



S U P P L E M E N T
TO THE
NEW SOUTH WALES
GOVERNMENT GAZETTE,

OF TUESDAY, MARCH 7, 1843.

Published by Authority.

THURSDAY, MARCH 9, 1843.

ANNO SEXTO

VICTORIÆ REGINÆ.

No. XVI.

*By His Excellency SIR GEORGE GIPPS, Knight,
Captain-General, and Governor-in-Chief of the
Territory of New South Wales, and its De-
pendencies, and Vice-Admiral of the same, with the
advice of the Legislative Council.*

An Act to provide for the division of the Colony of New South
Wales into Electoral Districts, and for the Election of
members to serve in the Legislative Council.

[23rd February, 1843.]

WHEREAS by an Act of the Imperial Parliament of Great Britain ^{Preamble.}
and Ireland, passed in the Fifth and Sixth Year of the Reign of
Her Majesty Queen Victoria, intituled, "*An Act for the Government of* ^{5 & 6 Victoria,}
"New South Wales and Van Diemen's Land," it was, amongst other ^{cap. 76.}
things, enacted, that there should be within the Colony of New South
Wales a Legislative Council, to be constituted in the manner and for the
purposes thereafter mentioned; and that the said Legislative Council
should consist of thirty-six members, twelve of whom should be ap-
pointed in the manner therein mentioned, and twenty-four of whom
should, from time to time, in the manner thereafter mentioned, be
elected by the inhabitants of the Colony; and whereas by the said Act
it was further enacted, that the Legislature now by Law established
within the said Colony of New South Wales, should, by ordinances to be
for

Certain
Counties to
form Electoral
Districts.

for that purpose made and enacted, in the manner and subject to the conditions now by Law required in respect of any ordinances made and enacted by the said Legislature, make all necessary provisions for dividing the parts of the said Colony within the boundaries of location into convenient Electoral Districts, and for appointing and declaring the number of members to be elected for each such District, and for the compilation and revision of lists of all persons qualified to vote at the elections to be holden within such Districts, and for the appointing of Returning Officers, and for the issuing, executing, and returning the necessary writs for such elections, and for taking the poll thereat, and for determining the validity of all disputed returns, and otherwise for ensuring the orderly, effective, and impartial conduct of such elections; provided that the District of Port Phillip, and the Towns of Sydney and Melbourne should be Electoral Districts, and that the District of Port Phillip should return at least five members, the Town of Sydney should return two members, and the Town of Melbourne should return one member; provided also, that, for the purposes of the said Act, the boundary of the District of Port Phillip, on the north and north-east, should be a straight line drawn from Cape Howe to the nearest source of the River Murray, and thence the course of that River to the eastern boundary of the Province of South Australia; and whereas it is expedient to fix the number of members to be returned to the said Legislative Council, for the District of Port Phillip, and otherwise to provide for the division of the Colony into convenient Electoral Districts, and for the several other matters in the said recited Act required: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, That from and after the passing of this Act, the District of Port Phillip shall return five members to serve in the Legislative Council, provided that no part of the Town of Melbourne shall, for the purposes of this Act, be taken to form part of the District of Port Phillip; and that the other parts of the said Colony, within the boundaries of location, shall be divided into Electoral Districts, for the purpose of returning members to serve in the Legislative Council, in manner following, that is to say;—all that part of the said Colony now known and called by the name of the County of Cumberland, shall be an Electoral District, and shall return two members to serve in the said Council, provided that no part of the City of Sydney, nor any part of the Towns of Parramatta, Liverpool, Campbelltown, Windsor, or Richmond, shall, for the purposes of this Act, be taken to form part of the said County of Cumberland; and that all that part of the Colony known by the name of the County of Northumberland, shall be an Electoral District, and shall return one member, provided that no part of the Towns of East Maitland, or West Maitland, or of Newcastle, shall, for the purposes of this Act, form part of the County of Northumberland; and that the County of Camden, the County of Argyle, the County of Durham, the County of Bathurst, the united southern Counties of St. Vincent and Auckland, the united south-western Counties of Murray, King, and Georgiana, the united Midland Counties of Cook and Westmoreland,

moreland, the united western Counties of Roxburgh, Phillip, and Wellington, the united northern counties of Gloucester, Macquarie, and Stanley, and the united north-western Counties of Hunter, Brisbane, and Bligh, shall respectively form Electoral Districts; and that every such Electoral District shall return one member to serve in the said Legislative Council.

II. And be it enacted, That the Town of Parramatta, in the County of Cumberland, the united Towns of Windsor, Richmond, Campbelltown, and Liverpool, in the said County of Cumberland, under the denomination of the Cumberland Boroughs, and the united Towns of East Maitland, West Maitland, and Newcastle, in the County of Northumberland, under the denomination of the Northumberland Boroughs, shall respectively form Electoral Districts; and that every such Electoral District shall return one member to serve in the said Legislative Council.

Certain
Towns to
form Electoral
Districts.

III. And whereas the boundaries of certain of the Counties hereinbefore mentioned have already been duly established by Letters Patent, under the Public Seal of the Colony, dated the twenty-sixth day of November, one thousand eight hundred and thirty-five, and proclaimed under the Hand and Seal of the Governor of the said Colony, under date the twenty-seventh day of November of the same year: Be it therefore enacted, That, for the purposes of this Act, the boundaries of the said Counties shall be deemed and taken to be the boundaries set forth in the said Letters Patent; and that the boundaries of the other Counties, not mentioned therein, shall be such as by the Governor shall be established for the purposes of this Act, by any Proclamation to be issued by him in that behalf, and published in the *New South Wales Government Gazette*.

As to bounda-
ries of Coun-
ties.

IV. And be it enacted, That the Mayor of the City of Sydney shall be the Returning Officer of the Electoral District of Sydney, unless he shall, within ten days previous to any election, signify to the Governor his desire to be excused from acting as such Returning Officer, on the grounds, either of his intending to become a candidate at such election, or of ill health, or inability to act; and in the event of his so signifying to the Governor his desire to be excused, or his inability to act, or in the event of the office of Mayor being vacant, it shall and may be lawful to the said Governor, by any writing under his Hand, and the Seal of the Colony, to appoint some other fit and proper person to be Returning Officer for the said Electoral District of Sydney.

Returning
Officer for the
Electoral
District of
Sydney.

V. And be it enacted, That the Mayor of Melbourne shall be the Returning Officer of the Electoral District of Melbourne, unless he shall, within ten days previous to any election, signify to the Superintendent of Port Phillip his desire to be excused, either on the grounds of his intending to become a candidate at such election, or of ill health, or inability to act; and in the event of his so signifying to the said Superintendent his desire to be excused, or his inability to act, it shall and may be lawful for the said Superintendent, by any writing under his Hand,

Returning
Officer for the
Electoral
District of
Melbourne.

Hand, to appoint some other fit and proper person to be Returning Officer for the said Electoral District of Melbourne.

Returning
Officers for
other Electoral
Districts.

VI. And be it enacted, That it shall and may be lawful for the Governor to appoint, by any writing under his Hand, and the Seal of the Colony, a fit and proper person to be the Returning Officer of each and every other Electoral District in the Colony, provided that the person so appointed be qualified to be an Elector of the Electoral District for which he shall act, and that his appointment be notified in the usual manner in the *Government Gazette* of the Colony; and that in case of death, sickness, or other accident disabling any Returning Officer from acting at any election, it shall be lawful for the Governor, at any time, to appoint one or more person or persons to act in the stead of such Returning Officer; and every appointment of a Returning Officer, made as aforesaid, shall be good and valid until such appointment shall be cancelled, and some other person appointed to be Returning Officer, by a writing under the Hand of the Governor, and Seal of the Colony.

Polling places.

VII. And be it enacted, That in the City of Sydney, and in the Town of Melbourne, each ward of the said City or Town shall be a polling place; and that each of the Towns which compose the Electoral Districts of the Cumberland and Northumberland Boroughs shall be a polling place; and that in the County of Cumberland the following places shall be polling places, that is to say;—the City of Sydney, the Town of Parramatta, the Town of Windsor, the Town of Campbelltown, the Village of Penrith, and the Town of Liverpool; and that in all other Electoral Districts, each of the places at which Petty Sessions are usually holden shall be a polling place, provided there be, at such place, a Clerk of the Bench; and also, that such other places, shall be polling places as shall be declared to be such by any Proclamation issued by the Governor fourteen days at least before the day of any election.

5 & 6 Victoria,
cap. 76, ss. 5,
6, & 7, recited.

