglecting his duty.

LVII. Maps descriptive of the boundaries of the electoral provinces and districts or any of them constructed as far as can or may be in accordance with the verbal description of the boundaries of the provinces and districts contained in the schedule to the said recited Act approved by the Governor in Council and authenticated by the signature of the Surveyor General shall be received as evidence of the boundaries of such provinces and districts and such maps shall be issued to and used by the collectors registrars revision courts and returning officers in the discharge of their duties and no election or other proceeding under this Act shall be vitiated or invalidated on account of any discrepancy which shall or may exist between the said maps or any of them and the description contained in the schedule to the said recited Act as aforesaid.

Maps authenticated by the signature of the Surveyor General to be received as evidence.

LVIII. In the first session of the Council and in the first session of each new Legislative Assembly within seven days after the election of a President or Speaker respectively of the said Council and Assembly and in every other session of the Council or Assembly respectively as soon as conveniently may be after the commencement of such session the President and Speaker respectively shall by warrant under his hand appoint seven members who are willing to serve and against whose return no petition is then pending and none of whom is a petitioner complaining of any election or return to be members of a committee to be called "*The Committee of Elections and Qualifications*" and every such warrant shall be laid on the table of the Council or Assembly as the case may be and if not disapproved of by the Council or Assembly in the course of the three next following days on which the Council or Assembly shall meet for the despatch of business shall take effect as an appointment of such committee Provided however that every member who shall become a petitioner complaining of an undue election or return or respecting whose return qualification or disqualification an enquiry is pending shall for the time be disqualified from serving on any such committee and the President or Speaker as the case may be shall name another member in his stead.

Election Committee to be appointed.

LIX. If the Council or Assembly disapprove of any such warrant the President or Speaker shall on or before the third day on which the Council or Assembly shall meet after such disapproval lay upon the table of the Council or Assembly a new warrant for the appointment of seven members qualified as aforesaid and so from time to time until seven members have been appointed by a warrant not disapproved of by the Council or Assembly Provided however that the disapproval of any warrant may be either general in respect of the constitution of the whole committee or special in respect of any particular member named in the warrant and the President or Speaker may if he think fit name in the second or any subsequent warrant any of the members named in any former warrant whose appointment has not been specially disapproved of by the Council or Assembly as aforesaid.

Council or Assembly may express disapproval of any member appointed.

LX.

LX. After the appointment of the Committee of elections and qualifications every member appointed shall continue to be a member of the committee until the end of that session or until he resign his appointment which he may do by letter addressed to the President or Speaker before such committee shall have met but not afterwards unless in the event of serious or continued illness but no such resignation shall take effect until three days after the receipt thereof nor until the appointment of another member in the place of the one so resigning or until the committee report that he is disabled by illness from attending the committee or until the committee be dissolved as hereinafter provided.

Persons appointed members of Election Committee to continue members of it until end of Session or resignation.

LXI. If any Committee of elections and qualifications shall at any time report that by reason of the continued absence of more than two of its members or by reason of irreconcilable difference of opinion it is unable to proceed satisfactorily in the discharge of its duties or if the Council or Assembly shall resolve that any such committee be dissolved the same shall be forthwith dissolved and every re-appointment of any such committee after the dissolution thereof as well also as every appointment to supply a vacancy in the committee by resignation or otherwise shall be made by the President or Speaker by warrant under his hand laid upon the table of the Council or Assembly as the case may be on or before the third day on which the Council or Assembly shall meet after the dissolution of the committee or notification of the vacancy made to the President or Speaker as the case may be and such warrant shall be subject to the disapproval of the Council or Assembly in like manner as hereinbefore provided in the case of the appointment of the first committee and upon any re-appointment of any such committee the President or Speaker may if he think fit re-appoint any of the members of the former committee who are then willing and not disqualified to serve on it and every such new committee or new members shall have power if thought fit to take up and continue the business which may have been pending at the time of the dissolution or vacancy as aforesaid in the same manner as might have been done by the committee as previously constituted and composed.

When Election Committee may be dissolved.

