



ANNO QUADRAGESIMO SECUNDO ET QUADRAGESIMO
TERTIO

VICTORIÆ REGINÆ.

A.D. 1879.

No. 141.

An Act to consolidate and amend the Law relating to
the Election of Members to serve in the Parlia-
ment of South Australia.

[Assented to, 25th October, 1879.]

WHEREAS it is expedient to consolidate and amend the Laws relating to the Election of Members to serve in the Parliament of South Australia—Be it therefore Enacted, by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

Preamble.

1. The Electoral Act, being Act No. 18 of 1869-70, The Electoral Act, being Act No. 82 of 1877, and an Act to amend the Electoral Act, No. 127, 1878, shall be and the same are hereby repealed; but this repeal shall not invalidate anything lawfully done under the authority thereof, nor affect any rights acquired, or liabilities incurred thereunder; nor shall such repeal be construed to revive any Acts or Ordinances, or portions of Acts or Ordinances, by the said hereby repealed Acts, or any of them repealed.

PRELIMINARY.
Repeal.

2. This Act may be cited as "The Electoral Act, 1879."

Short title.

3. This Act shall be divided into parts, as follows—

Division of Act

PART I.—Appointment of Officers and Preparation of Electoral Rolls:

PART II.—Conduct of Elections:

PART III.—Offences and Penalties:

PART IV.—

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PRELIMINARY. PART IV.—Court for the Trial of Disputed Returns:

PART V.—General Matters.

Interpretation.

4. In the construction of this Act, "Returning Officer" shall mean the District Returning Officer of any electoral district, and the Deputy Returning Officer for the corresponding electoral division.

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APPOINTMENT OF OFFICERS, AND PREPARATION OF ELECTORAL ROLLS

Appointment of Returning Officer for the province.

5. The Governor shall, from time to time, appoint some fit person to be the Returning Officer for the said province, and may from time to time remove such person, who shall perform the duties hereinafter mentioned, and until any other appointment shall be made, the person who, at the time this Act comes into operation, is the Returning Officer for the said province shall be and continue as such under this Act.

Appointment of Returning Officer for each district.

6. In each electoral district, the Governor shall, from time to time, appoint some fit person to be Returning Officer for such district, to be called District Returning Officer, who shall perform the duties assigned to him by this Act, respecting the election of Members to serve in the House of Assembly, and may remove any such Returning Officers, from time to time; and until any other appointment shall be made, the persons who, at the time this Act comes into operation, are Returning Officers, shall be and continue to act as Returning Officers for their respective districts; and every Returning Officer shall reside or have his chief place of business, other than that of Returning Officer, in his district.

District Returning Officer to be Deputy Returning Officer for the province.

7. Every District Returning Officer shall also be a Deputy Returning Officer for the said province, and shall perform the duties assigned to him by this Act respecting the election of Members to serve in the Legislative Council.

Governor to appoint provisional substitute.

8. The Returning Officer for the said province, and every District Returning Officer shall act until his appointment be cancelled, or his resignation be accepted, and in the case of his temporary absence, inability, or disability to act, the Governor shall appoint a substitute to act temporarily in his place and stead; and the person so appointed shall perform and exercise the duties and powers, and be subject to the liabilities, of the Returning Officer in whose place he is appointed.

Members and candidates not to act as Returning Officers.

9. No candidate for election in any electoral district shall be competent to act as Returning Officer, or in any way to take part in the conduct of any election.

Declaration to be made by officers

10. Every person who may hereafter be appointed a Returning Officer for the said province, or District Returning Officer, shall,

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shall, before he enters on the performance of any duty under the same, make and subscribe, before a Justice of the Peace of the said province, the following declaration, and the Justice before whom such declaration may be made, is hereby required to transmit the same, by the first convenient opportunity, to the Attorney-General:

“I (A. B.) do hereby declare that I accept the office 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 that I will not reveal or disclose any knowledge that I may acquire in the discharge of my said office touching the vote of any elector.”

11. Every man of the age of twenty-one years, being a natural born, or naturalized subject of Her Majesty, or legally made a denizen of the said province, and having a freehold estate in possession, either legal or equitable, situate within the said province, of the clear value of Fifty Pounds sterling money above all charges and incumbrances affecting the same, or having a leasehold estate in possession, situate within the said province, of the clear annual value of Twenty Pounds, the lease thereof having been registered in the General Registry Office for the registration of deeds, and having three years to run at the time of voting, or containing a clause authorising the lessee to become the purchaser of the land thereby demised, or occupying a dwelling-house of the clear annual value of Twenty-five Pounds sterling money, and who shall have been registered on the electoral roll of the province six months prior to the election, shall be entitled to vote at the election of Members of the Legislative Council.

12. Every man of the age of twenty-one years, being a natural born, or naturalized subject of Her Majesty, and having been registered upon the electoral roll of any district for the period of six calendar months prior to any election, shall be qualified to vote in the election of Members to serve in the House of Assembly: Provided that no man shall be entitled to vote at the election of a Member of the Legislative Council or House of Assembly, who has been attainted or convicted of treason or felony, or other infamous offence, in any part of Her Majesty's Dominions, unless he has received a free pardon for such offence, or has undergone the sentence passed on him for such offence.

13. Every Returning Officer shall be provided with books according to the respective forms in the First Schedule hereto—Nos. 1 and 2—the first, an electoral roll of all persons included in his electoral division who claim to vote at the election of Members of the Legislative Council, which shall form a portion of the electoral roll of the province; and secondly, an electoral roll of all persons included in his electoral district who claim to vote at the election of Members of the House of Assembly in his district; and the names shall be arranged in alphabetical order, according to the first

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before a Justice, and be transmitted to Attorney-General.

Qualification of electors—Legislative Council.

Qualification of electors—House of Assembly.

Form of roll.

First Schedule.

First Schedule.

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first letter of the surname, under the headings of the several polling-places in such district and division respectively, blank spaces being left after each letter for the addition of the names of such persons whose claims may, subsequently, be received as hereinafter mentioned; and in the column provided for entering the date of registration, there shall be entered against the name of each elector the date on which his name was inserted on the roll; and, in the event of his having claimed, then the date on which such Returning Officer actually received such claim: Provided that when any elector's name shall have been registered for six months on the roll it shall not be necessary, in the making up or printing any fresh rolls, to continue the insertion of such date.

Present electoral rolls to continue until fresh rolls are formed.

Additional names to be added to the rolls.

14. The several electoral rolls now in force shall be electoral rolls under this Act, and every Returning Officer shall from time to time add, in writing, to the electoral roll for his district, and portion of the electoral roll for the province relating to his division the names of all persons who may claim, under the provisions hereof, to have their names inserted on the electoral roll for such district, or portion of the electoral roll for the said province relating to such division, as the case may be; and such rolls shall, respectively, be the electoral rolls for his district, and portion of the electoral roll for the province, until the formation and coming into force of the fresh rolls to be made as hereinafter provided.

Claim may be made to be placed on rolls.

15. Any qualified person whose name does not appear on the electoral roll for the said province, or for any particular district, may have his name registered on the electoral roll for the said province or district, as the case may be, by giving or sending by post to the proper Returning Officer for the division or district in which he is resident, and for which he claims to be registered, a notice of his claim, which notice shall also state the polling-place at which he intends to record his vote, and the division or district in which he was last registered to vote; and if he shall state no polling-place, he shall be taken to intend to vote at the chief polling-place for such division or district.

Form of claim.
Third Schedule.

16. The notice of claim for the Legislative Council shall contain the particulars and be in the form in the Third Schedule hereto, No. 1, or to the like effect; and the notice of claim for the House of Assembly shall contain the particulars and be in the form in the Third Schedule hereto, No. 2, or to the like effect.

Returning Officers to enter claimants on rolls.

17. Upon the receipt of any claim, the Returning Officer shall file the same in his office, noting thereon the date of its receipt by him, and shall immediately enter the name of the claimant on the roll for the division or district, as the case may require, and shall enter in the column, under the heading "Date of Registration," the date on which he actually received such claim; and such date shall be the date of registration of such claimant as an elector, unless such claimant shall in such notice state that his name appeared in the electoral roll immediately previous to the then existing roll, in which case

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case the date entered in the said column shall be the date on which such claimant was registered on such previous roll.

