

Municipal Corporations Acts Amendment Act 1871

Public Act 1871 No 7
Date of assent 15 November 1871

Contents

| | Page |
|---|------|
| Title | 3 |
| 1 Short Title. | 3 |
| 2 Interpretation. | 3 |
| 3 “One month” substituted for “three months” in the 181st section of “The Municipal Corporations Act 1867.” | 3 |
| 4 Section 182 of “The Municipal Corporations Act 1867” repealed. Existing Acts Ordinances and by-laws where in force to be repealed on the coming into operation of by-laws. | 3 |
| 5 Debentures may be made payable where Council may think fit. | 3 |
| 6 Acts done by City Council of Auckland under name of “Borough Council” declared valid notwithstanding erroneous use of name. | 4 |
| 7 First election and electoral roll formed under the said Act for the City of Auckland on conversion of the city into a municipality under the said Act declared valid notwithstanding that persons who had not paid rates were not permitted to vote and were omitted from the roll. | 4 |
| 8 Provisions of “The Municipal Corporations Act 1867” may be extended to places incorporated under “The Otago Municipal Corporations Ordinance 1865” after the passing of “The Municipal Corporations Act 1867.” | 5 |
| 9 Temporary loans from Banks. | 5 |
| <i>POWER TO TAKE LAND FOR PERMANENT WORKS ETC.</i> | |
| 10 What shall be deemed permanent works. | 5 |
| 11 Plans &c of works &c to be prepared. | 6 |

| | | |
|----|---|---|
| 12 | Publication of notice. Service of notice. | 7 |
| 13 | Objections. | 7 |
| 14 | Power to receive evidence. | 7 |
| 15 | Order for execution of work. | 8 |
| 16 | After confirmation work may be executed. Compensation being made. | 8 |
| 17 | Power to sell certain lands not required for borough purposes. | 8 |
| 18 | Lands may be leased. | 9 |
| 19 | “Land Clauses Consolidation Act 1863” incorporated with this Act. | 9 |

WATER RATE ETC.

| | | |
|----|--|---|
| 20 | Water rate may be levied. | 9 |
| 21 | Council may contract for water supply. | 9 |

POLLING AT ELECTIONS BY BALLOT

| | | |
|----|---|----|
| 22 | Repeal of clauses of said Act. | 10 |
| 23 | Contested election. First Schedule. Notice and time and place of poll. | 10 |
| 24 | Candidate may retire within certain time. Second Schedule. | 10 |
| 25 | Polling booths &c. | 11 |
| 26 | Returning Officer or Deputy to preside at each booth. | 11 |
| 27 | Scrutineers. Who may be present in booth. | 11 |
| 28 | Power of Returning Officer and Deputy &c. | 11 |
| 29 | Pencils and ballot box. | 12 |
| 30 | Copy of electoral roll to be given to each Deputy Returning Officer. | 12 |
| 31 | Ballot papers how delivered and dealt with. Voter to give all his votes at once. | 12 |
| 32 | Ballot paper to be numbered. | 12 |
| 33 | Certain indefinite votes to be void. | 13 |
| 34 | Questions at election previous to making of burgess roll. | 13 |
| 35 | Questions to be put to voter at all other elections. | 13 |
| 36 | False answer polling twice and personation. | 14 |
| 37 | Ascertaining result of polling. Declaration. | 14 |
| 38 | Casting vote. Disposal of ballot papers. | 14 |
| 39 | Penalty for breaking seal of or opening parcel or packet. | 15 |
| 40 | Penalty for Returning Officer, or Deputy &c divulging the name of the candidate for whom any person may vote. | 15 |
| 41 | On petition of one-fourth of number of burgesses Superintendent may divide borough. | 15 |
| 42 | Governor may annex reclaimed land to borough notwithstanding the whole or a majority of the inhabitants petition against such annexation. | 16 |

FIRST SCHEDULE 17

SECOND SCHEDULE

18

An Act to amend “The Municipal Corporations Act 1867” and “The Municipal Corporations Act Amendment Act 1868.”**BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows:—****1 Short Title.**

The Short Title of this Act shall be “The Municipal Corporations Acts Amendment Act 1871.”

2 Interpretation.

“The Municipal Corporations Act 1867” is herein referred to as “the said Act” and this Act shall be construed and read with the said Act as amended by “The Municipal Corporations Act Amendment Act 1868.”

3 “One month” substituted for “three months” in the 181st section of “The Municipal Corporations Act 1867.”

In lieu of the words “three months” in the one hundred and eighty-first section of the said Act there shall be substituted the words “one month” and the said Act shall be construed and read as if the words so substituted had been originally inserted in the said Act in lieu of the said words “three months.”

4 Section 182 of “The Municipal Corporations Act 1867” repealed. Existing Acts Ordinances and by-laws where in force to be repealed on the coming into operation of by-laws.

The one hundred and eighty-second section of the said Act is hereby repealed and in lieu thereof it is enacted as follows:—

Upon the coming into operation in and for any city or borough of any of the subdivisions contained in the Thirteenth Schedule of “The Municipal Corporations Act 1867” or any part of any such subdivision or any provision thereof all provisions of any Acts or Ordinances of any Provincial Legislature and all by-laws and regulations theretofore in force in the city or borough which shall be inconsistent with or repugnant to such subdivision or part or provision so adopted or which shall in any respect deal or purport to deal with the subject-matter of such subdivision or any part or provision thereof shall be deemed to have been and shall be within such city or borough repealed.