LXII. The President or Speaker as the case may be shall appoint the time and place of the first meeting of the said committee and the committee shall meet at the time and place so appointed but no member shall act upon any such committee until he shall have taken or made an oath or affirmation according to the form set forth in the schedule hereunto annexed and marked E to be administered or made at the table of the said Council or Assembly as the case may be by or before the clerk thereof and the said committee shall not be competent to transact any business unless at the least four members thereof shall be present.

Time and place of first meeting to be appointed.

LXIII. Every such committee shall have power to adjourn its sitting from time to time as in its discretion it shall think proper provided that the interval of adjournment shall not in any instance exceed five days unless the Council or Assembly shall be adjourned for a longer period or unless by leave first obtained from the Council or Assembly as the case may be and in case of the adjournment of the Council or Assembly to a day subsequent to the day fixed for the adjournment of such committee after such last mentioned day shall have been so fixed then the next meeting of such committee shall be held on the day to which the Council or Assembly shall have been adjourned and in case four members shall not have met together within half an hour of the time appointed for an original or adjourned meeting it shall be competent to the members to adjourn within the limits and subject to the restrictions

Powers of Committee.

aforesaid

Election of Members.

aforesaid and every such committee shall elect its own chairman and shall have power to regulate the form and manner of its own proceedings Provided that such proceedings shall be conducted openly except when the committee shall think it necessary to deliberate among themselves after hearing evidence and argument if offered and all questions before the committee shall be decided by a majority of votes and whenever the votes are equal the chairman shall have a casting vote and no member of the committee shall be allowed to refrain from voting on any question on which the committee is divided and the said committee shall be attended by one of the clerks of the house who shall make a minute of all proceedings of the committee in such form and manner as shall be from time to time directed by the committee and a copy of the minutes shall be laid from time to time or at the termination of any enquiry before the Council or Assembly as the case may be.

LXIV. Every such committee shall have power to enquire into and determine upon all election petitions and upon questions which may be referred to it respecting the validity of any election or return of a member or members to serve in the Council or Assembly as the case may be whether the disputes relating to such elections or returns shall arise out of an error in the returns of the returning officer or out of the allegation of bribery or corruption against any person concerned in any election or out of any other allegation calculated to affect the validity of such election or return and also upon all questions concerning the qualification or disqualification of any person who shall have been returned as a member of the said Council or Assembly as the case may be and on the trial of any such question the committee shall be guided by the real justice of the case without regard to legal forms and solemnities and shall direct itself by the best evidence it can procure or that is laid before it whether the same be such evidence as the law would require or admit in other cases or not and it shall be lawful for such committee to receive or reject as it may deem fit any evidence that may be tendered to it.

Jurisdiction of
Committee.

LXV. Every such committee shall have power to direct the attendance of witnesses and to examine them upon oath which oath it shall be competent for the chairman of the said committee to administer and also to send for and examine papers records and other documentary evidence relating to or affecting the matter under investigation not being private papers and it shall be competent to any such committee if in its discretion it shall see fit to receive declarations relative to any of the matters referred to it taken before any justice of the peace in the presence of agents representing the opposing parties interested in such petition which declarations justices of the peace are hereby authorised to take and if any person summoned by any such committee shall disobey such summons or shall refuse or neglect to produce any papers records or other documentary evidence relating to or affecting the matter under investigation which shall have been sent for by any such committee or shall refuse to submit himself to examination or shall give false evidence or prevaricate or otherwise misbehave in giving or refusing to give evidence he shall be deemed guilty of contempt and be liable accordingly and any person wilfully or knowingly giving false evidence before any such committee or a quorum thereof or in any such declaration as aforesaid shall be deemed guilty of wilful and corrupt perjury and shall be liable to the penalties for such offence.

Election
Committee may
examine witnesses
and compel
production of
books and papers.

LXVI. No such committee shall have power to enquire into the correctness of any roll but simply into the identity of the electors the retention by them of a sufficient qualification and whether their votes were improperly admitted or rejected assuming the roll to be

What questions
may be
entertained by
Election
Committee.

correct

Election of Members.

correct and whether any electors or persons entitled to vote gave their votes under the influence of bribery or corruption fraud force menace or other undue influence and if the committee shall find any vote to have been given under the influence of bribery and corruption fraud force menace or any undue influence by or on the part of any candidate or his agents committee-men or partizans or any of them such votes may be struck off and as often as any such committee shall find any elector to have been prevented from voting by fraud force menace or any undue influence by or on the part of any candidate or his agents committee-men or partizans or any of them it shall be competent to the elector so prevented from voting to tender his vote before the said committee and such vote shall be taken accordingly and on reckoning the votes received for any candidate such votes so rejected or received shall be taken into the account accordingly by such committee.