VIII. And whereas, by the said recited Act, it was also, amongst other things, enacted, that the elective members should be chosen by the votes of the Electors, each of whom should be, either in his own right, seized of or entitled to an Estate of Freehold in possession in lands or tenements, situate within the District for which such vote is to be given, of the clear value of two hundred pounds sterling money at the least, above all charges and incumbrances in any way affecting the same, or a householder within such District, occupying a dwelling house of the clear annual value of twenty pounds sterling money at the least; and that no person should be entitled to vote at any such Election as aforesaid, unless he be of the full age of twenty-one years, and a natural born subject of the Queen, or should have been naturalised, or should hold letters of denization according to law; and that no person should be entitled to vote at any such election, who should have been attainted or convicted of any treason, felony, or infamous offence, within any part of Her Majesty's dominions, unless he should have received a free pardon, or one conditional on not leaving the Colony, for such offence, or should have undergone the sentence or punishment to which he should have been adjudged, for such offence; and that no person should be entitled

to

to vote at any such Election as aforesaid, unless he should have been in possession of the estate, or in occupancy of the house, by reason of which he is qualified to vote, for at least six calendar months next before the date of the writ for such Election, or in case a Registration of Electors should be established in the Colony, next before the last Registration of Electors in the District; nor should any person be entitled to vote at any such Election, unless at the time of such Election or Registration of Electors, as the case might be, he should have paid up all rates and taxes which should have become payable by him as owner in respect of such estate, or as occupier in respect of such occupancy, except such as should have become payable during three calendar months next before such Election or Registration respectively; and whereas it is expedient to form within every Electoral District a register of all persons entitled to vote at any election of a member or members of Council for such Electoral District: Be it enacted, That on or before the tenth day of March in every year, the Mayor of the City of Sydney, and the Mayor of the Town of Melbourne, shall appoint a person or persons to be called collector or collectors for each ward of the said Town and City; and such collector or collectors shall, between the said tenth day of March and the tenth day of April in every year, make out a list, to be called the Electoral List, according to the form of the Schedule to this Act annexed, marked A, of all persons entitled to vote in elections for Members of Council in respect to property within such ward, and shall sign such list, and deliver the same to the Town Clerk of the said City or Town; and each collector shall keep a true copy of the list so delivered by him, to be perused by every person without payment of any fee, at all reasonable hours; and the Town Clerk shall forthwith cause copies to be printed of all such lists delivered to him, and shall deliver a copy of any such list to any person requiring the same, on payment of a reasonable price for each copy, and shall cause a copy of the Electoral List of each ward to be fixed on some public and conspicuous building within the ward on every day during the week ending on the twentieth day of April in every year.

Collectors and
Electoral Lists
for Sydney and
Melbourne.

Schedule A.

IX. And be it enacted, That in all other Electoral Districts the Chief Constables of the different parts of the said Districts shall, for the purposes of this Act, be considered to be collectors, and shall, between the tenth day of March and tenth day of April in every year, make out Alphabetical Lists as aforesaid of all persons entitled to vote in the election of Members of Council within the respective Districts for which they act as Chief Constables, and shall deliver the said lists to the Clerks of the Benches for the Districts within which they, the said Chief Constables, act; and the said Chief Constables, and the said Clerks of Benches, shall do and perform, in respect to the said Electoral Districts, the duties respectively wherewith the Collectors and Town Clerks as aforesaid are hereinbefore charged in respect to the said City of Sydney and Town of Melbourne.

Collectors and
Electoral Lists
for other
Electoral
Districts.

X. And be it enacted, That whenever the Police Districts, for the ordinary duties of which such Clerks of Benches or Chief Constables have

Electoral Lists
where Police
Districts form

portions of two or more Electoral Districts, shall form portions of two or more Electoral Districts, such Chief Constables and Clerks of Benches, shall make separate lists for each portion of the Police District which may be comprised within a separate Electoral District.

Electoral Lists to be printed or fairly transcribed and hung up for Public Inspection by Clerks of Benches. XI. And be it enacted, That the Electoral Lists delivered to the different Clerks of Benches, shall be, by them, either printed or fairly and legibly transcribed, and hung up for the period aforesaid, of seven days, ending on the twentieth day of April in every year, at the Court House, in each Police District, and in such other conspicuous place or places as may, by the Magistrates in Petty Sessions assembled, be directed.

Claims of persons to have their names inserted on Electoral Lists. XII. And be it enacted, That any person whose name shall have been omitted in any such Electoral List, and who shall claim to have his name inserted therein, shall, on or before the twenty-second day of April, in every year, give notice thereof to the Town Clerk, or to the Clerk of the Bench, as the case may be, in the form of the Schedule to this Act annexed, marked B, or to the like effect; and any person whose name shall have been inserted in any Electoral List, may object to any other person, as not entitled to have his name retained in the said Electoral List; and any person so objecting shall, on or before the twenty-second day of April, in every year, give or cause to be given to the Town Clerk, or Clerk of the Bench, as the case may be, and also to the person objected to, or leave at the premises for which his name shall appear to be inserted in the Electoral List, notice thereof in writing, according to the form in the Schedule to this Act annexed, marked C, or to the like effect; and the Town Clerk, or Clerk of the Bench, shall include the names of all persons so claiming to be inserted on the Electoral List, in a list according to the form in the Schedule to this Act annexed, marked D; and a list of all persons objected to, in the form of the Schedule to this Act annexed, marked E; and shall cause copies of such several lists to be fixed on the outer doors or walls of the public or conspicuous buildings as aforesaid, during the eight days next preceding the first day of May, in every year; and the Town Clerk, or Clerk of the Bench, shall likewise keep a list of the names 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 of any fee, at all reasonable hours during the eight days (Sunday excepted,) next preceding the said first day of May, in every year; and shall deliver a copy of each of such lists to any person requiring the same, on payment of a sum not exceeding one shilling for each copy.

Courts for Revision of Electoral Lists in Sydney and Melbourne. XIII. And be it enacted, That in the City of Sydney and Town of Melbourne, the Alderman and Assessors of each Ward shall hold an open Court within such Ward, for the purpose of revising the Electoral Lists thereof; such revisions to take place at such time as the said Alderman shall appoint between the first day of May inclusive, and the fifteenth day of May inclusive, in each and every year, they having

having first given ten clear days' notice of the holding of such Court, such notice to be placed on the outer doors, respectively, of some public and conspicuous building within the said Ward; and the Town Clerk, or person acting as such, shall, at the opening of the Court of each Ward, produce the Lists relating thereto, and a copy of the Lists of the persons so claiming, and of the persons so objected to, made out in the manner aforesaid; and all Collectors of Rates, and persons acting as Collectors under this Act, shall, on being thereto summoned, attend the Court, and shall answer upon oath all such questions as the Court may put to them, or any of them, touching any matter necessary for revising the Electoral Lists; and the said Alderman shall insert in such Lists, respectively, the name of every person who shall be proved, to the satisfaction of the Court, to be entitled to be inserted therein, and shall retain on the said Lists the names of all persons to whom no objection shall have been duly made, and shall also retain on the said Lists the name of every person who shall have been objected to by any person, unless the party so objecting shall appear by himself, or by some one on his behalf, in support of such objection; and when the name of any person inserted in either of the said Lists shall have been duly objected to, and the person objecting shall appear by himself, or by some one on his behalf, in support of such objection, the Court shall require proof of the qualification of the person so objected to; and in case the qualification of such person shall not be proved to the satisfaction of the Court, the said Alderman shall expunge the name of every such person from the said Lists, and shall also expunge therefrom the name of every person who shall be proved to the Court to be dead, or to have become disqualified or incapacitated; and shall correct any mistake, or supply any omission which shall be proved to the Court to have been made in any of the said Lists, in respect of the name or place of abode of any person who shall be included therein, or in respect of the local description of his property: Provided always, that no person's name shall be inserted by the said Alderman in any such Lists, or shall be expunged therefrom, except in the case of death, unless notice shall have been given, as is hereinbefore required, in each of the said cases: Provided also, that no person who has declared himself a Candidate for election for the City of Sydney or Town of Melbourne, shall act as Alderman or Assessor within the same for any of the purposes of this Act.