18. In the month of February, in the year one thousand eight hundred and eighty-one, and in the month of February in every fifth year thereafter, the Returning Officer for the said province shall cause to be published in the *Government Gazette*, and to be exhibited at every telegraph office, post office, and police station in the said province, other than that part of the province known as the Northern Territory, a notice calling public attention to the fact that fresh electoral rolls are about to be formed, and that returns, to be filled up by persons claiming to have their names inserted therein, have been or are about to be left at every dwelling-house within the said province, and that every person desirous of having his name inserted in the new rolls must cause his name, with his qualification and residence, to be inserted in such returns, or otherwise send to the Returning Officer of his district a notice of claim as hereinbefore provided: Provided, also, that in the month of February in every year public notice shall be given in the *Government Gazette* requiring claimants to send in their claims to be entered on the electoral roll.

Notice of delivery of forms to be advertised in the *Gazette*.

19. The Governor, before the first day of May, in the year one thousand eight hundred and eighty-one, and before the first day of May in every fifth year after such year, shall cause to be ascertained the names of all male persons qualified to vote for the election of Members of Parliament, with their qualifications and residences for the formation of fresh electoral rolls, and for that purpose shall appoint, by notice in the *Government Gazette*, fit and proper persons, at reasonable remuneration, to be collectors, and shall assign to them certain limits, and who within their respective limits shall discharge the duties which by this Act and the instructions to be issued to them are required to be performed.

Governor to ascertain persons entitled to be on rolls, and to appoint collectors.

20. Each collector shall, on or before a day to be named in such instructions, cause to be left at the dwelling of every person residing within the limits assigned to him a return in the form in the Second Schedule hereto, and shall require such returns to be filled up with the Christian and surnames in full of all male persons of the age of twenty-one years and over, usually resident in such dwelling-house, and who shall claim to vote at the election of Members for the Legislative Council and House of Assembly, or either of them, with the several particulars mentioned in the said Schedule, and the said return shall be headed with a notice requiring the occupier or person having the charge of such dwelling-house to call the attention of such male persons to the receipt of such return, requesting them to state their names and other necessary particulars, so that their names may be inserted in the electoral rolls then about to be formed; and such returns shall be called for or otherwise collected within the time specified in the instructions after they shall have been so left; and it shall be the duty of the person so calling to see that such returns are properly filled up.

Duty of collectors

Second Schedule.

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To forward claims to
Returning Officers.

21. Each collector shall, after the receipt of such returns, on or before a day to be named in the instructions, forward the returns received by him to the Returning Officer of his district, and shall reply to any inquiries made by such Returning Officer, and give any information relating to any name appearing in the said returns, or relating to the omission of any name from such returns, and any other matter.

Returning Officers to
see to the proper pre-
paration of list.

22. Each Returning Officer shall, on receipt of any such returns or any notice of claims, file the same in his office, noting thereon the date of the receipt by him, and shall examine the said returns, and ascertain the same are properly filled up, and may require from the person who compiled the same any information or explanation he may consider necessary.

Returning Officers to
compile fresh rolls.

23. Each Returning Officer shall, on the receipt of the returns and claims so sent to him, forthwith compile fresh electoral rolls for his division to form a portion of the electoral roll of the said province by inserting therein the names of all persons who shall appear to be entitled to have their names inserted in such roll, and shall in like manner compile a fresh electoral roll for his particular district, by inserting therein the names of all persons who shall appear to be entitled to have their names inserted in such roll, and he shall enter in the column under the heading "Date of Registration" the date then appearing on the electoral roll then in force for the district or division against the name of any elector who shall not have been registered six months on such roll, and in case of a claimant whose name is not upon such roll, then the date on which he actually received such claim, and such date as aforesaid shall for all purposes be deemed to be the date of registration of such claimant as an elector on the electoral roll for the said province, or for the particular district, as the case may be, and the Returning Officer shall date and sign the same; and the rolls so prepared shall be the electoral roll for the division or district, to which the same relates, and shall come into force and operation on the thirtieth day of June in the year they are so dated and signed, and shall remain in force with such alterations and additions as may be made therein for five years from the said thirtieth day of June: Provided that if from any cause the roll of any division or district shall not have been completed on the said thirtieth day of June, the Governor may, by notice in the *Government Gazette*, enlarge the time for completing the said roll until a day to be named in such notice, and shall name a day when the same shall come into force and operation.

When to come in
force.

Proviso.

Printing of rolls.

24. Each Returning Officer shall annually, in the month of May, forward to the Returning Officer of the province a fair copy of the rolls certified correct, who shall thereupon with all convenient speed cause the same to be printed, blank spaces being left after each letter for the addition from time to time of the names of claimants,
and

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and each Returning Officer shall be supplied with a sufficient number of such printed copies.

25. Every Returning Officer shall, on the first day of May in every year, and also on the thirtieth day of June in the years in which new rolls shall come into force, cause a copy of the said rolls, certified under his hand to be correct to the date of his signing the same, to be forwarded by post to the place of meeting of every Corporation or District Council within the electoral division or district to which the said copies respectively refer, and also to every police station in any such division or district beyond the limits of a Corporation or District Council, and the said copies respectively shall be kept open to public inspection.

New electoral rolls to be exhibited.

26. Each Returning Officer shall always keep in his office the electoral roll for his district and portion of the electoral roll of the said province for his division for the time being in force, and permit the same to be perused by any person at all reasonable hours without payment of any fee, and shall furnish to any person desiring the same a copy of either such roll on the payment of the sum of Two Shillings and Sixpence for each copy.

Returning Officer to keep rolls and allow inspection.

27. When any new electoral districts shall be created, or the boundaries of electoral districts altered, the Returning Officers of such districts shall, within one calendar month, make up or alter the electoral rolls accordingly; and shall erase the names of all persons registered on the electoral rolls who, after any such alteration of boundaries, are not residents within their respective districts and divisions, and forward to the Returning Officers of any newly-created or altered district a certified list of the names of such persons as shall reside in such newly-created or altered district, their abodes, qualifications, and period or date of registration, as appearing on the electoral rolls for the Legislative Council and House of Assembly respectively; and such last-mentioned Returning Officers shall, on the receipt of such lists, enter the names of such electors on the electoral rolls of their district or division, as the case may be, inserting against the name of persons not registered for six months in the column headed "Date of Registration," the date of registration, as appearing on the electoral roll on which the elector was previously registered; and shall make a memorandum against each name, stating the facts of the transfer, and shall initial the same; and every such elector shall be deemed to have been registered upon the electoral roll for such district or portion of the electoral roll of the said province for such division, as from such date, and shall be entitled to vote accordingly.

Duty of Returning Officers on electoral districts being altered.

28. Every Returning Officer is hereby empowered, on the personal or written application of any elector, to change the description of the qualification or residence of the elector, as appearing on such electoral roll, provided that the Returning Officer shall be satisfied that the qualification or residence proposed to be substituted is sufficient

Returning Officers to correct errors and omissions in rolls.

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To change polling-
place of electors.

sufficient to entitle such person to vote, and he shall also correct any mistake, or supply any omission which shall be proved to have been made in any such electoral roll, in respect of the name or place of abode of any person whose name shall appear thereon, or in respect of the qualification, or in the date of registration, and may change the polling-place of any elector to any other polling-place; and shall write his initials against the names struck out or inserted, and against any part of any roll in which any mistake shall have been corrected or alteration made with the date of such correction or alteration: Provided that no person shall be entitled to change his polling-place during the four days next immediately before the day appointed for the taking the poll at any election, nor upon the day for polling for such election.

Who may object to
names on roll.

29. Every person whose name shall be on the electoral roll for the said province, or on the electoral roll for any district, as the case may be, may object to the name of any other person being retained on such roll; and all Returning Officers shall object in the case of all persons who they have reason to believe are dead, or are not entitled to be retained thereon.

Registrar-General to
send return of deaths.

30. The Registrar-General of Births, Deaths, and Marriages shall, in the months of May, August, November, and February in each year, forward to the Returning Officer for each district a list containing the names, address, and occupations of all male persons above the age of twenty-one years whose deaths shall have been registered in such district during the then next preceding three months, and shall date, sign, and certify the same correct.

Returning Officer to
give notice of persons
to whom they object,
and to erase names of
unqualified persons.

31. The Returning Officer for each district shall, in the months of June, September, December, and March in each year, by notice in the *Government Gazette*, give a list of the names of persons on his rolls whom he objects to as not being entitled to be retained on his roll or rolls, and shall by such notice state a day, time, and place when and where he will sit to erase such names off his roll or rolls, and thereupon it shall be lawful then and there for such Returning Officer to erase the names of such persons, or to such of them as shall not satisfy the Returning Officer that they are entitled to have their names retained upon such roll or rolls.