LXVII. Every such committee shall determine finally on all questions referred to it and if any such committee shall determine and report to the Council or Assembly that a person was not duly elected who was returned as elected by the returning officer any person so declared not to be duly elected shall cease to be a member of the said Council or Assembly as the case may be and if such committee shall determine and report any person to have been duly elected who was not returned by the returning officer the person so declared shall be sworn a member of the said Council or Assembly as the case may be and shall upon making the declaration required by law as to his qualification take his seat accordingly and if any such committee shall declare any election to be wholly void or shall declare any sitting member to be unqualified or disqualified the President in the event of the vacancy occurring in the Council shall notify the fact to the Governor who shall issue a new writ for the holding of another election and the Speaker in the event of the vacancy occurring in the Assembly shall issue a new writ for the holding of another election and the person thereafter elected and duly returned shall be the member for the province or district as the case may be for which such writ shall have been issued and if any such committee shall come to any resolution other than the determination above mentioned such committee shall and is hereby required to report the same to the Council or Assembly as the case may be for its opinion and decision at the same time informing the said Council or Assembly of such resolution and it shall be lawful for the said Council or Assembly as the case may be to confirm or rescind any such resolution and make such order thereon as to the said house shall seem proper.

LXVIII. All petitions complaining of an undue election or return of a member to serve in the said Council or Assembly as the case may be or complaining that no return has been made according to the exigency of the writ issued for the election of a member to serve in the said Council or Assembly or complaining of any special matter contained in any such return shall be subscribed by some person who voted or claimed to have a right to vote at the election to which the same shall relate or by some person or persons claiming to have had a right to be returned or elected thereat or alleging himself to have been a candidate at the election and shall be addressed and presented to the President of the Council or Speaker of the Assembly within thirty days after the next meeting of the Council or Assembly or within forty days after the day of the return of the writ to which any such petition shall relate and in case the said Council or Assembly be prorogued before the expiring of such period of forty days then any such petition may be presented to the said Council or Assembly as the case may be within such time after

Report of Election
Committee.

Petitions against
return &c.

the

the next meeting thereof as together with the time expired before the prorogation that shall make up such period of forty days and every such petition shall forthwith be notified in the *Government Gazette* and shall as soon as conveniently may be after such presentation be laid by the said President or Speaker before the Council or Assembly as the case may be and shall by the said Council or Assembly be referred to "*The Committee of elections and qualifications*" either forthwith or as soon as the said committee shall have been duly appointed and confirmed.

LXIX. It shall be competent for the Council or Assembly as the case may be upon any petition subscribed as aforesaid complaining of the insufficiency of the qualification of any member and presented to the President or Speaker at any time within three months after such member shall have subscribed the declaration required by law to be made by him in his place in the said Council or Assembly and in case the said Council or Assembly be prorogued before the expiring of such period of three months then any such petition may be presented to the said Council or Assembly as the case may be within such time after the next meeting thereof as together with the time expired before the prorogation that shall make up such period of three months touching his qualification to refer the said petition and the question thereby raised to "*The Committee of elections and qualifications*" and it shall also be competent to the said Council or Assembly upon the like petition to refer to any such committee all questions respecting bribery or corruption alleged to have been committed at any election at any time within twelve months after such election notwithstanding that in either of the above cases the period shall have elapsed for a petition against the said election or the return thereof according to the provisions hereinbefore in that behalf contained and in all matters connected with elections the acts of all authorised agents of a candidate or member shall be held to be the acts of their principal unless it be proved to the satisfaction of the committee that such acts were committed without his knowledge power or consent Provided that no petition touching the qualification of any member of the said Council or Assembly shall be received or referred to "*The Committee of elections and qualifications*" after the periods respectively above mentioned.

Petitions to be referred to Election Committee.