XIV. And be it enacted, That every Alderman holding any Court under this Act, for the revision of the said Lists, shall have power to adjourn the same from time to time, provided that no such adjourned Court shall be held beyond the said fifteenth day of May; and the said Alderman shall have power to require any person having the custody of any book, containing any rate made for the said City, during that or the preceding year, to produce the said book, and allow the same to be inspected at any Court to be held for the revision of the Electoral Lists; and the said Alderman shall have power to administer an Oath or Oaths as well to the Town Clerk and to the Collectors, as to all persons claiming to be inserted in, or making objection to the omission or insertion of any

Power to the Alderman of adjourning any Court, ordering the production of Books, and of administering Oaths.

any name in any of the said Lists, and to all persons objected to in any such Lists, and to all persons claiming to have any mistake in any such Lists corrected, and to all witnesses who may be tendered or examined on either side, by which Oath the person under examination shall be required to state the truth, the whole truth, and nothing but the truth, relating to the matter in hand, and shall be liable, if he swear falsely in answer to any lawful question put to him at such examination, to be prosecuted for perjury; and the said Alderman shall, in open Court, write his initials against the names struck out, or inserted, and against any part of the said Lists in which any mistakes shall have been corrected, and shall sign his name to every page of the several Lists so settled.

Revised Lists
to be kept by
the Town
Clerk.

XV. And be it enacted, That the Electoral Lists of each Ward, so revised and signed as last aforesaid, shall be delivered by the said Alderman to the Town Clerk, who shall keep the same, and shall cause each of the said Electoral Lists to be fairly and truly copied into an Alphabetical List, in books to be by him provided for that purpose, the Electoral List of each Ward being kept separate, with every name therein numbered, beginning the numbers from the first name, and continuing them in a regular series to the last name; and shall cause such books to be completed on or before the twenty-second day of May in every year; and shall deliver such books, together with the lists, at the expiration of his Office, to the person succeeding him in such Office; and every such book, in which the said Electoral Lists shall have been copied, shall be the Roll of the Electors of the several Wards of the City or Town entitled to vote, after the passing of this Act, in the choice of Members of Council for the said City or Town, at any Election which may take place in the said City or Town between the first day of June inclusive in the year wherein such Electoral Lists shall have been made, and the first day of June in the succeeding year.

Copies of the
Electoral Roll
to be written
or printed for
distribution.

XVI. And be it enacted, That the Town Clerk shall cause copies of the Electoral Roll in every year to be written or printed, and shall deliver to the Alderman of each Ward, one copy of the Electoral List of such Ward, and further copies to all persons applying for the same, on payment of a reasonable price for each copy.

Courts for the
Revision of
Lists in other
Electoral
Districts.

XVII. And in order to provide for the revision of the Electoral Lists in all Electoral Districts save those of the City of Sydney and the Town of Melbourne, Be it enacted, That Courts of Petty Sessions shall be Courts for the revision of the said lists, and that such Courts shall be held at each place of Petty Sessions, having a Clerk of the Bench, in the Colony, at the times and in the manner that Courts are hereinbefore directed to be held for the revision of the Electoral Lists in the several Wards of the City of Sydney, and Town of Melbourne: Provided that in such Courts of Petty Sessions the Police Magistrate, if there be one, shall perform all and every thing which is hereinbefore directed to be performed by the Alderman of the Ward in the City of Sydney, or Town of Melbourne, or if there be no Police Magistrate, then the senior Magistrate resident in the District, who shall be present at any Court of Petty Sessions held for the purpose of revising the said Lists, shall perform

form the same; and the other Magistrates resident in the Police District wherein such Court of Petty Sessions shall be held, and attending the same, shall do every thing which is hereinbefore directed to be performed by the Assessors in any Ward within the City of Sydney or Town of Melbourne; and the Clerk of the Bench of every Police District shall, as far as may be necessary, perform the duties which are hereinbefore directed to be performed by the Town Clerk of the City of Sydney or Town of Melbourne: Provided, however, that it shall not be necessary for any Clerk of a Bench to cause any List to be printed, unless he shall be directed so to do by the Magistrates in Petty Sessions assembled, but that it shall be sufficient to have such Lists fairly copied or transcribed; and provided also, that no person who has declared himself a candidate for Election in any Electoral District, shall act as a Magistrate at any Petty Sessions holden for the purposes of this Act, within the district for which he shall have so declared himself a candidate: Provided further, that in the event of a deficiency of Magistrates, the Governor may appoint other persons to perform any of the duties herein directed to be performed by Magistrates in Petty Sessions assembled.

XVIII. And be it enacted, That no Elector claiming to register his vote in any Electoral District, shall be obliged to appear in person to make proof of the nature and sufficiency of his qualification, unless required by the Court of Petty Sessions at which he shall apply to be registered, to attend in person: Provided however, that if such personal attendance be rendered requisite on the application of any party objecting to a claimant's right to register his vote, such party, if his objection be disallowed, shall defray such expenses as the Court shall award for claimant's attendance, which expenses so awarded shall be recoverable in any Court of competent jurisdiction in which the party entitled thereto shall sue for the same.

Personal attendance of Electors when required to prove Qualification to vote.

XIX. And be it enacted, That in all Electoral Districts, except those of Sydney, and Melbourne, the Clerks of the different Benches shall, on or before the first day of June in every year, deliver the several Electoral Lists revised in the manner hereinbefore directed, to the Returning Officer of the said District, who shall cause a general Alphabetical List of the Electors of the whole Electoral District to be fairly transcribed or printed with as little delay as possible, and such general List shall be the Electoral List or Roll of Electors entitled to vote in each respective Electoral District, at all Elections that may take place of Members of the Legislative Council, between the first day of June in the year wherein such Electoral Lists shall have been prepared, and the first day of June in the year next ensuing.

Revised Lists for other Districts.

XX. And be it enacted, That writs for the Election of Members to serve in the Legislative Council, for the said Electoral Districts, shall be issued by the Governor of New South Wales, directed to the Returning Officer of each District, in which Writs shall be named the day of nomination for such Elections, and in the event of such Elections being contested, the day for taking the Poll at the different polling places, and also the day on which such Writs shall be made returnable to the said Governor:

Writs to be issued by the Governor and to be returnable to him.

Governor : Provided always, that no such Writs shall be dated or issued less than ten nor more than thirty days previous to the days respectively named therein for the holding of the Elections ; and that the day on which the Writ is to be returnable shall not be fixed for any place in the centre or middle District of the Colony later than fourteen days, nor for any place in the Port Phillip or Moreton Bay Districts later than twenty-eight days after the holding of such Election.

Form of
Writs.

XXI. And be it enacted, That all Writs to be issued for the Election of Members of Council under this Act, shall be framed in any manner and form which may be necessary and sufficient for carrying the provisions of this Act into effect.

Booths may be
erected or
hired for
taking the
Poll.

XXII. And be it enacted, That at every Election in any polling place, the Returning Officer, if it shall appear to him expedient for taking the Poll at such Election, may cause booths to be erected, or rooms to be hired and used as such booths, in one place, or in several places at each polling place, as occasion may require ; and the same shall be so divided and allotted into compartments, as to the Returning Officer shall seem most convenient ; and the Returning Officer shall appoint a Clerk to take the Poll at each compartment, and shall, before the day fixed for the Election, if there be a contest, cause to be furnished for the use of each booth or polling place, a copy of the Electoral List of each District, and shall, under his hand, certify such copy to be true.

Where Elec-
tors to vote.

XXIII. And be it enacted, That in the City of Sydney and Town of Melbourne, each and every Elector shall be required to vote at the polling place for the Ward wherein the property shall be situated in respect to which his name shall stand on the Electoral Roll, but that the registered Electors of other Electoral Districts may vote at any polling place appointed for the Electoral District to which they belong, whether such polling place be situate within their Electoral District or not.

Polls for
different
Electoral
Districts may
be taken at the
same place.

XXIV. And be it enacted, That nothing in this Act contained shall be construed to prevent the taking of Polls for different Electoral Districts at the same polling place : Provided however, that when Polls for two or more Electoral Districts shall be taken at the same polling place, separate Booths or Rooms shall be appointed for each separate Electoral District, and that a Deputy, and such Polling Clerk or Clerks as may be necessary, shall be appointed for each such Room or Booth, by the Returning Officer of the Electoral District to which such Room or Booth may be allotted, and that the name of such Electoral District be affixed on the most conspicuous part of the said Room or Booth.

Returning
Officer to
preside at one
polling place
and appoint
Deputies to
preside at the
others.

XXV. And be it enacted, That the Returning Officer of each Electoral District shall preside at one polling place within or allotted to his District ; and that he may appoint a Deputy to act for him, and take the Poll at each of the other polling places : Provided that such Deputy be appointed by a writing under the hand of the said Returning Officer, and such writing be posted up at the Court House of the Police District within which the said polling place may be situate, at least seven days before the day of Election : Provided also, that in the Electoral Districts

of

of Sydney and Melbourne, the Aldermen of the different Wards shall be the Deputies of the Returning Officer, unless prevented by illness or other adequate cause, in which case the Mayor of Sydney or Melbourne, as the case may be, shall appoint a Deputy from among the Councillors belonging to the ward of the Alderman so unable to act.