Mode of objection.

Fourth Schedule.

Fifth Schedule.

32. A person, other than a Returning Officer, intending to object to the name of some other person being retained on any roll, shall give notice to the Returning Officer in the form in the Fourth Schedule hereto, who shall, on the application of the person objecting, issue a summons to the person objected to, in the form in the Fifth Schedule hereto, and shall state a day, time, and place, when he will hear such objection, and such summons may be served by posting the same addressed to the last known place of abode of the person objected to, or if that be not known, then to the address appearing on the electoral roll; and proof upon oath by the person who posted such summons endorsed on the duplicate thereof that

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the original was so posted by him shall be evidence of the summons having been received by the person objected to at the place mentioned in such duplicate on the day on which such notice would in the ordinary course of post have been received : Provided also that if the Returning Officer shall object to the name of any person being retained on any roll, he shall send a summons to such person containing such particulars as aforesaid, requiring him to appear and answer such objection, and such summons may be served by posting the same in manner hereinbefore provided.

33. At the time and place mentioned in the summons, or at some adjournment, the Returning Officer shall hear the person objecting and his witnesses, and afterwards the person objected to, on oath, which he is authorised to administer, and shall determine the matter ; and if he shall decide against the person objected to, he shall strike out the name from the roll, and shall initial and date the same. Hearing of objections.

34. If the person objected to shall not appear either personally or by some person on his behalf, according to the exigency of the summons, the Returning Officer, upon due proof of the service of the summons, may strike out the name from the roll, and shall initial and date the same. If person objected to shall not appear, name to be struck out.

35. If the person objected to shall appear, and the party objecting shall not appear, or if neither party shall appear, the Returning Officer shall take no further action in the matter. If neither party appear, no action to be taken.

36. If any person shall have made or attempted to sustain any frivolous and vexatious objection, the Returning Officer in his discretion may order the payment by such person of the costs, or any part of the costs, of any person in resisting such objection, such order being in writing, and specifying the sum (such sum not to exceed Two Pounds), and by, and to whom, and when, and where to be paid, failing which, such order may be sued upon by the person in whose favour it is made, in a Local Court, and the production of such order shall be conclusive evidence in favor of the person in whose name it is made. Returning Officer may give costs in certain cases.

37. If either party is dissatisfied by the determination of a Returning Officer, he may appeal to the nearest Local Court of Full Jurisdiction to be first holden seven days after such determination, and the proceedings on such appeal shall be conducted in manner appointed by the said Ordinance, No. 6 of 1850, for appeals to Local Courts. Appeal to Local Court.

38. The judgment of the Local Court on such appeal shall be certified to the Returning Officer under the hand of the clerk of the Local Court, and the seal of such Court, and thereupon the Returning Officer shall make such alteration or correction in the roll as the necessity of the case requires. Decision to be certified to Returning Officer.

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Transfer from electoral roll of one division to another division.

Sixth Schedule.

39. Any person whose name may have been registered for six months upon any electoral roll in any division, and who may desire and be entitled to have his name inserted upon any other electoral roll in any other division may, on written application signed by the person desiring to be transferred, obtain from the Returning Officer for the division on the electoral roll of which his name then is, a certificate of transfer, in the form in the Sixth Schedule hereto, addressed to the Returning Officer of the division to which he shall desire to be transferred, and thereupon such last-mentioned officer shall insert the name of such person upon the portion of the electoral roll of the said province relating to his division, according to the tenor of such certificate, and such person shall be deemed to have been registered upon the portion of the electoral roll of the said province for the division to which he is so transferred, and shall be entitled to vote accordingly: Provided that no person shall be entitled to receive a certificate of transfer during the four days next immediately before the day appointed for taking the poll at any election of a Member or Members to serve in the Legislative Council, nor upon the day of such poll.

Persons registered six months may obtain certificates.

Seventh Schedule.

40. Any person whose name may have been registered for six months upon any electoral roll in any division may obtain from the Returning Officer for the division, on the electoral roll of which his name then is, a certificate in the form in the Seventh Schedule hereto; and on giving such certificate, the Returning Officer giving the same shall write the word "certificate" on his electoral roll opposite the name of the elector receiving the same; and such elector shall not be entitled to vote at any election without the production of such certificate, but the production of such certificate shall entitle him to vote at any polling-booth in the province: Provided that such certificate must be given up and cancelled on the holder exercising his vote: Provided also that the application for such certificate by any elector shall be made in sufficient time prior to any election, so as to enable the Returning Officer to write the word "certificate" on the list of voters, prior to forwarding the same for use at such voting-place.

Transfer to be noted on both rolls.

41. Every Returning Officer upon giving any such certificate of transfer as aforesaid, shall strike the name of the person to whom the same shall be issued off the electoral roll for his division, and shall make a memorandum against such name stating the fact of the transfer, and shall initial the same; and every Returning Officer inserting the name of any person upon any electoral roll for any division, by virtue of any such certificate of transfer, shall make a memorandum against such name, stating the fact of the transfer, and shall initial the same.

Transfer from one district to another district.

42. Any person whose name may for the time being be upon any electoral roll of any district, and who has been registered thereon for six months, and who shall have *bonâ fide* changed his residence into another electoral district, shall be entitled to have his name inserted upon

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upon the electoral roll of such other district, and he may, on written application, in form in the Eighth Schedule hereto, No. 1, obtain from the Returning Officer of the district on the electoral roll of which his name is, a certificate in the form in the Eighth Schedule hereto, No. 2, addressed to the Returning Officer of the district in which he shall be then resident, and upon delivery of such certificate to the Returning Officer to whom the same is addressed, accompanied with a declaration in the form in the Eighth Schedule hereto, No. 3, the person named therein shall be entitled to have his name inserted on the roll for the last-mentioned district, according to the tenor of such certificate, and the Returning Officer of such district shall insert the name of such person accordingly, and thereupon such person shall be entitled to vote in like manner as though his name had been originally inserted on such last-mentioned roll: Provided that the Returning Officer shall not insert any name after the issue of any writ for election of a Member for his district until after the return of such writ.

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Eighth Schedule.

43. Every Returning Officer, upon giving such certificate, shall strike the name of the person to whom the same is issued off the electoral roll for his district, and shall make a memorandum against such name as follows:—"Certificate to District," and shall initial the same; and every Returning Officer inserting the name of any person upon the electoral roll of his district by virtue of such certificate shall make a memorandum against such name as follows:—"Certificate from District," and shall initial the same.

Returning Officer to initial alterations.

44. There shall be paid to the Returning Officer and collector the several fees and sums mentioned in the Ninth Schedule hereto, for the performance of the several duties therein specified; but no payment will be made to collectors except on the certificate of the Returning Officer of the district to whom the returns are delivered of the due performance of the collector's duty.

Fees to officers.

Ninth Schedule.

45. If at any election for the Legislative Council less than ten electors, or at any election for the House of Assembly less than fifteen electors, shall vote at any polling-place, such polling-place shall thereupon cease to be a polling-place.

Polling-place closed in certain cases.

PART II.

CONDUCT OF ELECTIONS.

PART II.

46. Writs for the election of Members to serve in the Legislative Council and House of Assembly shall be issued by the Governor or the Speaker of the House of Assembly for the time being, as the case may be, and shall be directed to the proper Returning Officers, and in each writ shall be named the day of nomination for the election therein named, and, in the event of any such election being contested, the day for taking the poll at the different polling-places, such

Issue and return of writs.

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such day to be not less than two days, nor more than thirty days, from the day of nomination.

Form of writs.

47. All writs shall be framed in any manner and form which is sufficient for carrying the provisions hereof into effect.

Mode of nomination.

48. In order that any person may become or be a candidate at any election, he shall be nominated by not less than two persons entitled to vote at such election, in manner following, that is to say, after the issue of the writ, and before the time fixed for the nomination, there shall be delivered to the Returning Officer a nomination paper, in the form, or to the effect of the form, in the Tenth Schedule hereto, naming such person as a candidate at such election, and signed by the persons nominating as aforesaid, and having at the foot thereof a statement, under the hand of the person so nominated, that he consents to act if elected.

Tenth Schedule.

Duty of Returning Officers prior to day of election.