LXX. No election shall be held void in consequence of any one or more candidates being returned duly elected who shall by such Committee be declared to have been unqualified at the time of such election although no notice of such want of qualification shall have been given to the electors at the time of the election and the person or persons having the next greatest number of votes shall be declared duly elected.

Election not made void by want of qualification of any returned candidate.

LXXI. Before presenting any such petition as aforesaid to the said President or Speaker as the case may be the persons by whom the same shall be subscribed or some one on their behalf shall pay into one of the Banks carrying on business in Victoria a sum of one hundred pounds to the credit of the President of the Council or of the Speaker of the Assembly as the case may require in relation to the said petition which sum shall be payable towards the costs of the petition as hereinafter regulated and shall be liable to be withdrawn upon the order or orders of the said President or Speaker either for the purpose of such payment or for the purpose of restoring the same to the petitioner or petitioners wholly or in part as the case may require.

Sum to be lodged as security for costs.

LXXII. Any person who voted or had a right to vote at the election to which any petition relates may petition the Council or Assembly as the case may require to be admitted as a party to defend the return or to oppose the prayer of such petition or

Elector may require to be admitted to defend petition.

support

Election of Members.

support the said petition in case the same shall be abandoned by the person by whom the same was presented and such person shall thereupon be admitted as a party to defend such return or oppose the prayer of such petition or support the same as the case may be.

LXXIII. The petitioners may at any time after the presentation of their petition withdraw the same upon giving notice to the President or Speaker as the case may require and also to the sitting member or his agent and also to any party who may have been admitted to defend the return that it is not intended to proceed with the petition and in such case the petitioners shall be liable to the payment of such costs and expenses as have been incurred by the sitting member or other party complained of in such petition and also by any party admitted to oppose the prayer of such petition to be taxed as hereinafter provided.

Notice of intention not to proceed.

LXXIV. Whenever any such Committee shall report to the Council or Assembly as the case may be that a petition so referred to them was frivolous or vexatious the parties (if any) to be named by the said committee who have appeared before the committee in opposition to such petition shall be entitled to recover from any of the persons also to be named by the said committee who subscribed such petition the full costs and expenses which such parties have incurred in opposing the same and whenever the committee shall report to the Council or Assembly that the opposition made to any such petition by any party to be named by them appearing before them was frivolous or vexatious the persons who signed the petition shall be entitled to recover from the party with respect to whom such report is made the full costs and expenses which such petitioners have incurred in presenting such petition and where no party has appeared before the committee in opposition to the petition and the committee reports to the Council or Assembly that the election or return or the omission or insufficiency of a return complained of in such petition was corrupt or vexatious the persons who signed such petition shall be entitled to recover from the sitting members or member (if any) whose election or return is complained of (such members not having given notice as aforesaid of their intention not to defend the same) or from any other persons admitted by the committee as aforesaid to oppose such petition the full costs and expenses which such petitioners have incurred in presenting the petition.

Costs of frivolous and vexatious petitions, defences or oppositions.

LXXV. If any ground of objection be stated against any individual elector and the committee be of opinion that such objection was frivolous or vexatious it shall report the same to the Council or Assembly together with its opinion on the other matters relating to the said petition and the opposite party who shall be named by the committee shall in that case be entitled to recover from the party on whose behalf any such objection was made who shall also be named by the committee the full costs and expenses incurred by reason of such frivolous or vexatious objections and if any person shall make before the said committee any specific allegation with regard to the conduct of either party or his agents and either bring no evidence in support thereof or such evidence that the committee is of opinion that such allegation was made without any reason or probable ground the committee may make such orders as to it shall seem fit for the payment by the person making such unfounded allegation to the other party of all costs and expenses incurred by reason of such unfounded allegation.

Costs of frivolous or vexatious objections or allegations.

LXXVI. The costs and expenses which may become payable under the provisions of this Act by any party prosecuting or opposing or preparing to oppose the petition under the provisions of this Act or to any witnesses summoned to attend before the committee under the provisions hereof shall be ascertained by the said committee who shall upon

Costs and expenses how ascertained.

application

application made to them deliver to the party entitled to such costs and expenses a certificate thereof signed by the chairman of the said committee expressing the amount of the costs and expenses allowed with the name of the party liable to pay the same and the name of the party entitled to receive the same and such certificate shall be conclusive evidence for all purposes whatever as well of the amount of the demand as of the title of the party to recover the amount from the party therein stated to be liable to the payment thereof.