XXVI. And be it enacted, That 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 Poll, the Returning Officer, or the Deputy of any Returning Officer, shall not, for such cause, terminate the business of such nomination, nor finally close the Poll, but shall adjourn the nomination or the taking the Poll at the particular polling place or places at which such interruption or obstruction shall have happened, until 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 Officer or his Deputy shall again proceed with the business of the nomination, or with the taking the Poll, as the case may be, at the place or places 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 Poll shall be regulated accordingly; and any day whereon the Poll shall have been so adjourned shall not, as to such place or places, be reckoned the day of Polling at such Election, within the meaning of this Act; and whenever the Poll 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 Poll, or make Proclamation of the Member or Members chosen, until the Poll so adjourned at such place or places as aforesaid shall have been finally closed, and the Poll Books delivered or transmitted to such Returning Officer.

Adjournment
of Nomination
or of Poll in
case of Riot.

XXVII. And be it enacted, That the Returning Officer of each Electoral District shall endorse on the writ the day on which he received it; and that within four days from the date of his receiving it, he shall give public notice of the day of nomination, which shall be the day on which the Election is directed by the writ to be holden.

Returning
Officer to
endorse the
Writ.

XXVIII. And be it enacted, That on the day of nomination, which shall be on the day of Election named in the writ, the Returning Officer shall preside at a meeting to be holden at noon, at the chief polling place of each Electoral District, and shall declare the purpose for which such meeting is held; and if there be at such meeting no more Candidates proposed than the number of Members to be returned, the Returning Officer shall declare such Candidate or Candidates to be duly elected, and make his return accordingly; and that in the event of there being more Candidates than the number to be elected, 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 return the same accordingly,

Mode of pro-
ceeding at
Election.

unless

unless a Poll be demanded by some of the Candidates, or by not less than six electors on his behalf, and on such demand being made for a Poll, the polling shall commence, at the different polling places for the District, as nearly as may be at nine o'clock in the forenoon of the day appointed by the Governor in the writ for taking the Poll at the different polling places, and no Poll shall be kept open later than four of the clock in the afternoon.

Elections to be before Returning Officers and their Deputies. Hours when Elections to commence and terminate.

Manner of Voting.

No inquiry of a Voter except as to his identity—whether he has voted before on the same Election, and as to qualification.

Form of questions to be put as to these points.

Punishment for false answer.

Oath to be administered if required.

XXIX. And be it enacted, That the Election of Members of Council at each polling place shall be held before the Returning Officer or his Deputy, and the voting at every such Election shall commence at nine o'clock in the forenoon, and shall finally close at four o'clock in the afternoon of the same day, and shall be conducted in manner following, that is to say, every Elector entitled to vote in the Election of Members of Council may vote for any number of persons not exceeding the number of Members then to be chosen, by delivering to the said Returning Officer, or his Deputy, a voting paper, containing the christian names and surnames of the persons for whom he votes, such paper being previously signed with the name of the Elector voting, and with the name of the place in which the property for which he appears on the Electoral Roll is situated.

XXX. And be it enacted, That no enquiry shall be permitted at any Election as to the right of any person to vote, except only as follows, that is to say, that the Returning Officer or his Deputy, shall, if required by any two Electors entitled to vote in the same Electoral District, put to any Voter at the time of his delivering in his voting paper, and not afterwards, the following questions, or any of them, and no other :—

FIRST.—Are you the person whose name is signed as AB to the voting paper, now delivered in by you ?

SECOND.—Are you the person whose name appears as AB in the Electoral Roll now in force for this Electoral District, being registered therein for property described to be situated in (*here specify the street or place described in the Electoral Roll.*)

THIRD.—Have you already voted at the present Election ?

FOURTH.—Have you the same qualification for which your name was originally inserted in the Electoral Roll for the District of (*specifying in each case the particulars of the qualification as described in the Register*)?

And no person required to answer any of the said questions, shall be permitted or qualified to vote until he shall have answered the same ; and if any person shall wilfully make a false answer to any of the questions aforesaid, he shall be deemed guilty of a misdemeanor, and may be indicted and punished accordingly ; and the Returning Officer or his Deputy, shall, if required, on behalf of any candidate or his agent, at the time aforesaid, administer an oath, or in case of a Quaker or Moravian, an affirmation, to any Voter, in the following form, that is to say :—

“ You do swear (or being a Quaker or Moravian do affirm) that
“ you are the same person whose name appears as A D on the Register
“ now in force for the Electoral District of, (as the case
“ may be.)

“ So help you GOD.”

And

And no Elector shall hereafter, at any such Election, be required to take an oath or affirmation, except as aforesaid, either in proof of his freehold or of his residence, age, or qualification, or right to vote, any law or statute, local or general, to the contrary notwithstanding; and no person claiming to vote at any such Election, shall be excluded from voting thereat, except by reason of its appearing to the Returning Officer or his Deputy, upon putting such questions as aforesaid, or any of them, that the person so claiming to vote is not the same person whose name appears on such Register as aforesaid, or that he has previously voted at the same Election, or that he has not the same qualification for which his name was originally inserted in such Register, or except by reason of such person refusing to take the said oath or make the said affirmation, or to take or make the following oath or affirmation against bribery.

“ I, A B, do swear (or being one of the people called Quakers, ^{Bribery oath to be administered if required.}
 “ I, A B, do solemnly affirm) I have not received, or had, by myself,
 “ or any person whatsoever in trust for me, or for my use and benefit,
 “ directly, or indirectly, any sum or sums of money, office, place of
 “ emolument, gift or reward, or any promise or security for any money,
 “ office, employment, or gift, in order to give my vote at this Election.
 “ So help me GOD.”

XXXI. And be it enacted, That each Deputy Returning Officer shall immediately on the close of the Poll, collect and seal up all the voting papers which have been taken at the polling place whereat he presided, and shall, with the least delay possible, deliver or cause the same to be delivered, to the Returning Officer of the Electoral District. ^{Deputies to seal Voting Papers and deliver them forthwith to Returning Officers.}

XXXII. And be it enacted, That the Returning Officer of each Electoral District shall, at the place of nomination, and as soon as may be practicable after the Election shall have been held, openly declare the general state of the Poll at the close of the Election, as the same shall have been made up by him from the voting papers kept at the several polling places; 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, he shall by his Casting Vote or Votes, decide which of the same Candidates shall be elected: ^{Names of persons elected to be declared by Returning Officer.}
 Provided however, that no Returning Officer shall vote at any Election for the Electoral District of which he is the Returning Officer, except in the case of an equality of votes as aforesaid: ^{Returning Officer not to Vote except in case of equality of Votes.} Provided also, that it shall and may be lawful for any Alderman of the City of Sydney, and of the Town of Melbourne respectively, not being the Returning Officer thereof, and for the Deputy of any Returning Officer in any other Electoral District, to vote at any Election for the Electoral District, in like manner as if he had not been appointed and acted as such Deputy.

XXXIII. And be it enacted, That the name or names of the person or persons so elected, shall be inserted in or endorsed on the Writ by the Returning Officer, and the Writ returned to the Governor within ^{Return of Writs with names of elected persons endorsed thereon.}
 the

the time by which, according to the provisions of this Act, the same may be returnable.

Voting Papers
to be sealed
and transmit-
ted with writ to
the Governor.

XXXIV. And be it enacted, That all voting Papers shall be sealed up by the Returning Officer, and transmitted with the Writ to the Governor.

Voting Papers
not to be
rejected for
want of form.

XXXV. And be it enacted, That no voting paper shall be rejected by the Returning Officer for mere want of form, provided that the name and designation of the party signing the paper, and the name or names of the party or parties contained in it, be intelligibly expressed, and in a manner to be commonly understood.

Contested
Elections.

XXXVI. And whereas it is expedient and necessary to provide a Court for the trial of any complaints which may be made against the validity of any Returns made by the Returning Officers of the several Electoral Districts created by this Act: Be it enacted, That for the purpose of forming such Court, the Governor of the Colony shall, within three days after the first meeting of the said Legislative Council, to be constituted as aforesaid, name two persons to be members of the said Court—such two persons not being members of the said Council; and that also, within three days after the said first meeting of the said Council, the Council shall elect, out of its own Body, two persons to be members of the said Court; and that also, within the same period, the Chief Justice of the said Colony shall nominate one person to be President of the said Court, who shall be a Barrister of England or Ireland, or an Advocate of Scotland, of at least five years standing.

Nomination of
Members of
Court for the
Trial of con-
tested Elec-
tions.

Proceeding
where Mem-
bers shall not
be nominated
within the time
prescribed.