49. On receipt of any writ the duty of the Returning Officer for the province, and the several Returning Officers, shall be as follows—

- I. The Returning Officer for the province shall endorse thereon the date of its receipt:
- II. He shall forthwith forward a copy of the writ to the Deputy Returning Officer for each division, who shall forthwith endorse the date of its receipt:
- III. The Returning Officer for the province shall also cause to be printed and published a notice stating the receipt of the writ, the day of nomination, the date of the polling-day, and the chief and other polling-places, and the names of the Deputy Returning Officers for each division, and shall forward sufficient copies of such notice to the Deputy Returning Officer for each division, who shall forthwith cause the notices so forwarded to him to be published and circulated in his division at such places and in such manner as he shall think necessary:
- IV. The District Returning Officer shall endorse on the writ the date of its receipt, and shall forthwith cause to be printed and published a notice stating the receipt of the writ, the day of nomination, the date of the polling-day, and the chief and other polling-places, and shall cause such notices to be published and circulated in his district, at such places and in such manner as he shall think necessary.

Notice to be given of candidates.

50. The Returning Officer shall, at noon on the day of nomination, attend at the chief polling-place, and there publicly produce the several nomination papers he shall have then received, and give notice of the names of the persons nominated.

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51. In case there shall be no greater number of candidates duly nominated than are required to be elected, the Returning Officer shall declare such candidate or candidates to be elected, and make his return accordingly.

If no contest, candidates to be declared elected.

52. In case more such candidates shall be duly nominated, the Returning Officer shall give notice thereof, of the names of the candidates, and of the day and time of taking the poll.

If contest, notice to be given.

53. When any election is contested the Returning Officer shall, for the purpose of taking the poll, cause proper polling-booths to be hired or erected, and shall properly furnish the same, and shall, by writing under his hand, appoint a substitute to preside at each polling-place, when he is not personally present, together with such poll clerks and doorkeepers as are necessary for the due and orderly taking of the poll.

Booths to be erected or hired for taking votes.

54. Each polling-booth shall have separate compartments, and shall be provided with a ballot box having an inner cover with a cleft therein for receiving the voting papers, and a lock and key, and an outer cover with a lock and key, and the said compartments shall be constructed so as to screen any voter therein from observation, and shall be furnished with pencils for the use of the voters.

Polling-booth, how constructed and furnished.

55. The Returning Officer shall cause voting papers to be printed which shall contain the Christian and surnames of the several candidates arranged in alphabetical order according to such surnames; and if there are two candidates of the same surname, then according to the Christian name of such candidates; and if there are two candidates of the same Christian and surname, then according to the residences of such candidates, arranged in the like order, and a square printed opposite the name of each candidate, and he shall obtain a sufficient number of voting papers.

Contents and printing of voting papers.

56. Before the hour of polling the Returning Officer shall deliver to the substitutes at each polling-booth a list of the electors on the said roll who have been registered for six months, and who claim to vote at such polling-booth, herein called "list of voters," together with a copy or copies of the roll in force for the division or district, as the case may be, for use at the said polling, and shall sign each page of such list, and shall also deliver to each substitute and himself retain such numbers respectively of the voting papers as shall be sufficient for the use of the electors at such booth.

Polling-booth to have copies of roll and voting papers.

57. Before delivering the voting papers to the electors, each Returning Officer or his substitute shall initial such papers on the face thereof, and fold them, and keep an exact account of all initialled voting papers.

Voting papers to be initialled.

58. On the day of election the poll shall be taken at the several polling-places according to the following regulations—

Proceedings on day of voting.

1. The

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- I. The polling booth shall be open to the public at eight o'clock in the forenoon, when the presiding officer shall exhibit the ballot-box empty, and shall then securely fasten and seal the inner cover thereof, so that no voting papers can be removed therefrom without breaking such seal :
- II. The poll shall be open to voters at the said hour of eight o'clock, and shall continue so open until all the votes of electors present in the polling-booth at the hour of five o'clock in the afternoon shall have been taken, and shall then finally close :
- III. Every person proposing to vote shall state to the presiding officer, or to some one of his clerks, his Christian and surname, and if so required any other of the particulars necessary to be expressed in the roll, which the said officer may require for the sole purpose of enabling him to ascertain the name upon the roll intended by such person :
- IV. The presiding officer or voting clerk shall ascertain if the name intended by the voter is upon the list of voters, and if so found he shall, subject as after provided, deliver to such voter a voting paper bearing the initials of the Returning Officer, or his substitute, and shall place a mark against the voter's name on the list of voters :
- V. If a person representing himself to be a particular elector named on the roll applies for a voting paper after another person has voted as such elector, the applicant shall, upon duly answering the questions in the Eleventh Schedule, be entitled to receive a voting paper in the same manner as any other voter :
- VI. The voter shall forthwith retire alone to some unoccupied compartment of the said booth, and shall there in private and without delay indicate the name of each candidate for whom he intends to vote by making a cross, the centre of which cross shall be contained within the square opposite the name of such candidate, and shall then fold the voting paper, and immediately deliver it so folded to the presiding officer, who shall openly forthwith, and without unfolding the same, deposit it in the ballot-box, and the voter shall then quit the polling-booth :
- VII. Any voter may signify to the presiding officer that by reason of blindness he is unable to comply with the last preceding regulation ; and thereupon the presiding officer, if satisfied that such voter is afflicted with blindness, shall permit any agent named by such voter to accompany him into the compartment set apart for the purpose, to mark the voting paper on such voter's behalf, and hand the same to the Returning Officer, who shall deposit the same in the ballot-box :
- VIII. Any person who, by mistake or accident, shall spoil any voting paper, may, before the same shall have been deposited in the ballot-

Eleventh Schedule.

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PART II.

ballot-box, upon signifying the same to the Returning Officer and delivering up the spoiled voting paper, obtain a fresh voting paper, and the spoiled voting paper shall be then and there destroyed, by burning the same:

- ix. At the close of the poll the presiding officer shall publicly close, fasten, and seal the outer cover of the ballot-box, and shall take charge of the same, and the same shall not be opened until and at the scrutiny.

59. The Returning Officer (or his substitute), the poll clerks, and doorkeepers and scrutineers (not exceeding two for each candidate, to be appointed in writing), and electors about to vote shall alone be permitted at any one time without the consent of the Returning Officer or his substitute to enter or remain in the polling-booth during the taking of the poll.

Who are to remain in polling-booth.

60. No inquiry shall be permitted as to the right of any person to vote except as follows, that is to say, the presiding officer may, if he thinks fit, and shall, if requested by any scrutineer, put to the person proposing to vote before the voting paper is delivered to him, or before such paper is deposited in the ballot-box, the questions contained in the Eleventh Schedule hereto, or any of them, and no other.

Question may be put to voters.

61. If the person so proposing to vote shall refuse to answer any question, or shall answer the same in such manner as to show that he is not qualified to vote, he shall not be permitted to vote, and he shall forthwith return to the presiding officer the voting paper, if any, delivered to him, and which paper shall thereupon be immediately destroyed by the said presiding officer.

On refusal to answer, or if not qualified, voting paper to be destroyed.

62. At the close of the voting each presiding officer shall, with the least delay possible, cause the ballot-box to be delivered to the Returning Officer; and in cases of elections of Members to serve in the Legislative Council, the Returning Officers shall, with the least delay possible, cause to be delivered the whole of such boxes to the Returning Officer for the said province.

Ballot-boxes to be delivered to Returning Officers.

63. All voting papers issued to any substitute, and not used by him, and all lists of voters, shall be returned by him to the Returning Officer, with the ballot-box.

Unused voting papers.

64. The proceedings for ascertaining the candidate or candidates who have been elected, is herein called "the scrutiny," and each candidate may, either by letter or telegram, nominate an agent herein called a "scrutineer," to attend the scrutiny, on his behalf, by giving to the Returning Officer the name and address of such agent before the opening of the poll, or without such notice, by permission of the Returning Officer.

Proceedings at scrutiny.