LXXVII. The President or Speaker of the Council or Assembly as the case may require shall by order under his hand direct the payment of the said sum of one hundred pounds deposited according to the provisions hereinbefore contained or a sufficient portion thereof to any party or parties who by such certificate shall appear to be entitled to recover costs and expenses against the person or any of the persons by whom such deposit was made and the party entitled to any such costs and expenses under such certificate may recover the same or so much thereof as shall not be paid out of any such deposit from the party liable to pay the same and if the party liable to pay such costs and expenses shall not upon demand being made within seven days thereafter pay the same the said President or Speaker shall by warrant under his hand directed to the Sheriff of Victoria command the said Sheriff to levy for the amount named in such warrant upon the lands and tenements goods and chattels of the party liable to pay the same and thereupon the said Sheriff shall forthwith in the same manner as in executing a levy under a writ of *feri facias* levy for the said amount and when it shall be recovered pay over the same to the party entitled thereto and any person from whom the amount of such costs and expenses shall have been received or who shall have paid the same on demand thereof shall be entitled to recover in any court of competent jurisdiction from the other persons if such there be who are liable to the payment of the same a proportionate share thereof according to the number of persons so liable and according to the extent of the liability of each person and every such warrant shall be returned to the said President or Speaker as the case may be.

Costs and expenses how recovered.

LXXVIII. Any order or award for the payment of any sum of money and any fine forfeiture or penalty inflicted under the authority of this Act may unless otherwise provided for be recovered in a summary way before any two or more Justices of the Peace and in any proceedings or prosecutions for any such sum proof of the handwriting of the officer or person making any such order or award to any document being or purporting to be such order or award shall be *prima facie* evidence that such order or award was made.

Recovery of monies and penalties.

LXXIX. All such proceedings as aforesaid shall be had and taken in a summary way and no such proceedings shall be removed by *certiorari* into the Supreme Court of the Colony of Victoria and the amount of all fines and penalties shall go and be distributed one half thereof to the informer or person prosecuting for the same and the other half to Her Majesty Her Heirs and Successors for the public uses of Victoria and in support of the Government thereof And all monies received by any person under any of the provisions of this Act and not hereby specially appropriated shall be paid by the person receiving the same to Her Majesty Her Heirs and Successors for the public uses of Victoria and in support of the Government thereof.

Summary proceedings.

LXXX. If at the hearing of any matter herein directed to be heard or determined by or before any Justice or Court of Petty Sessions it shall appear to any such Justice or Court of Petty Sessions that the complaint or information was unfounded vexatious or frivolous and

Costs allowed for vexatious or frivolous complaint.

whether

whether any such complaint or information shall be dismissed or not it shall be lawful for Justice or Court to order and award that the complainant or prosecutor shall pay to the defendant such costs together with such further sum not exceeding twenty pounds for expenses or compensation as to such Justice or Court shall seem just and reasonable and the sum so allowed for costs expenses or compensation shall be specified in any order or conviction and be recoverable in the same manner as any penalty or sum adjudged to be paid.

11 & 12 Vic., c.
42 s. 18.

LXXXI. Any person ordered or adjudged to forfeit or pay any fine penalty or forfeiture exceeding ten pounds who shall feel himself aggrieved by the judgement of the justice or justices adjudicating or before whom he was convicted may appeal from any such judgment or conviction to the next Court of General Sessions of the Peace which shall be held nearest to the place where such judgment or conviction shall have been given or made and the execution of every judgment or conviction so appealed from shall be suspended in case such person shall with two or more sufficient sureties immediately before such justice or justices enter into a bond or recognizance to Her Majesty Her Heirs and Successors in the penal sum of double the amount of such fine penalty or forfeiture which bond or recognizance respectively such justice or justices are hereby authorised and required to take and such bond or recognizance shall be conditioned to prosecute such appeal with effect and to be forthcoming to abide the determination of the said Court of General Sessions and to pay such costs as the said Court shall award and such Court of General Sessions is hereby authorised and required to hear and determine the matter of any such appeal and the decision of such Court shall be final between the parties to all intents and purposes.