XXXVII. And be it enacted, That if the said Governor shall fail to nominate the two members as aforesaid within the said three days, the right of nomination of the said two members to be named by the Governor may at any time afterwards be exercised by the said Council according to the majority of their votes; and that if the said Council or the said Chief Justice shall fail to elect or nominate the said other two members and the President of the said Court, within the said three days, such other two members and such President may be nominated at any time afterwards by the said Governor.

Nomination of
Members of
Court to
supply
vacancies.

XXXVIII. And be it enacted, That if, after the full number of the Court shall have been completed, any Member shall be incapacitated to attend a meeting of the Court by reason of death, sickness, or any other impediment, his place shall be supplied by a person nominated for that purpose by the person or the authority whereby the Member so dying, or so rendered unable to attend, was nominated, or in default of such nomination, by the Governor.

Record of
nomination of
Members to
be proof of
proper consti-
tution of
Court.

XXXIX. And be it enacted, That the record of the nomination or election of the said Members of the said Court, shall be entered by the Clerk of the Council on the proceedings of the Council; and that proof of such entry having been made, shall be sufficient authority for the proper constitution of such Court.

Court not to
proceed to
business unless
convened by
the Governor.

XL. Provided however, and be it enacted, That the said Court shall not proceed to any business unless convened by order of the Governor, nor until each Member comprising it shall take the following oath

oath, which oath shall be administered by the President to each of the Members, and afterwards by any Member to the President:—

“ I, A B, do swear, 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 Court.

“ So help me GOD.”

XLI. And be it enacted, That the Court thus constituted shall have power to enquire into all cases which may be brought before it by the Governor respecting disputed Returns of Members to serve in the said Legislative Council, 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 Court.

XLII. And be it enacted, That in the trial of any complaints as aforesaid, the Members of the said Court 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.

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

XLIII. And be it enacted, That the said Court shall have power to adjourn its sitting from time to time as in its discretion it may think proper, provided that the interval of adjournment shall not in any instance exceed two days, and that the said Court shall be competent to regulate the form of its own proceedings, but that such proceedings shall in no one case extend beyond the period of five sitting days; and that if no decision be adopted within five sitting days, 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 a full Court, shall be final and conclusive without appeal.

Court may regulate the form of its own proceedings.

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

XLIV. And be it enacted, That the Court shall not have power to enquire into the correctness of the Register of any Electoral District, or into the qualification 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 Register to be correct.

Restricting enquiries by Court to identity of voters, and propriety of admission or rejection of votes.

XLV. And be it enacted, That the President of the Court shall be paid five guineas for each day the said Court shall sit, the other Members serving gratuitously; and that the said sum of five guineas per diem be defrayed, in the first instance, by the Candidate or other party presenting a petition against the return, who shall be entitled to recover that amount, and any other costs or expenses that may be awarded to him by the Court, under the hand of the President, by action of debt, from the Candidate against whose return the petition shall have been presented, if he shall succeed in setting aside the return, otherwise all such costs, charges, and expenses, must devolve on the petitioning Candidate, or other party petitioning against the return.

Remuneration to President of Court.

Expenses—by whom payable.

XLVI.

Complaints of
undue returns
to be by Peti-
tion to the
Governor.

XLVI. And be it enacted, That all complaints of the undue return of Members to serve in the said Legislative Council, shall be addressed in the form of a petition to the Governor; and that no petition shall be noticed, nor any proceedings had thereon, unless it shall have been addressed to the Governor 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 list of Electors; and no petition shall be noticed which shall not be received by the Governor within twenty-one days from the day of Election, if proceeding from any part of the middle district of the said Colony, or within thirty-six days, if from either the Northern or Southern District.

Petitions to be
referred to
Court by Go-
vernor, and co-
pies presented
to the Council.

XLVII. And be it enacted, That the Governor, within ten days after any such petition shall have been duly received by him, if the Legislative Council be then sitting, or if the Council be not then sitting, within ten days after its next meeting following the receipt of the said petition, shall cause the same to be referred to the Court above-mentioned, and cause a copy of the same to be at the same time presented to the said Legislative Council.

Proceeding of
Court on Pe-
titions.

XLVIII. And be it enacted, That the said Court, in hearing and deciding on the merits of every such petition, shall be guided by the principles of good faith and equity, and shall receive or reject, at their discretion, any evidence that may be tendered to them; and shall have power to compel the attendance of witnesses, and to examine them on Oath: and if the said Court shall declare that any person was not duly elected, who was returned as elected by the Returning Officer of any Electoral District, the person so declared to have been not duly elected shall cease to be a Member of the Council; and if the said 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 Council, and take his seat accordingly; and if the said Council shall declare any Election to have been absolutely void, it shall be lawful for the Governor, on the same being certified to him by the President of the Court, to issue a new Writ for the holding of another Election, such Writ to be issued within ten days after such certificate shall have been made to the Governor.

What shall be
deemed acts of
Bribery.

XLIX. And for the prevention of bribery or corruption at any Election: Be it enacted, That from and after the passing of this Act, all and each of the following acts shall be deemed and taken to be acts of bribery and corruption on the part of any Candidate, whether committed by such Candidate, or by any agent authorised to act for him;—that is to say, the giving of money, or any other article whatsoever, cockades included, to any Elector, with a view to influence his vote, or the holding out to him any promise or expectation of profit, advancement, or enrichment in any shape, in order to influence his vote, or making use of any threat to any voter, or otherwise intimidating him in any manner with a view to influence his vote; the treating of any voter, or the supplying him

7 & 8 Geo. IV.
cap. 37, s. 2.

him with meat, drink, lodging, or horse or carriage hire, or conveyance by steam or otherwise, whilst at such Election, or whilst engaged in coming to or going from such Election; the payment to any Elector of any sum of money for acting or joining in any procession during such Election, or before or after the same; the keeping open or allowing to be kept open, any public house, shop, booth, or tent, or place of entertainment, whether liquor or refreshment of any kind be distributed at such place of entertainment or not; the giving of any dinner, supper, breakfast, or other entertainment at any place whatsoever by a Candidate, to any number of persons with a view of influencing their votes.

L. And be it enacted, That the commission of any one of the above-mentioned acts shall, on proof thereof, by the decision of the above-mentioned Court, be held to render void the Election of the person committing such act, and to disqualify him from sitting and voting in the said Legislative Council, during the whole period that may intervene between the commission of the same, and the time of the next General Election.

Any of the above acts to disqualify.

LI. And be it enacted, That 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, power, or consent.

Principals bound by acts of their Agents.

LII. And be it enacted, That if any of the above-mentioned acts hereby declared to be acts of bribery and corruption, shall be committed by any person not the authorised agent of any Candidate or Member, the person so committing or having committed them, shall be deemed guilty of a misdemeanor, and may be indicted for such act or acts, as for a misdemeanor, in the Supreme Court of the Colony, or in any Court of Quarter Sessions, and punished with fine not exceeding two hundred pounds, or imprisonment not exceeding six calendar months, on the plaint of Her Majesty's Attorney General, or of any registered Elector of the District wherein such act of bribery or corruption shall be alleged to have been committed.

Acts of Bribery by persons not being the authorised agents of Candidates punishable as a Misdemeanor.

LIII. And be it enacted, That if any person who shall have or claim to have any right to vote in any Election of a Member or Members of Council for any Electoral District, shall directly or indirectly ask, receive, or take, any money or other reward by way of gift, employment, or other reward whatsoever, for himself or any of his family or kindred, to give his vote, or to abstain from giving his vote, in any such Election, or if any person, by himself, his friends, or by any person employed by him, shall by any gift or reward, or by any promise and agreement or security for any gift or reward, corrupt or procure any person or persons to give his or their vote or votes in any such Election, or to abstain from giving the same, such person shall for such offence forfeit the sum of fifty pound sterling, to the person who shall first sue for the same, to be recovered with full costs by action of debt, bill, plaint, or information in the Supreme Court at Sydney, or at Port Phillip, respectively, or in any Circuit Court of the Colony.

Penalty on Persons receiving or offering reward for voting or withholding vote.

LIV. And be it enacted, That every person who shall poll a

Punishment for voting
second

twice or per-
sonating
voters.

second time, or offer to poll a second time at the same Election, for any Electoral District, or who shall personate any other person for the purpose of polling at such Election, shall be guilty of a misdemeanor, and upon being thereof convicted shall be imprisoned for any term not more than two years, at the discretion of the Judge or Judges who shall try such person.

Payment of
expenses in-
curred at first
Elections.

LV. And be it enacted, That all necessary and reasonable expenses which shall be incurred by any person or persons, appointed under and by virtue of this Act, for the purpose of carrying into effect the several provisions of the said Act, so far as relates to the Election and return of Members for the said Districts, shall at the first Elections to be held after the passing of this Act, if allowed by the Governor, be paid and discharged out of the Public Funds of the Colony, by Warrants under the Hand of the Governor, directed to the Treasurer of the Colony.