The scrutiny shall be conducted as follows:—

1. Within one hour after the close of the poll the Returning Officer

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Officer shall, at the chief voting-place, in the presence of and subject to the inspection of the scrutineers, or such of them as shall be then in attendance, and such other persons as may be approved of by the Returning Officer, proceed to open one of the ballot-boxes, and shall examine the voting papers therein, and shall reject all voting papers not initialled, or which shall contain crosses against the names of a larger number of candidates than are required to be elected, or shall contain anything marked or written other than the initials of the Returning Officer or his substitute and the cross indicating the name of such candidate for whom the elector intends to vote, and proceed to ascertain the results of the votes by counting the votes given to each candidate; and shall in like manner open every other ballot-box, and examine and ascertain the number of votes therein contained, until all the ballot-boxes shall have been opened, and shall ascertain the final result of the poll. The Returning Officer may adjourn the scrutiny from time to time as he may consider necessary, having first sealed up all ballot-boxes uncounted at such adjournment, and allowing any scrutineer also to seal the same, and then depositing the boxes in some secure place:

- ii. Where an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of the candidates to be declared elected, the Returning Officer shall give such additional vote; but he shall not be entitled otherwise to vote at an election for which he is Returning Officer: Provided, however, that the substitute of any Returning Officer may vote at any election in like manner as if he had not been appointed and acted as such substitute:
- iii. At the scrutiny, any scrutineer may object to any voting paper as being informal, and thereupon the Returning Officer shall give his decision, and shall mark on the voting paper the word "admitted" or "rejected," as the case may be, and the decision of the Returning Officer thereon shall be final, subject to reversal by the Court for the Trial of Disputed Returns:
- iv. All voting papers which shall have been used for voting, except those which any scrutineer may have objected to as informal, or which the Returning Officer may determine to be informal, and all unused voting papers, shall be forthwith destroyed. Voting papers not required to be destroyed, and the several marked lists of voters used in the voting on the day of election shall be retained by the Returning Officer until after the time for hearing of a petition questioning the election or return.

Declaration of poll.

65. At the chief voting-place, as soon as conveniently may be after the final results of the poll shall have been ascertained, the
Returning

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Returning Officer shall publicly declare to be elected the candidate or candidates to whom the majority of votes shall have been given.

66. The Returning Officer shall return the name or names of the persons elected by endorsement on the writ, and shall forward such writ to the Governor, or Speaker, as the case may be, within the time by which the same is made returnable.

Return to writ.

67. The Returning Officer of the district shall send to the Returning Officer of the province a return, in a tabular form, of the number of electors on the roll, the number of voting papers found in the ballot-boxes, the number of voting papers allowed, the number of voting papers rejected, distinguishing the number—1st, not initialled by the Returning Officer or his substitute; 2nd, voting for more candidates than entitled to be elected; 3rd, containing writing or marks by which the voter can be identified; 4th, unmarked or informally-marked voting papers.

Returns of voting to be sent to Returning Officer of province.

68. If any person misconducts himself in any polling-booth, or fails to obey the lawful orders of the Returning Officer or his substitute, he may immediately, by order of the Returning Officer or substitute, be removed from the polling-station by any police officer or constable, or by any other person authorised in writing by the Returning Officer or substitute, and the person so removed shall not, unless with the permission of the Returning Officer or substitute, again be allowed to enter the polling-booth.

Misconduct in polling-booth.

69. Where the proceedings at any election shall be interrupted or obstructed by any riot or open violence, whether such proceeding shall consist of the nomination of candidates or of the taking the votes, the Returning Officer, shall not for such cause terminate the business of such nomination, nor finally close the voting, but shall adjourn the nomination or the taking the votes at the particular polling-place at which such interruption or obstruction shall have happened, until the following day, and if necessary, shall further adjourn such nomination or voting, as the case may be, until such interruption or obstruction shall have ceased, when the Returning Officer or his deputy shall again proceed with the business of the nomination or with the taking the votes, as the case may be, at the place at which the same respectively may have been interrupted or obstructed; and the day on which the business of the nomination shall have been concluded shall be deemed to have been the day fixed for the election, and the commencement of the voting shall be regulated accordingly; and any day whereon the voting shall have been so adjourned, shall not as to such place be reckoned the day of taking of votes at such election, within the meaning hereof; and whenever the voting shall have been so adjourned by any deputy of any Returning Officer, such deputy shall forthwith give notice of such adjournment to the Returning Officer, who shall not finally declare the state of the voting, or make return of the member chosen, until the voting so adjourned

In case of riot, voting may be adjourned.

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at such place shall have been finally closed, and the boxes containing the votes delivered or transmitted to such Returning Officer.

Candidates not to attend election meetings after day of nomination.

70. No candidate for election shall attend any meeting of electors convened or held for electoral purposes on or after the day named in the writ for the nomination of candidates for such election until after the close of the poll for such election, except for the purpose of recording his vote; and the attendance of any candidate at any meeting contrary to this clause shall, on proof thereof by the decision of the Court for the trial of complaints against the validity of returns hereinafter mentioned, be held to render void the election of the candidate committing such act.

Errors of form not to vitiate election.

71. No election shall be held to be void in consequence solely of any delay of the holding of such election at the time appointed, or in the return of the writ, or the absence of the Returning Officer, or any deputy, the use of written instead of printed rolls, or any error on the part of any Returning Officer or deputy, which shall not affect the result of the election, or of any error or impediment of a mere formal nature; and within the period of twenty days before or after the day appointed for the holding of any election, the Governor, or the Speaker, as the case may be, may extend the time allowed for the holding of such election, or for the return of the writ issued for the same, and may adopt or cause to be adopted such measures as may be necessary to remove any obstacle by which the due course of any election may be impeded, and may supply any deficiency that may otherwise affect the same: Provided that any measures so adopted by the Governor, or the Speaker, as the case may be, shall be duly notified in the *Government Gazette*.

PART III.PART III.

OFFENCES AND PENALTIES.

Offences in respect of nomination papers, voting papers, and ballot-boxes.

72. Every person who—

- i. Forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the Returning Officer any nomination paper knowing the same to be forged; or
- ii. Forges or counterfeits or fraudulently defaces, or fraudulently destroys any voting paper or the initials on any voting paper; or
- iii. Without due authority supplies any voting paper to any person; or
- iv. Fraudulently puts into any ballot-box any paper other than the voting paper which he is authorised by law to put in; or
- v. Fraudulently takes out of the polling-booth any voting paper; or
- vi. Without due authority destroys, takes, opens, or otherwise interferes with any ballot-box or voting papers then in use for the purposes of the election:
- vii. Refuses

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- vii. Refuses to deliver to the Returning Officer or his substitute any voting paper in his possession, whether he shall have obtained such voting paper for the purpose of recording his vote or not :

Shall be guilty of a misdemeanour, and be liable, if he is a Returning Officer, or an officer or clerk in attendance at a polling-booth, to imprisonment for any term not exceeding two years, with or without hard labor ; and, if he is any other person, to imprisonment for any term not exceeding six months, with or without hard labor ; and any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable.

73. In any indictment or other prosecution for an offence in relation to the nomination papers, ballot-boxes, and voting papers at an election, the property in such papers and boxes may be stated to be in the Returning Officer at such election.

Indictment or prosecution.

74. Every person who—

Offences respecting bribery.

- i. Directly, or indirectly, by himself, or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure, or to endeavor to procure, any money or valuable consideration, to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce any voter to vote, or refrain from voting, or corruptly does any such act as aforesaid, on account of such voter having voted, or refrained from voting, at any election ; or
- ii. Directly or indirectly, by himself, or by any other person on his behalf, gives or procures or agrees to give or procure, or offers, promises, or promises to procure, or to endeavor to procure, any office, place, or employment, to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce such voter to vote, to refrain from voting, or corruptly does any such act as aforesaid on account of any voter having voted, or refrained from voting, at any election ; or
- iii. Directly or indirectly, by himself, or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement, or agreement as aforesaid, to or for any person, in order to induce such person to procure, or endeavor to procure, the return of any person to serve in Parliament, or the vote of any voter at an election ; or
- iv. Upon, or in consequence of, any such gift, loan, offer, promise, procurement, or agreement, procures or engages, promises, or endeavors to procure, the return of any person to serve in Parliament, or the vote of any voter at any election ; or
- v Advances or pays, or causes to be advanced or paid, any money to,

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to, or for the use of, any other person with the intent that such money, or any part thereof, shall be expended in bribery at any election, or shall knowingly pay, or cause to be paid, any money to any person in discharge, or repayment of any money wholly or in part expended in bribery at any election :

Shall be guilty of bribery.

Offence of accepting bribes.