Appeal allowed
where fine
exceeds ten
pounds.

LXXXII. In any action to recover any penalty under this Act it shall be lawful to the Court in which such action shall be brought or any judge thereof if they or he shall think fit to order that the plaintiff in such action shall give security for costs or that all proceedings shall be stayed.

Court may order
plaintiff to give
security for costs
in any action
under this Act.

LXXXIII. An Act of the Governor and Legislative Council of New South Wales passed in the fourteenth year of the reign of Her present Majesty Queen Victoria being "*The Victoria Electoral Act of 1851*" also an Act of the Lieutenant Governor and Legislative Council of Victoria passed in the sixteenth year of the reign of Her present Majesty and intituled "*An Act to alter 'The Victoria Electoral Act of 1851' and to increase the number of members of the Legislative Council of the Colony of Victoria*" and also an Act of the Lieutenant Governor and Legislative Council of Victoria passed in the eighteenth year of the reign of Her present Majesty intituled "*An Act to further alter 'The Victoria Electoral Act of 1851' and to increase the number of members of the Legislative Council of Victoria*" shall be respectively repealed except as to any act done and proceedings incident to any election petition presented under the said recited Acts all which Acts and proceedings shall have effect and shall save as herein specially provided be continued and completed as if this Act had not been passed Provided also that such Acts shall during the continuance of the now existing Legislature and until the same be lawfully dissolved but no longer remain and be in full force and effect as far as relates to the existing Legislature and all elections petitions matters and things connected therewith and which shall be respectively conducted and carried on as if this Act had not been passed.

Repeal of Acts.

14 Vic., No. 47.

16 Vic., No. 29.

LXXXIV. In citing or referring to this Act in any Act instrument document or proceeding or for any purpose whatsoever it shall be sufficient to use the expression "*The Electoral Act of 1856.*"

SCHEDULES

[DOCUMENT TWENTY-FOURTH PAGE ENDS HERE]

Short Title.

SCHEDULES TO WHICH THE FOREGOING ACT REFERS.

SCHEDULE A REFERRED TO IN THIS ACT.

No. 1.

Schedule A.

Notice to be given by the Collectors in the year 1856.

I hereby give notice that all persons entitled to vote in the election of members for the province or district [*as the case may be*] of [*insert name of province or district*] in respect of any freehold or leasehold property or in respect of any other qualification conferring the right to vote in this division of such province [*or district as the case may be*] are hereby requested to send addressed to me as soon as they conveniently can and also to leave in readiness for me at their place of abode in case I call in their absence a paper writing setting forth their name and surname place of abode and the particulars of their qualification according to the form of notice of claim herewith or to the like purport.

(Signed) A. B.

Collector of [*Insert area of collection by name or sufficient description.*]
 [*State address of collector in clear and distinct terms.*]

No. 2.

Notice to be given by the collectors in the year 1857 and in succeeding years.

I hereby give notice that all persons entitled to vote in the election of members for the province or district [*as the case may be*] of [*insert name of province or district*] in respect of freehold or leasehold property or in respect of any other qualification conferring the right to vote in this division of such province [*or district as the case may be*] are hereby requested to send addressed to me as soon as they conveniently can and also to leave in readiness for me at their place of abode in case I call in their absence a paper writing setting forth their name and surname place of abode and the particulars of their qualification according to the form of notice of claim herewith or to the like purport. Persons already on the roll who have changed their residence or whose qualification has been altered since the last registration are particularly requested to send in their claims.

(Signed) A. B.

Collector of [*Insert area of collection by name or sufficient description.*]
 [*State address of collector in clear and distinct terms.*]

No. 3.

NOTICE OF CLAIM.

To the Collector

I hereby give you notice that I claim to have my name inserted in the electoral list of
 in virtue of the freehold [*or leasehold*] property which I possess at [*or as*
the case may be in virtue of my occupation of a house at
or of my salary of one hundred pounds a year received from C. D. at
or of my miners' right taken out at
or of my practising as a solicitor at
such qualification as the claimant may possess.]

Dated at this day of in the year 18

(Signed) CHAS. DICKENS.