Power given
to the
Governor in
the event of
impediments
of a formal
nature.

LVI. And whereas divers of the Electoral Districts above-named are far distant from the seat of Government, and of great extent, and unforeseen difficulties or delays may arise in carrying into effect the several provisions hereinbefore mentioned, in regard to the Elections for the said Districts: Be it therefore enacted, That no Election for any of the said Districts shall be held to be void in consequence, solely, of any such delay in the holding of such Election at the time appointed, or in the return of the Writ, or of any impediment of a mere formal nature: Provided that the validity of such Election shall be declared by the Governor, with the advice of the Executive Council, within thirty days from the day on which such Election was held or ought to have been held: Provided also, that within the period of twenty days, before or after the day appointed for the holding of any Election, it shall be lawful for the said Governor, with the advice of the said Executive Council, to extend the time allowed for the holding of such Election, or for the return of the Writ issued for the same, and to 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 to supply any deficiency that may otherwise affect the same: Provided further, that any measures, so adopted by the Governor, with the advice of the Executive Council, shall be duly notified by Proclamation in the *New South Wales Government Gazette*.

Council may
proceed to
business when
summoned
when there are
not more than
two members
deficient by the
non-return of
writs.

LVII. And whereas in consequence of the great extent of the Territory of New South Wales, delays may occur in the return of Writs from some parts of the same, and by the non-return of such Writ or Writs the number of the Council may not be completed on the day whereon it may be summoned to meet for the dispatch of business, and it is expedient to remove doubts which might otherwise arise as to the power of the said Council in its incomplete state to proceed to business: Be it enacted, That notwithstanding the non-return of any Writs on or before the day whereon such Writs are returnable, the Council shall be competent to proceed to business if duly summoned thereto, and provided the number of Members deficient in consequence of the non-return of such Writs be not greater than two.

LVIII.

LVIII. And be it enacted, That it shall and may be lawful for the Governor to appoint such additional Officers in any Electoral District as may be necessary to complete the registration of Voters in such District, or to take the Poll in the same, and to assign to the persons so appointed such remuneration for their services as to the said Governor may seem proper.

Governor may appoint additional Officers and order remuneration to them.

LIX. And be it enacted, That the said Governor shall and may have power to delegate to any other person the performance of any act or thing which by this Act he is empowered to perform : Provided such delegation be made under his Hand and the Seal of the Colony, and be duly announced by Proclamation in the New South Wales *Government Gazette*.

Powers of Governor may be given or be delegated to another.

LX. And be it enacted, That any and every person who may, under the provisions of this Act, be appointed a Returning Officer, or Deputy Returning Officer, or appointed to perform any other duty under this Act, shall before he enter on the performance of any duty under the Act, make and subscribe the following declaration :—

Declaration be made by Officers before entering on duties.

“ 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.”

LXI. And be it enacted, That if any Returning Officer, or any Deputy Returning Officer, after having accepted office as such, or any Mayor, Alderman, Assessor, or Police Magistrate, shall neglect or refuse to perform any of the duties, which, by the provisions of this Act he is required to perform; every such Returning Officer, Deputy Returning Officer, Mayor, Alderman, Assessor, or Police Magistrate, shall, for every such offence, forfeit and pay any sum not less than fifty nor exceeding two hundred pounds, and in like manner, if any Town Clerk, Clerk of a Bench, Chief Constable, or any other Officer or person shall neglect or refuse to perform any of the duties, which by the provisions of this Act he is required to perform, every such Town Clerk, Clerk of a Bench, Chief Constable, or other Officer or person, shall, for every such offence, forfeit and pay any sum not less than twenty, and not exceeding fifty pounds; the said penalties to be recovered, with full costs of suit, by any person who shall sue for the same within three calendar months after the commission of such offence, by action of debt or on the case in the Supreme Court of New South Wales; and the money so recovered, shall, after payment of the costs and expenses attending the recovery thereof, be paid and apportioned as follows, that is to say, one moiety thereof to the person so suing, and the other moiety thereof to Her Majesty for the public uses of the Colony.

Penalty on Officers refusing or neglecting duty.

Recovery of Penalties. Appropriation of Penalties.

LXII. And be it enacted, That the before-mentioned declaration may be made before any Justice of the Peace, acting for the whole or any portion of the Territory of New South Wales; and the Justice before whom such declaration may be made, is hereby required to transmit the same, by the first convenient opportunity, to the Colonial Secretary of New South Wales.

Declaration may be made before any Justice, who is to transmit the same forthwith to the Colonial Secretary.

LXIII.

Where matters
to be done fall
on a Holiday.

LXIII. And be it enacted, That when any matter or thing shall be directed by this Act to be performed on a certain day, and that day happen to be Sunday, Good Friday, or Christmas Day, the said matter or thing shall be performed on the next succeeding day.

Application of
the words
"Governor"
and "Super-
intendent of
Port Phillip."

LXIV. And be it enacted, That whenever the word "*Governor*" is used in this Act, the same shall be held to mean the Governor or person administering the Government for the time being; and whenever the words "*Superintendent of Port Phillip*" are used, the same shall be held to mean the Superintendent or Chief Officer of the Government resident in the said District for the time being.

GEORGE GIPPS,
Governor.

*Passed the Legislative Council, this
twenty-third day of February,
one thousand eight hundred
and forty-three.*

FRANCIS L. S. MEREWETHER,
Clerk of Councils.

SCHEDULES REFERRED TO.

A.

List of Electors for the Electoral District of the County of Cumberland, in the Police District of Parramatta.

Christian Name and Surname of each Person at full length.	Nature of the Qualification.	Where the Property affording the Qualification is situated.
Ashton John	Freehold	Longbottom.
Bates Thomas	Dwelling House	Dobroyd.
Carter James	Freehold	{ Three miles from Parramatta on the Dog Trap Road.
Dealtry William	Ditto	Ditto.
Evelyn John	Dwelling House	Concord.

(Signed.) A. B. }
C. D. }

Collectors.

Dated at Parramatta

day of

SCHEDULES

SCHEDULES *continued.*

B.

NOTICE OF CLAIM.

TO THE TOWN CLERK OF
BENCH OF

OR TO THE CLERK OF THE
(*as the case may be.*)

I hereby give you notice, that I claim to have my name inserted in the Electoral List
of _____, in virtue of the freehold property which I possess
at _____, (*or as the case may be, of the dwelling house*
which I occupy at)

Dated at _____ day of _____ in the
Year 18 .

(Signed) JOHN ASHTON, of (*place of abode.*)

C.

NOTICE OF OBJECTION.

TO THE TOWN CLERK OF
THE BENCH OF
PERSON OBJECTED TO.

OR TO THE CLERK OF
(*as the case may be,*) AND TO THE

I hereby give you notice, that I object to the name of Thomas Bates, of
(*describe the person objected to, as described in the*
Electoral List,) being retained on the Electoral List of the

Dated this

(Signed) JOHN ASHTON, of (*here state the dwelling*
house or property for which he is included
in the Electoral List.)

SCHEDULES

SCHEDULES *Continued.*

D.

LIST OF CLAIMANTS.

The following Persons claim to have their Names inserted in the Electoral List of the

Christian Name and Surname of each Claimant.	Nature of the Property in respect to which he prefers his claim.	Place where the Property is situated.
Alton Frederick	Dwelling House	Bathurst
Baker Joseph	Ditto	One mile from Bathurst
Chisholm Charles	Freehold	Carcoar

(Signed)

A. B.

Clerk of the Bench.

Dated at *Bathurst*, this

day of

E.

LIST OF PERSONS OBJECTED TO.

The following persons have been objected to, as not being entitled to have their names retained on the Electoral List for the *County of Cumberland*.

Christian Name and Surname of each Person objected to.	Nature of the Property, for which his name is on the Electoral List.	Place where the Property is situated.
Amwell Charles	Freehold	Lane Cove
Barton William	Dwelling House.. .. .	St. Leonards
Curtis John	Freehold	$\frac{1}{2}$ a mile from Bedlam Ferry.

(Signed)

A. B.

Clerk of the Bench.

Dated at *Sydney*, this

day of

Colonial Secretary's Office,
Sydney, 9th March, 1843.

PROCEEDINGS UNDER ELECTORAL ACT.

HIS Excellency the GOVERNOR has been pleased to direct, that the following Copy of a Circular Letter, addressed to the Magistrates of the Territory, offering such suggestions as His Excellency has deemed suitable, to draw their attention to the duties which will devolve upon them, and upon the persons acting under them, in carrying out the provisions of the Act of Council for dividing the Colony into Electoral Districts, and for the Election of Members to serve in the Legislative Council, be published for general information.

