

Electoral.

No. XVI.

ELECTORAL.

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.]

Preamble.
5 & 6 Victoria
cap. 76.

Certain Counties to
form Electoral
Districts.

WHEREAS by an Act of the Imperial Parliament of Great Britain and Ireland passed in the fifth and sixth year of the reign of Her Majesty Queen Victoria intituled "*An Act for the Government of New South Wales and Van Diemen's Land*" it was amongst other 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 thereinafter mentioned and that the said Legislative Council should consist of thirty-six members twelve of whom should be appointed in the manner therein mentioned and twenty-four of whom should from time to time in the manner thereinafter 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 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
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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 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.

2. 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.

3. 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 boundaries of Counties.

4. 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.

5. 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

Returning Officer for the Electoral District of Melbourne.

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intendent 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 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.

6. 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.

7. 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.

8. 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 seised 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 naturalized 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 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

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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.

9. 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.

10. And be it enacted That whenever the Police Districts for the ordinary duties of which such Clerks of Benches or Chief Constables have been appointed 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 where Police Districts form portions of two or more Electoral Districts.

11. 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.

Electoral Lists to be printed or fairly transcribed and hung up for public inspection by Clerks of Benches.

12. 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

Claims of persons to have their names inserted on Electoral Lists

Schedule B.

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Objections to persons
whose names are on
Electoral Lists.

Schedule C.

List of claimants.

Schedule D.
List of persons
objected to.
Schedule E.

Courts for revision
of Electoral Lists
in Sydney and Mel-
bourne.

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.

13. 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 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

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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.

14. 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 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.

Power to the Alderman of adjourning any Court ordering the production of books and of administering oaths.

15. 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.

Revised lists to be kept by the Town Clerk.

16. 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.

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

17. 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

Courts for the revision of lists in other Electoral Districts.

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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 everything 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 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 everything 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.

Personal attendance of electors when required to prove qualification to vote.

18. 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.

Revised lists for other districts.

19. 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.

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

20. 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 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

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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.

21. 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. Form of writs.

22. 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. Booths may be erected or hired for taking the poll.

23. 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. Where electors to vote.

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

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

26. 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

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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.

Returning Officer to endorse the writ.

27. 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.

Mode of proceeding at election.

28. 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 favour 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 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.

29. 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.

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

30. And be it enacted That no inquiry 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

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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 A. B. to the voting paper now delivered in by you? Form of questions to be put as to these points.

SECOND—Are you the person whose name appears as A. B. 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.” Oath to be administered if required.

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— No other oath as to qualification.

“I A. B. do swear (or being one of the people called Quakers or 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.” Bribery oath to be administered if required.

31. 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.

32. 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 Names of persons elected to be declared by Returning Officer.

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Returning Officer not to vote except in case of equality of votes.

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 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 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.

Return of writs with names of elected persons endorsed thereon.

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

Voting papers to be sealed and transmitted with writ to the Governor.

34. 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.

35. 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.

Nomination of Members of Court for the trial of contested elections.

36. 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.

Proceeding where Members shall not be nominated within the time prescribed.

37. 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.

38. 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.

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39. 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.

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

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

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

“ 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 favour or affection and according to the best of my understanding—So help me God.”

Oath to be taken by Members of the Court.

41. And be it enacted That the Court thus constituted shall have power to inquire 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.

42. 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.

43. 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.

44. And be it enacted That the Court shall not have power to inquire 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 inquiries by Court to identity of voters and propriety of admission or rejection of votes.

45. 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.

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Complaints of undue returns to be by petition to the Governor.

46. 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 Governor and copies presented to the Council.

47. 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 petitions.

48. 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.

49. 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 authorized 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 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.

7 and 8 Geo. IV. cap. 37 s. 2.

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50. 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.

51. And be it enacted That the acts of all authorized 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.

52. 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 authorized 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 complaint 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 authorized agents of Candidates punishable as a misdemeanor.

53. 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 pounds 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.

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

Punishment for voting twice or personating voters.

55. 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.

Payment of expenses incurred at first elections.

56. 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

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

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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.

57. 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.

Governor may appoint additional officers and order remuneration to them.

58. 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.

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

59. 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*.

Declaration to be made by officers before entering on duties.

60. 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—

“ 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.”

Penalty on officers refusing or neglecting duty.

61. 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

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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.

Recovery of penalties.

Appropriation of penalties.

62. 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.

63. 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.

Where matters to be done fall on a holiday.

64. 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.

Application of the words "Governor" and "Superintendent of Port Phillip."

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	
Evelyn John	Dwelling-house	Concord

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

Dated at Parramatta day of

B.

Notice of Claim.

To the Town Clerk of or to the Clerk of the Bench of (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 Year 18 day of in the

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

C.

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C.

Notice of Objection.

To the Town Clerk of _____ or to the Clerk of the Bench
of _____ (as the case may be) and to the person
objected to.

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

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

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. Leonard's
Curtis John	Freehold	Half a mile from Bedlam Ferry

(Signed) A. B.

Clerk of the Bench.

Dated at Sydney this _____ day of _____