75. Every person who—

- i. Before or during any election, directly or indirectly, by himself, or by any other person on his behalf, receives, agrees, or contracts for money, gift, loan, or valuable consideration, office, place, or employment, for himself, or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election : or
- ii. After any election, directly or indirectly, by himself, or by any other person on his behalf, receives any money, or valuable consideration, on account of any person having voted, or refrained from voting, or having induced any other person to vote, or to refrain from voting, at any election :

Shall be liable to forfeit the sum of Ten Pounds to any person who shall sue for the same, together with full costs of suit.

Offences respecting, treating, or payment of expenses of voters.

76. Every candidate at an election who shall, by himself, or by or with any person, by any other ways or means on his behalf at any time, either before or during any election, with a view to influence his vote, directly or indirectly give, or provide, or cause to be given, or provided, or shall be accessory to the giving or providing any meat, drink, entertainment, or horse or carriage hire, or conveyance for any voter whilst at such election, or whilst engaged in coming to or going from such election, shall be guilty of bribery.

Offences respecting interference with exercise of voting.

77. Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, make use of, or threaten to make use of, any force, violence, or restraint, or inflict, or threaten the infliction, by himself, or by or through any other person, of any injury, damage, harm, or loss, or in any other manner practice intimidation upon, or against, any person, in order to induce or compel such person to vote, or refrain from voting, or on account of such person having voted, or refrained from voting at any election ; or who shall, by abduction, duress, or any fraudulent device or contrivance, impede, prevent, or otherwise interfere with the free exercise of the franchise of any voter, or shall thereby compel, induce, or prevail upon any voter, either to give or refrain from giving, his vote at any election, shall be liable to forfeit the sum of One Hundred Pounds to any person who shall sue for the same, together with full costs of suit.

78. In

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78. In any petition or other proceeding before any Court for bribery, or undue influence, or to recover any penalty, or sum of money for bribery or undue influence, or complaining of any undue return of any Member of Parliament, it shall be sufficient to allege that the defendant or respondent was at the election at, or in connection with, which the offence is intended to be alleged to have been committed, guilty of bribery, or undue influence, as the case may require, and the certificate of the Returning Officer in this behalf shall be sufficient evidence of the issue of any writ for any election, and of the due holding of the election, and of any person therein named having been a candidate thereat; and it shall not be necessary to prove agency in the first instance before giving in evidence the facts whereby the charge of bribery or undue influence is to be sustained.

Evidence in proceedings for bribery.

79. In any proceeding or petition, as in the last clause mentioned, the person alleging bribery, or his counsel, may cross-examine his own witnesses, not being agents of such person, unless the Court, without argument by counsel, shall direct the examination of any witness to be conducted in the ordinary manner, which the Court may do if such witness appears to be hostile to the other party.

Petitioner may cross-examine his own witnesses.

80. The commission of any one of the acts hereby declared to be bribery by any candidate shall, on proof thereof, by the decision of the Court for the trial of complaints against the validity of returns hereinafter mentioned, be held to render void the election of the person committing such act, and to disqualify him from sitting and voting in the said Parliament, during the whole period that may intervene between the decision of the said Court and the time of the next periodical or general election.

Any of the above acts to disqualify

81. The acts of all authorised agents of a candidate or Member shall, in matters connected with elections, be held to be the acts of their principal, provided that it shall be proved to the satisfaction of the above-mentioned Court that such acts were committed with his knowledge or consent.

Principals bound by acts of their agents.

82. Any person who shall wilfully make a false answer to any of the questions mentioned in the Eleventh Schedule hereto shall be deemed guilty of a misdemeanor, and on conviction shall be liable, at the discretion of the Court before which he is convicted, to be imprisoned, with or without hard labor, for any term not exceeding two years.

Punishment for false answers to questions in Eleventh Schedule.

83. Any person who shall vote at any election for the Legislative Council or House of Assembly more than once for the election of a Member or Members to supply the same vacancy, and any person who shall vote in two or more districts for the election of Members to serve in the House of Assembly after any dissolution of Parliament, shall be guilty of a misdemeanor, and on being convicted shall, in the discretion of the Court, be liable to a penalty not exceeding Fifty Pounds, or to imprisonment not exceeding three calendar months.

Penalty on persons voting twice at any election.

84. Every

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Punishment for
personating voters.

84. Every person who applies for a voting paper in the name of some other person, whether living or dead, or of a fictitious person, or who in any other manner personates any other person for the purpose of voting at any such election, shall be guilty of a misdemeanor; and on conviction shall be liable, at the discretion of the Court before which he is convicted, to be imprisoned, with or without hard labor, for any term not exceeding three calendar months.

Penalty on officers
refusing or neglecting
duty.

85. If any Returning Officer for the said province, or any District Returning Officer, after having accepted office as such, shall neglect or refuse to perform any of the duties which by the provisions hereof he is required to perform, every such Returning Officer, or District Returning Officer shall, for every such offence, forfeit and pay any sum not less than Ten, nor exceeding Two Hundred Pounds; and, in like manner, if any substitute, clerk, or other officer or person appointed or required to perform any duty, under or by virtue of this Act, shall neglect or refuse to perform any of the duties which by the provisions hereof he is required to perform, every such clerk or other officer or person shall, for every such offence, forfeit and pay any sum not less than Five, and not exceeding Fifty Pounds.

Limitation of prosecution.

86. No person shall be liable to any penalty or forfeiture hereby enacted or imposed, unless some prosecution, action, or suit shall be commenced against such person within the space of one year next after such offence against this Act shall be committed, and unless such person shall be summoned, or otherwise served with writ or process within the same space of time, so as such summons or service of writ or process shall not be prevented by such person absconding or withdrawing out of the jurisdiction of the Court out of which such writ or other process shall have issued; and in case of any such prosecution, suit or process as aforesaid, the same shall be proceeded with and carried on without any wilful delay.

PART IV.**PART IV.****COURT FOR THE TRIAL OF DISPUTED RETURNS.**

Formation of Court
for trial of complaints
against the validity of
returns by Returning
Officer.

87. For the purpose of forming a Court for the trial of any complaints which may be made against the validity of any returns of Members to serve in the Legislative Council or House of Assembly respectively, the Legislative Council, within one week after its first meeting subsequent to each election to supply the place of Members who shall retire by rotation, and the House of Assembly, within one week after the first meeting subsequent to every general election, shall elect, each out of its own body respectively, four persons to be members of the said Court, and the junior or the sole acting Judge of the Supreme Court shall be the President of such Court.

Nomination of
members of Court to
supply vacancies.

88. If the said Legislative Council or House of Assembly shall fail to elect the said four members of the said Court within the said
one

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one week, such four members may be nominated at any time afterwards by the President or Speaker, as the case may be; and if any member shall be incapacitated to attend a meeting of the Court by reason of resignation, refusal to act, acceptance of office, death, sickness, or any other impediment, to be allowed by the President of the Legislative Council or Speaker of the House of Assembly, his place shall be supplied by a person nominated for that purpose by the Legislative Council or House of Assembly respectively, or in default of such nomination for the period of one week, by the President or Speaker.

89. The record of the election or nomination of the said members of the said Courts respectively shall be entered by the Clerk of the Legislative Council or House of Assembly on the proceedings of their respective Houses; and proof of such entry having been made shall be sufficient authority for the proper constitution of such Courts.

Record of nomination of members to be proof of proper constitution of Courts.

90. The said Courts respectively shall not proceed to any business unless convened by order of the Legislative Council or House of Assembly, nor until each member thereof shall take the following oath or affirmation, as the case may be, which shall be administered by the President to each of the members, and afterwards by any member to the President:—

Courts not to proceed to business unless convened by the Legislative Council or House of Assembly.

“I, A. B., do swear [*or affirm, as the case may be*], that I will duly administer justice in all matters which may be brought before this Court, and that I will decide in all such matters according to the principles of good faith and equity, without partiality, favor, or affection, and according to the best of my understanding.

Oath to be taken by members of the Courts.

“SO HELP ME GOD.”

91. The Courts thus constituted shall have power to inquire into all cases which may be brought before each Court by the House by which it shall have been appointed, respecting disputed returns of Members to serve in the said House, whether such disputes arise out of an alleged error in the return 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 the return.

Powers of Courts.

92. In the trial of any complaints as aforesaid, the members of the said Courts shall be guided by the real justice and good conscience of the case, without regard to legal forms and solemnities, and shall direct themselves by the best evidence that they can procure, or that is laid before them, whether the same be such evidence as the law would require in other cases or not; and shall have power to compel the attendance of witnesses and to examine them upon oath; and also to send for and examine papers, records, and other documentary evidence affecting the matter under investigation.