By His Excellency's Command,
E. DEAS THOMSON.

Circular.)
No. 43/

Colonial Secretary's Office,
Sydney, 3rd March, 1843.

I am directed by the Governor, with a view of aiding the Magistracy by such suggestions as His Excellency deems suitable to the occasion, to draw the attention of the Magistrates to the new duties which will devolve on themselves and the persons acting under their orders, in carrying out the provisions of the Act of Council for the division of the Colony into Electoral Districts; and for the election of Members to serve in the Legislative Council.

1. The Chief Constable in every District is, between the 10th of March and 10th of April, to form a list of all persons entitled to vote in virtue of any property situate within the Police District of which he is Chief Constable. In making this List, he must act according to the best of his judgment, and the best information which he can obtain. Two classes of persons only are to be put on the Electoral Lists. The first class consists of persons who are proprietors within the Police District of lands or buildings of the value of £200. The second class consists of householders living in houses worth at least £20 per annum.

2. In respect to the first class, that of Proprietors, it is to be observed, that the property must be worth £200 clear of all incumbrances—consequently, that it must be worth £200 over and above any mortgage, or any other incumbrance that may be upon it. A property therefore, worth £300, but mortgaged for £150, would not entitle the owner of it to be put on the Electoral Lists; though a property worth £350, mortgaged for £150 only, would.

3. In no case can a person *who is a Mortgagee* be entitled to vote in virtue of such mortgage, unless he be in actual possession of the property mortgaged, or in receipt of the rents and profits of the same estate. With respect to a Mortgagor, whose interest in the mortgaged property amounts to a sufficient qualification, if he be himself in possession, or in constructive possession, through the medium of his tenant, he is entitled to vote as "one in his own right seized of or entitled to an estate of freehold in possession" of sufficient value to confer a qualification to vote.

4. If a property worth £200, clear of incumbrance, be situated partly in one Police District and partly in another of the same Electoral District, it should be included in the Electoral List of that Police District in which the larger portion of it is situated.

5. In estimating the annual value of dwelling houses, out-buildings required for the use of the family may be included, as well as the garden, if there be one; but farm buildings must not be included, nor must the garden, if larger than what is required for the domestic purposes of the family occupying the house. A market garden or nursery ground must therefore be excluded equally with land used for agricultural or grazing purposes.

6. No person can be put on the Electoral Lists who is not of the full age of twenty-one years, nor any foreigner, unless he shall have been naturalised, or shall hold Letters of Denization from the Governor of New South Wales.

7. No Leasehold interest however large, confers a right on a party to be put on the Electoral Lists, unless he occupy a house of the yearly value of £20, and then he derives his right to vote only from his household, in no respect from his leasehold qualification.

8. Holders of Tickets of Leave are in no case entitled to be on the Electoral Lists, but persons whose sentences have expired, and persons holding pardons, may be put on the Lists, if duly qualified, whether the pardons they hold be absolute or conditional.

9. No person can be put on the Electoral Lists in virtue of any property which he may have acquired since the 10th of October last, nor of any house of which he was not in the occupation on the 10th of October last.

10. In every Police District which comprehends parts of two or more Electoral Districts, separate Electoral Lists are to be made out for each separate portion of an Electoral District. For example, the Police District of Windsor consists of a part of the Electoral District of Cumberland, and a part of that of Cook and Westmoreland. The Chief Constable of Windsor must therefore make out two separate Electoral Lists, one for the Electoral District of Cumberland, the other for that of Cook and Westmoreland. In the Police Districts

Districts of Parramatta, Liverpool, Campbelltown, Maitland, and Newcastle, Lists must be made out of the Electors of the several Towns of those names, distinct from the Lists of the other parts of the District. In the Police District of Windsor, the Electors of the Towns of Windsor and Richmond must be included in one List, viz.: that of the Electoral District of the Cumberland Boroughs; and a List must be made out by the Chief Constable of Sydney for the portions of the Police District of Sydney which lie beyond the Corporate Limits of the City of Sydney, and which consequently are within the Electoral District of the County of Cumberland.

Police Magistrate & Clerk of Benches to give constables assistance and advice.

11. Though the duty of forming these Lists is placed by the Act of Council on the Chief Constable, it is to be understood, that the Police Magistrate and the Clerk of the Bench are to afford him advice and assistance; and that aid also is to be given, as far as it conveniently can be, by the Police in general. It will be desirable, that the duty to be performed by the Chief Constable should be previously explained to him, in order that on entering upon it, he may be the better prepared to perform it efficiently.

Persons may be appointed to assist the Chief Constable.

12. Should, in any Police District, the Chief Constable be unable to perform the whole of the duties which are thus assigned to him, persons may be appointed to assist him, but in every case where assistance is required, the Police Magistrate, if there be one, and if not, the Bench of Magistrates, must apply to the Colonial Secretary for permission to employ and pay such person or persons as they may think necessary, in order that the duty of forming the Electoral Lists may be efficiently performed. It will probably be found that the persons who were employed in taking the last Census, if in the Colony, will be best qualified for the duty of assisting the Chief Constable in the preparation of the Electoral Lists.

Form of Electoral Lists, and to whom delivered.

13. The Electoral Lists are to be made out in the form given in Schedule A of the Act, and are in every case to be delivered to the Clerk of the Bench on or before the 16th of April.

Duties of Clerks of Benches. Electoral Lists for public view. Claims or objections. Abstracts for public view.

14. The duties which are then to be performed by the respective Clerks of the Benches are clearly expressed in the 9th and 12th sections of the Act.—The Lists are to be printed or fairly transcribed and hung up to public view, by the 14th April at the latest; and are to remain so exposed to public view until the evening of the 20th.—And at any time from the 14th to the 22nd April, the Clerk of the Bench is bound to receive such claims or objections as may be delivered to him in the forms B and C of the Schedules to the Act.—And by the 23rd of April, at the latest, he must cause to be prepared Abstracts or Lists of such claims and objections in the Forms D and E, given in the Schedules to the Act, which Lists or Abstracts are to remain exposed to public view until the 1st day of May.

Revision of Lists.

15. The next operation, the most important of the whole, and the one which is to be performed under the heaviest responsibility, is the Revision of the Lists, or, in other words, the passing judgment on the several claims and objections which may have been preferred in the Forms B and C of the Act.

Revision of Lists in Corporate Towns and other places.

16. In the Corporate Towns, the Aldermen and Assessors revise the Lists in open Court; in other places, the Police Magistrates and Justices of the Peace, in open Court also. The duty is in either case strictly a judicial one, and as such, is to be performed with all the solemnity which belongs to a Court of Justice, and under the obligation of the Oath of Office by which Magistrates are bound in the performance of their duties.

Presiding Magistrate at Courts of revision.

17. The Police Magistrate of the District, if there be one, is to preside at all Courts held for the Revision of the Lists; if there be no Police Magistrate, the senior Justice of the Peace, resident in the Police District, who may happen to be present, is to preside.

Resident Justices to act as Assessors.

18. The other Resident Judges are to act as Assessors, and all questions are to be decided as in ordinary cases by the majority of Justices present. No Justice of the Peace however can act either as President or Assessor who may be a Candidate for the Electoral

No Justice to act in District where he may be a Candidate.

District in respect to which the Revision of Lists may be in hand; and as in consequence of this disqualification, or of other causes, there may not be a sufficient number of Justices in some Police Districts to form a Court, which should not be composed of less than three, a

Governor may appoint extra members to Courts of revision.

power has been given to the Governor to appoint extra members of it. The persons so appointed may be Magistrates, residing in other Police Districts, or they may not be Magistrates at all; but it is very necessary that the probability of there being a deficiency of Magistrates should be pointed out by the Bench, in order that the Governor may, within sufficient time, make the necessary appointments.

Qualification of voters.

19. The qualification of voters being of a very simple nature, it is scarcely to be expected that questions of any great intricacy will come before the Courts of Revision, as they sometimes do in England, where the Revising Barristers have occasionally to decide on difficult points of law. It is essential to bear in mind that, in respect to freehold property, actual occupation is not necessary, but that it is necessary in respect to the household qualifications; hence, the same property, though worth only £20 a year, may qualify two persons. If A live in a house at Bathurst, worth £200, belonging to B, and B live in Sydney, in a house worth £200, belonging to A, then both A and B are qualified, both for Sydney and Bathurst, provided the houses be worth £20 a year, as well as worth £200 in fee-simple.

Occupation not necessary with regard to freehold property, but to household.