[*Claimant to state here his residence and occupation or description.*]

N.B. *If this notice be sent in consequence of the claimant's name having been omitted from the list it should be addressed to the Registrar of the province or district or division of the province or district [as the case may be] in which the claimant desires to be registered.*

SCHEDULE B REFERRED TO IN THIS ACT.

Schedule B.

To the Collector of [*or The Registrar of*] or to William Sykes
 name of person objected to.]

I hereby give you notice that I object to the name of William Sykes of
 [*describe person objected to as he is described in the electoral list*] being retained on the electoral list
 of the province [*district or division*] of on the following grounds [*here specify*
the grounds of objections.]

(Signed) CHAS. DICKENS.

[*Objector to state here his qualification and residence.*]N.B. *A notice of objection must be sent to the person objected to as well as to the Collector or Registrar*

SCHEDULE C

[DOCUMENT TWENTY-FIFTH PAGE ENDS HERE]

Election of Members.

SCHEDULE C REFERRED TO IN THIS ACT.

Schedule C.

Province of

To wit [*or district &c. as)
the case may be.*])

Division of

List of persons claiming or supposed to be entitled to vote in the election of a member of the province [*or district as the case may be.*]

Margin for entering Registrar's objections.	Name and surname of the claimant.	Place of abode and occupation or description.	Nature of qualification.	Street lane or other place in this province [<i>or district or division of this province or district</i>] number of house (if any) where the property is situate or name of the property and occupying tenant (if any) or as full a description of the property as can be given. <i>Where qualification consists of a salary state name of employer his residence and the amount of salary. Where qualification is unconnected with property state so.</i>

(Signed)

A B
Registrar of

SCHEDULE D REFERRED TO IN THIS ACT.

Schedule D.

List of persons objected to to be published by the Registrars.

The following persons have been objected to as not being entitled to have their names retained in the list of electors for the province [*or district*] of

Name and surname of each person objected to.	Place of abode.	Nature of supposed qualification.	Ground of objection.	Street lane or other place in this province [<i>or district or division of province or district</i>] number of house (if any) where the property is situate or name of the property and occupying tenant (if any) or as full a description of the property as can be given. [<i>Where qualification consists of a salary state name of employer his residence and the amount of salary. Where qualification is unconnected with property state so.</i>]

(Signed)

A B
Registrar of

SCHEDULE E.

[DOCUMENT TWENTY-SIXTH PAGE ENDS HERE]

Election of Members.

SCHEDULE E REFERRED TO IN THIS ACT.

Form of oath to be taken by each member of Election Committee.

Schedule E.

I A B do swear well and truly to try and determine the matters of any petition and other questions referred to this committee and a true judgment to give according to the evidence and truly and faithfully to perform the duties appertaining to a member of the said committee to the best of my judgment and ability without fear or favor.

So help me God.

SCHEDULE F REFERRED TO IN THIS ACT.

BALLOT PAPER.

Schedule F.

*Form.*Province (or district) of [*Here insert name of Province or District.*]Candidates names (*here arranged alphabetically*)—

WILLIAM BROWN,
HENRY SMITH,
CHARLES STEVENS,
JOHN THOMPSON.

Directions.

The voter is to strike out the name or names of the candidate or candidates for whom he does not intend to vote by drawing a line through the same with a pen.

He must be careful not to leave uncanceled more names than are capable of being returned for the province or district in which he votes namely (*here insert number*) names otherwise his ballot paper will be invalid.

If he cannot read he may require the returning officer or deputy returning officer to strike out for him such name or names as he may designate.

The ballot paper so marked by or for the voter is to be dropped by him into the ballot box.

The voter is not to be permitted to take his ballot paper out of the ballot room or polling booth.

[I hereby certify that the above print on vellum is the Bill to which the Legislative Council of Victoria has agreed and that the same passed the Legislative Council on the thirteenth day of March One thousand eight hundred and fifty six.

John Martin

Clerk of the Legislative Council.]

[signature?]

[Speaker]

[In the name and on behalf of Her Majesty

I Assent to this Act.

Government offices)
Melbourne)
19th March. 1856)]

[Edward Macarthur
Major General]

[Enrolled in the Office of the Registrar of the Supreme Court of the
Colony of Victoria this Twenty Sixth Day of March 1856.]

[Signature?]
[Registrar]

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