Courts to be guided only by the real justice and good conscience of each case.

93. Each of the said Courts shall be an open Court, and shall have power to adjourn its sittings from time to time, as in its discretion

Court may regulate the form of its own proceedings.

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PART IV.

Decisions to be given within five days, and to be final, without appeal.

discretion it may think proper, provided that the interval of adjournment shall not in any instance exceed four days, and shall be competent to regulate the form of its own proceedings; but such proceedings shall in no case extend beyond the period of five sitting days, unless by leave of the House by which it shall have been appointed; and that if no decision be adopted by a majority within five sitting days, or any enlarged period as aforesaid, the President of the Court shall, on such evidence as may then be before the Court, pronounce a decision; and that every decision, whether so pronounced by the President or by the Court, shall be final and conclusive, without appeal.

Minutes of proceedings.

94. The said Courts shall be attended by one of the officers of the Legislative Council or House of Assembly, as the case may be, who shall make a minute of all proceedings of the Court in such manner and form as shall from time to time be directed by the Court; and a copy of the minutes shall be laid from time to time, or at the termination of any inquiry, before the Legislative Council or House of Assembly, as the case may be.

Inquiries by Court to be restricted to identity of voters, and propriety of admission or rejection of votes.

95. The said Courts shall not have power to inquire into the correctness of any electoral roll, or into the qualifications of proposers, or into the qualifications of persons whose votes may on the day of election have been either admitted or rejected, but simply into the identity of the persons, and whether their votes were improperly admitted or rejected, assuming the roll to be correct.

Complaints of undue returns to be by petition to the Legislative Council or House of Assembly.

96. All complaints of the undue return of Members to serve in the said Legislative Council or House of Assembly, shall be addressed in the form of a petition to the said Legislative Council and House of Assembly respectively; and no petition shall be noticed, nor any proceedings had thereon, unless it shall have been so presented by a person who was a candidate at the election whereof it may be alleged that an undue return has been made, or by a number of persons who either voted or were qualified to have voted at the said election, amounting to not less than one-tenth of the whole number on the roll of electors, the signature of each petitioner being attested by two witnesses whose place of abode and occupation shall be given, and unless a sum of Fifty Pounds shall be lodged with the President of the Legislative Council or the Speaker of the House of Assembly, as the case may require, by the petitioner or petitioners as security for costs; and no petition shall be noticed which shall not be presented within twenty-one days from the day of election, or one week from the meeting of Parliament, which shall last happen: Provided, that in case that the branch of the Legislature to which a petition is presented shall have adjourned, and not again met before the expiration of the said periods of seven or twenty-one days, then such petition may be presented not later than the second sitting day after the next meeting of the House.

97. Any

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97. Any such petition shall, within ten days after the same shall have been duly received, be referred to the Court above-mentioned, appointed by the House to which the said petition shall be addressed, and such Court shall inquire whether or not such petition is duly and properly signed.

PART IV.

Petition to be referred to Court.

98. The said Courts respectively may declare that any person was not duly elected who was returned as elected by the Returning Officer of any electoral district, and thereupon the person so declared to have been not duly elected shall cease to be a Member of the Legislative Council or House of Assembly, as the case may be; and if such Court shall declare any person to have been duly elected who was not returned by any Returning Officer, the person so declared to be duly elected shall be sworn a member of the said Legislative Council or House of Assembly, as the case may be, and take his seat accordingly; and if such Court shall declare any election to have been absolutely void, the President or Speaker, on the same being certified to him by the President of the Court, shall forthwith cause to be issued a new writ for the holding of another election for such district.

Proceedings of Courts on petitions.

99. The said Courts respectively may, in writing under the hand of the President, award to the party petitioning, or the candidate against whom the petition shall have been presented, such reasonable costs and expenses as such Court may deem fit; and the President or Speaker of the Legislative Council or House of Assembly, as the case may require, shall, by order under his hand, direct the payment of the said sum of Fifty Pounds, deposited according to the provisions hereinbefore contained, or a sufficient sum thereof, to any party or parties who, by such award, 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 award 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 the said province, 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 pay the same, or 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 on being awarded how recovered.

100. If

Electoral Act.—1879.

PART IV.

Penalty for disobedience.

100. If any person summoned by any such Court 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, or shall refuse to submit himself to examination, shall be deemed guilty of contempt, and be liable in the same manner as for a contempt of the Supreme Court; and any person wilfully or knowingly giving false evidence before any such Court, shall be deemed guilty of wilful and corrupt perjury, and shall be liable to the penalties for such offence; and the Sheriff and his officers shall give effect to any order given by, and execute any warrant under the hand of, the President of the said Court.

PART V.

Where matters to be done fall on a holiday.

101. When any matter or thing is hereby directed to be performed on a certain day, and that day shall happen to be a Sunday, Good Friday, Christmas Day, or other public holiday, the said matter or thing may be performed on the next succeeding day, not being any of the days aforesaid.

Summary procedure.

102. Every proceeding under this Act, for omissions, defaults, acts, or offences, to which any pecuniary penalty is attached, shall, unless some other mode be prescribed for the recovery thereof, be had and taken and may be heard and determined in a summary way, by any Special Magistrate or two Justices, under the provisions of an Ordinance of the Governor and Legislative Council, No. 6 of 1850, 'To facilitate the performance of the duties of Justices of the Peace out of Session, with respect to summary convictions and orders,' or of any Act hereafter to be in force relating to the duties of Justices with respect to summary convictions and orders, and all convictions and orders may be enforced as in the said Ordinance is mentioned.

Appeal to Adelaide Local Court of Full Jurisdiction.

103. There shall be an appeal from any conviction by any Special Magistrate or Justice for any offence against this Act, or from any order dismissing any information or complaint, or from any order for payment of money for costs or otherwise; which appeal shall be to the Local Court of Adelaide of Full Jurisdiction only, and the proceedings on such appeal shall be conducted in manner appointed by the said Ordinance, No. 6 of 1850, for appeals to Local Courts; but the Local Court of Adelaide aforesaid may make such order as to the payment of the costs of appeal as it shall think fit, although such costs may exceed Ten Pounds.

Local Court, upon hearing of appeal, may state special case.

104. The Local Court of Adelaide, upon the hearing of any appeal, may state one or more special case or cases for the opinion of the Supreme Court, and the Supreme Court shall hear and decide such special case or cases according to the practice of the Supreme Court on special cases, and the Supreme Court shall make order as to costs of any special case as to the said Court shall appear just; and any

two

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PART V.

two or more Justices, or the Local Court of Adelaide, shall make an order in respect to the matters referred to the Supreme Court, in conformity with the certificate of the said Supreme Court, or of any Judge thereof ; which order of the Justices or Local Courts shall be enforced in manner provided for the enforcement of orders of Justices, under the said Ordinance No. 6 of 1850 ; and save as herein provided, no order or proceeding of any Special Magistrate or Justice, or of any Local Court, made under the authority of this Act, shall be appealed against, or removed by *certiorari*, or otherwise into the Supreme Court of the said province.

105. One moiety of all moneys received for penalties imposed for offences against this Act shall be paid to the informant, and the other moiety to the Treasurer on behalf of Her Majesty, Her heirs and successors, for the public uses of the said province, and in support of the Government thereof.

Appropriation of moneys.

106. No action, suit, or other proceeding shall be maintainable in any Court of the said province against any person who may have been a candidate at any election for or in respect of any costs or expenses whatsoever in or about or relating to such election.

No action against candidates for costs of expenses of election.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

Electoral Act.—1879.

THE SCHEDULES REFERRED TO.

THE FIRST SCHEDULE.

*Form of Electoral Rolls.*No. 1. Roll of Electors for the Electoral Division of
claim to vote at

who

No.	Christian and surname of each person at full length.	Place of abode.	Nature of qualification.	Where property affording qualification is situated.	Date of registration.	Remarks.

No. 2. Roll of Electors for the Electoral District of
claim to vote at

who

No.	Christian and surname of each person at full length.	Place of abode.	Profession or occupation.	Date of registration.	Remarks.

THE

Electoral Act.—1879.

THE SECOND SCHEDULE.