* The words in the 5th clause of the 5th and 6th Victoria, cap. 76, are "in his own right seized of or entitled to an estate of freehold in possession, in lands or tenements, within the district for which such vote is to be given, of the clear value of £200, sterling money, at the least, above all charges and incumbrances."

20. Persons in possession of property in right only of their wives, and not in their own right, are not qualified as freehold proprietors; though if a man live in a house belonging to his wife, worth £20 a year, he may of course be qualified as a householder. Property possessed in right of wives.

21. It is to be observed that, in respect to the household franchise, the Act of Parliament 5 and 6 Victoria, cap. 76, makes no mention of the value being above all charges and incumbrances as in the case of the freehold qualification. In determining the value, therefore, the abstract value of the premises is to be considered, and not the interest of the voter. All that is required is, that the premises be *bond fide* of the clear yearly value of not less than £20. The clear yearly value means the marketable value, of which, the rent paid, fairly and without collusion, if the party occupy as tenant, may be taken to afford a *prima facie* criterion, but not what the occupier may, by accidental circumstances, be enabled to make by his occupation. If the premises be occupied by the party as owner, then the rent paid by persons occupying similar premises, in the same street or neighbourhood, may be taken to be a fair criterion of the value. Household franchise. Mode of determining value of premises.

22. Having considered the question of value, the next material point to consider is the requisite occupation. A general rule, usually acted upon in determining the question "who is a householder?" is, that no person can be deemed a householder who does not possess an exclusive right to the outward door of the building, although, by taking inmates, he may have relinquished for a time the exclusive exercise of that right. Thus, the original right to an exclusive use is the point of discrimination between the householder, on the one hand, and the inmate, on the other.—On this important point the following passage, from an approved legal work, (Rogers' Law and Practice of Elections, p. 158,) furnishes some suggestions worthy of attention:—"An inmate or lodger, though he may have the exclusive possession and occupation of a large portion of a house, never seems to have been considered in the same light as the under-tenant or sub-lessee of land, or of an entire house, but the landlord, in popular estimation, has always been looked upon as the householder, or *pater familias*—the master and occupier of the house. A lodger was never considered as a complete scot-and-lot-man in respect of his occupation—he was not called upon to serve parochial offices, nor generally had either the duties or immunities of a householder. Who is to be deemed a householder.

23. It is here worthy of remark, that the English and Scotch Reform Acts contain provisions enabling joint occupiers to vote, yet the Imperial Statute, determining the qualification of Electors in New South Wales, has not any clause to that effect; and under the Irish Reform Act, which, in like manner, has no clause to that effect, it was decided by the Judges of Ireland that joint occupiers are not entitled to be registered as householders under the Irish Reform Act. As to joint occupiers of household property.

24. A person may occupy two houses in different places at the same time, and consequently be qualified as a householder in two Electoral Districts. He may have a house of business in Sydney, and reside outside of the Corporate limits, in which case he will be qualified for Sydney, and also for the County of Cumberland, provided they be both dwelling houses. The same person may be qualified in different places.

25. Property, however, in one Electoral District, can never qualify a person for another District. So, for instance, the Town of Windsor, being part of the Electoral District of the Cumberland Boroughs, property in that Town cannot qualify a person for the County of Cumberland. Property in one Electoral District does not qualify for another.

26. Amongst the claimants who present themselves to the Courts of Revision, persons may be expected to appear who may have property in two or more Police Districts, but in the same Electoral District, collectively worth £200, though they have no separate property of that value in any one Police District. For instance, A may have property worth £100 in the Police District of Penrith, another property worth £50 in that of Windsor, and a third worth £50 in Campbelltown, all being within the Electoral District of the County of Cumberland; such a person might claim to be put on the List of some one of the three, but his claim would not be admissible, the words of the Act being, as already quoted, "seized of an Estate worth £200, &c." Properties in same Electoral District being each less than £200 do not qualify.

27. A case of greater difficulty will occur where a person, having property of the full value of £200 in two or more Police Districts, shall have been inserted in the Chief Constable's list of each of these Districts. "John Smith," for instance, may have property worth £200 in the Police District (not the Town) of Parramatta; another of equal value in that of Sydney beyond the limits of the City; and he may occupy a dwelling house of the annual value of £20 in Penrith;—his name will therefore be properly included in the Chief Constable's list of each of those places, and thus appear three times in the general Electoral List of the County of Cumberland. It may be doubted whether any objection, lodged in the form C, could be held valid against the supposed John Smith, on the ground that he was registered at two or more places within the same Electoral District, and the proper remedy would seem to be in the hands only of the Returning Officer. It may be considered, however, to be the business of the Police Magistrate or Presiding Officer, at any Court of Revision, to bring under the notice of the Returning Officer all cases in which he shall have reason to suppose that the same person has been registered in more Police Districts than one; and this may be properly done at the time when, under the 18th clause of the Act, the Electoral List of each Police District is handed to the Returning Officer of the Electoral District. Persons having properties of the value of £200 in two or more Police Districts, but in the same Electoral District.

28. The Returning Officer is, by the said 18th clause, required to make a general Alphabetical List of the names of the Electors, and to send the same to the Returning Officer of each Electoral District. The Returning Officer to

- make Alphabetical List of all the Electors in the Electoral District. He will therefore at once see how many times the same name (John Smith for instance) occurs in his general List; and though the Act does not empower him to strike out the name of any one (of the *John Smiths*), precautions may easily be taken to prevent the same individual "*John Smith*" from voting at more Polling Places than one. The Returning Officer may direct his Deputies or Polling Clerks to put question No. 3, of the 26th clause, to every person tendering his vote of the name of *John Smith*, or of any other name which occurs more than once in the general Electoral List; and if the person shall answer falsely, he will be liable to a penalty of £50.
- A question may be put to the tenderers of votes.
- Where two or more names are supposed to represent one person.
29. And though the Returning Officer cannot remove from the Electoral Lists the name of any person, on the ground of his being registered for two or more separate properties, it will be proper for him to make a memorandum on the Lists, to the effect that two or any greater number of names are supposed to represent but one person.
- The returning Officer to strike off the second vote of any person.
30. Before the Returning Officer declares the state of the Poll, at its final closing, under the 28th clause, it will also be his duty to strike off the second vote of any person who may have voted twice; and it is to be expected that Candidates, or their Agents, will exert themselves to detect and punish persons who may be guilty of voting twice; and lastly, such votes would assuredly be struck off, and the parties tendering them punished, in the event of any question respecting them being raised before the Court constituted for the trial of contested Returns, under the 36th clause of the Act.
- Petty Sessions acting as Courts of revision.
- Notice of holding of to be given.
31. With respect to the Petty Sessions acting as Courts of Revision, it may be advisable to give notice of the holding of such Courts in the time and manner prescribed by the Act, by causing to be posted in conspicuous places within each Police District for which such Court of Petty Sessions is usually held, notices that such Sessions, for the purposes of revising the Electoral Lists, under the Act of Council for the division of the Colony into Electoral Districts, and for the Election of Members to serve in the Legislative Council, will be held on the days (insert day and date) and at the place or places, as the case may be (insert place) so appointed, and that claims and objections which may have been preferred to the Clerk of the Bench, will then be taken into consideration.
- Remarks respecting the holding of such Courts.
32. Although the period of holding such Courts extends from the 1st to the 15th May, (both inclusive) and it is competent to hold a Court on any day included in that period of time, yet it is desirable to avoid an interval of several days taking place on the adjournment of the Courts; and for the purpose both of preventing delay and a protracted excitement, it would be advisable that the Court of Petty Sessions having fixed a day for the commencement of the revision of the Lists, should adjourn *de die in diem* until the Registration of the portion of the Electoral District within its jurisdiction be completed; due care, however, being taken to fix a sufficiently early day in the month of May, to admit of the Registration being efficiently gone through.
- Continued remarks.
33. Though it be desirable, as already stated, that the Courts for revising the Electoral Lists should be held early in May, it is not desirable that all the Courts of Petty Sessions in the same Electoral District should be held on the same day. If in the County of Camden, for instance, a Court were held at the Village of Camden on the 1st of May, a Court at Berrima on the 3rd, and at Wollongong on the 5th, a single Agent for any Candidate might attend successively at each Court, whereas separate Agents would be required if all the Courts were held on the same day.
- Circular to Returning Officers.
34. A Circular will hereafter be issued to Returning Officers, pointing out the nature of the duties which they will have to perform at Elections.
- Circular respecting Polling Places.
35. In conclusion, I beg to draw attention to separate Circular Letter respecting the fixing of Polling Places under the Act of the Colonial Legislature already referred to.

I have the honor to be,

Your most obedient Servant,