South Australia.—Electoral District of

To

Take notice, that you are hereby required to make known to every male person, of the age of 21 years and upwards, resident in your dwelling-house at the date of the receipt hereof, that they, and each of them, or you on their behalf, are to insert their names in the following Schedules, in order to entitle them or him to vote at elections of Members to serve in the Legislative Council or House of Assembly for the said province respectively; and you are further required to sign the declaration at foot, and to cause this notice, as soon as duly filled up and signed by yourself, to be delivered to me [residence] before the _____ day of _____

(Signed) _____ Collector under Electoral Act.
Dated this _____ day of _____

The undermentioned are the voting places appointed in this district:—

Chief voting place.....
Other voting places

No. 1.—*Schedule of Persons claiming to vote for Members of the Legislative Council.*

Christian and surname of each person at full length.	Place of abode.	Nature of qualification.	Where the property affording the qualification is situate.	Polling-place at which the elector will vote.

No. 2.—*Schedule of Persons claiming to vote for Members of the House of Assembly.*

Christian and surname of claimant at full length.	Place of abode.	Profession or occupation.	Polling-place at which the elector will vote.

Declaration.

I hereby declare that I have called the attention of all male persons usually resident in my dwelling-house to this notice, and I believe the above is a true return of all matters therein stated.

Dated this _____ day of _____
(Signed) A. B.,
(being the person to whom the above notice is addressed).

THE

Electoral Act.—1879.

THE THIRD SCHEDULE.

Notices of Claim.

No. 1.—LEGISLATIVE COUNCIL.

To the Deputy Returning Officer for the Division of

I hereby give you notice, that I claim to have my name inserted in the electoral roll for the Division of _____, in virtue of the under-mentioned qualification, and to vote at _____ in the said division.

Dated _____ day of _____ in the year one thousand eight hundred and _____
 (Christian and surname in full)
 (Place of abode)
 (Qualification)
 *(Where situate)
 (Division or district in which last registered)

QUALIFICATIONS.

1. Freehold, clear value of £50. 2. Registered leasehold of £20, with three years to run or right of purchase. 3. Occupying dwelling-house of clear annual value of £25.

* *N.B.—State fully where qualifying property is situate—in the country, give section; in towns, name of street.*

No. 2.—HOUSE OF ASSEMBLY.

To the Returning Officer of the District of

I hereby give you notice, that I claim to have my name inserted in the electoral roll for the District of _____, and to vote at _____ in the said district.

Dated at _____ day of _____ 18____
 (Christian and surname in full)
 (Place of abode)
 (Occupation)
 (Division or district in which last registered)

THE FOURTH SCHEDULE.

*Notice of Objection.**To the Returning Officer of _____ (and to the person objected to).*

I hereby give you notice that I object to the name of _____ of _____ [name and describe the person objected to as in the electoral roll], being retained on the electoral roll of the Electoral District [or Division] of _____

Dated this _____

(Signed) A. B., of [here state the place of abode of objector on the electoral roll.]

THE FIFTH SCHEDULE.

Electoral Act, 1879.

You are hereby required to appear before me at _____ at the hour of _____ o'clock in the _____ to show cause why your name should not be erased from the electoral roll for the District [or Division] _____ A. B., of _____ having given me notice that he objects to your name being retained thereon.

(Signed) C. D., Returning Officer for the District of _____

N.B.—In case you do not attend you will be liable to have your name erased without further notice.

THE

Electoral Act.—1879.

THE SIXTH SCHEDULE.

LEGISLATIVE COUNCIL.—

No. 1.

I [*here insert name, abode, and occupation, as described in roll*] have removed from the Division of _____, and am now a *bond fide* resident in the Division of _____, and I request you to remove my name from your roll, and grant to me a certificate of registration, according to form No. 2 in "The Electoral Act, 1879."

Dated this _____ day of _____, 18 ____ .
[*Signature and present address.*]

To _____ Esq.,
Deputy Returning Officer for the Division of _____

No. 2.

I, _____, Deputy Returning Officer for the Division of _____, do hereby certify that _____ has been registered on the electoral roll for the Division of _____, for six months, and his name still remains on the said roll.

Dated this _____ day of _____, 18 ____ .

No. 3.

1. I, _____, do hereby declare that I am the person named in the annexed certificate of _____, Deputy Returning Officer for the Division of _____

2. I have removed from the said Division of _____, and am now a *bond fide* resident in the Division of _____

3. I am desirous of being registered on the electoral roll for the Division of _____ and to vote at _____, and request the Deputy Returning Officer to register me as follows:—

No.	Christian and surname of each person at full length.	Place of abode.	Nature of qualification.	Where property affording qualification is situated.	Remarks.

QUALIFICATIONS.

1. Freehold, clear value of £50. 2. Registered leasehold of £20, with three years to run or right of purchase. 3. Occupying dwelling-house of clear annual value of £25.

N.B.—State fully where qualifying property is situate—in the country, give section; in towns, name of street.

THE SEVENTH SCHEDULE.

Certificate entitling elector to vote at any polling-booth.

Legislative Council.

I _____ Returning Officer for the Electoral Division of _____ hereby certify that _____ is entitled to vote at the election to be held for the Legislative Council on the _____ day of _____ at any polling-booth in the province on production of this certificate.

(Signed)

Returning Officer for the Division of _____

THE

Electoral Act.—1879.

THE EIGHTH SCHEDULE.

HOUSE OF ASSEMBLY.

No. 1.

I [*here insert name, abode, and occupation, as described in roll*] have removed from the District of _____, and am now a *bond fide* resident in the District of _____, and I request you to remove my name from your roll, and grant to me a certificate of registration, according to form No. 2 in "The Electoral Act, 1879."

Dated this _____ day of _____, 18 ____ .
 [Signature and present address.]

To _____ Esq.,
 Returning Officer for the District of _____

No. 2.

I, _____, Returning Officer for the District of _____, do hereby certify that _____ has been registered on the electoral roll for the District of _____ for six months, and his name still remains on the said roll.

Dated this _____ day of _____, 18 ____ .

No. 3.

1. I, _____ do hereby declare that I am the person named in the annexed certificate of _____ Returning Officer for the District of _____ of _____

2. I have removed from the said District of _____, and am now a *bond fide* resident in the District of _____

3. I am desirous of being registered on the electoral roll for the District of _____ and to vote at _____, and request the Returning Officer to register me as follows:—

No.	Christian and surname of each person at full length.	Place of abode.	Profession or occupation.	Remarks.

Electoral Act.—1879.

THE NINTH SCHEDULE.

Fees to be paid to Returning Officers.

	£	s.	d.
To the Returning Officers preparing and copying into books the lists to form new electoral rolls for Legislative Council and House of Assembly, and certified copies for printing, for each folio of seventy-two words	0	0	6
For adding to and correcting printed copies of rolls, and making and copying lists of objections; postage of same to places where they are to be exhibited; drawing out and sending by post notices of objection; including travelling expenses and all other services, not included in the above, connected with the amendment and preservation of the rolls. To the Returning Officers of Districts (per annum)	50	0	0
Attending Revision Courts	3	3	0
Clerk	1	1	0
To the Returning Officer for the province (per annum)	150	0	0
In addition to the above, when elections take place—			
Attending on day of nomination	2	2	0
Attending on day of voting	4	4	0
Travelling on each occasion, in addition to 1s. per mile	1	1	0
Attending the scrutiny and declaration, per diem	3	3	0
Hire or erection of booths, at per booth, a sum not exceeding (as per voucher)	5	0	0
Stationery, advertising, and all other expenses not included in the above	20	0	0
Substitutes taking votes	2	2	0
Voting and scrutiny clerks	1	1	0
Doorkeeper on day of voting	0	10	6
Conveyances of ballot boxes (as per vouchers)	—		
To Collectors—an amount to be fixed by the Governor.			

THE TENTH SCHEDULE.

We, the undersigned do hereby nominate A.B. of _____, as a candidate to serve in Parliament as a Member for the Legislative Council, or, at the case may be, of the House of Assembly, for the District of _____

Dated the _____ day of _____ 18 ____ .

[Names and residences of the proposers.]

I, A. B., of _____ consent to the above nomination, and to act if elected.

A. B.

THE ELEVENTH SCHEDULE.

Questions to be put to voter.

First—Are you the person whose name appears as A. B. in the electoral roll now in force for this electoral district [or division, being registered therein for property described to be situated in? here specify the street or place described in the electoral roll.]

Second—Have you already voted at the present election?

Third—Had you, at the time of being registered, the qualification for which your name now stands in the electoral roll for the Division of _____ [specifying in each case the particulars of the qualification as described in the electoral roll], and are you still possessed of the same qualifications? [or, Are you of the age of twenty-one years, and do you reside within the District of _____?]