5 Debentures may be made payable where Council may think fit.

The principal money and interest secured by the debentures to be issued under the Sixteenth Part of the said Act may be made payable at any place or places as the Council shall think fit and determine Provided that the place where any

debenture shall be payable shall be named in the debenture and the holder thereof shall not be bound to apply for or accept payment elsewhere.

6 Acts done by City Council of Auckland under name of “Borough Council” declared valid notwithstanding erroneous use of name.

Whereas the inhabitants of the City of Auckland have become incorporated under the said Act but the City Council thereof has erroneously assumed the style of or acted under the name of the “Borough Council” instead of the City Council And whereas the said City Council has on divers occasions and in divers instruments been styled and spoken of as the “Borough Council” instead of the City Council Be it enacted that all acts matters and things done or performed and all by-laws regulations and appointments and all assessments valuations and rates made by the City Council of the said city shall be as valid as if the same had been done in the name of the City Council instead of the Borough Council and wherever before the passing of this Act or within thirty days after on any occasion or in any instrument the term “Borough Council” has been or shall be used with reference to the Council under the said Act of and for the said City of Auckland the said term shall be deemed to have meant and to mean the City Council of the said city and all by-laws regulations and other instruments by the said City Council heretofore or within thirty days after the passing of this Act sealed with and all acts by it done under a seal having engraved thereon the words “Borough Council” shall be as valid as if by the said City Council sealed with or done under a seal having engraved thereon the words “City Council” in lieu of the words “Borough Council.”

7 First election and electoral roll formed under the said Act for the City of Auckland on conversion of the city into a municipality under the said Act declared valid notwithstanding that persons who had not paid rates were not permitted to vote and were omitted from the roll.

Whereas by the twenty-fourth section of the Auckland City Boards Act it is provided that a roll of persons entitled to vote in election of members of the said City Board shall be from time to time made but that no person shall be entitled to be enrolled unless he appears as a ratepayer on the rate-book and shall not be entitled to vote unless he be enrolled and have paid all rates payable by him And whereas doubts have been raised whether after the conversion of the City of Auckland into a city under the said Act and notwithstanding such provision in the Auckland City Board Act persons who had not paid their rates were entitled under the fifty-first and sixty-eighth sections of the said Act to vote and be enrolled as voters And whereas in the elections held after such conversion persons who had not paid their rates were not permitted to vote and in making up the rolls for the said city on the twenty-first of August last under the sixty-eighth section of the said Act all persons who on that date had

not paid all rates due on that date were not inserted in such rolls And whereas doubts are entertained whether such elections and rolls were and are valid:

Be it declared and enacted that notwithstanding in any such elections the votes of any persons were not received on the ground that such persons had not paid their rates such elections were and are and shall be deemed to have been and to be valid And be it further declared and enacted that the rolls heretofore in this present year formed for the said city under the sixty-eighth section of the said Act omitting therefrom all persons who had not on the twenty-first day of August last paid the rates owing by them shall be and be deemed to have been valid from the making thereof notwithstanding such omission.

8 Provisions of “The Municipal Corporations Act 1867” may be extended to places incorporated under “The Otago Municipal Corporations Ordinance 1865” after the passing of “The Municipal Corporations Act 1867.”

With regard to any city town or place within the Province of Otago incorporated under “The Otago Municipal Corporations Ordinance 1865” and “The Otago Municipal Corporations Empowering Act 1865” and that whether incorporated at or after the time of the passing of the said Act the Superintendent of the Province of Otago may from time to time and as often as may be necessary exercise the power conferred on such Superintendent by the three hundred and ninetieth section of the said Act to declare that any complete parts of the several Parts of the said Act numbered from two to twenty-two both inclusive shall extend and apply to such city town or place.

9 Temporary loans from Banks.

For the temporary accommodation of City and Borough Councils pending the receipt of rates endowments or other revenues it shall be lawful for such Councils for the purpose of carrying on or completing public works then in progress to obtain advances from Banks by overdrafts of the current account but no such overdraft or accommodation shall at any time under any circumstances exceed one fourth of the prior year’s income Provided also that such Bank overdraft shall be liquidated before the conclusion of each financial year and that neither the Provincial nor General Revenue shall be responsible in respect thereof.

POWER TO TAKE LAND FOR PERMANENT WORKS ETC.

10 What shall be deemed permanent works.

The works and undertakings hereinafter specified and also any other works and undertakings that may be required for carrying into effect the purposes of this Act shall be deemed to be permanent works and undertakings within the meaning of the provisions of the said Act and of this Act (that is to say)—

The opening and making of new streets and the diverting altering or increasing the width of streets within the city or borough or without the city or borough if approved of by the Superintendent.

The raising lowering and alteration of the ground or soil of streets of which the level shall not have been previously fixed as herein provided.

The construction and establishment of bridges and ferries.

The construction enlargement and alteration of sewers.

The construction or laying of any covered drain or pipe so far as the same is not placed on land appertaining to the tenement to be drained or on land the property or placed under the control of the Council.

The construction or laying of any drain or channel for draining from or through any premises the surface or storm water so far as the same is not constructed or laid upon land the property or placed under the control of the Council.

The construction of waterworks within or (with the consent of the Superintendent) without the city borough or town whether in conjunction with other cities boroughs towns or road districts or whether the works be wholly or in part within or without the city or borough.

The providing of municipal offices and market-places the construction of market-houses and abattoirs the providing places for weighing carts and their loadings and the making convenient approaches to any market.

The providing of land and buildings for baths and wash-houses.

The providing of pleasure-grounds within or without the borough libraries museums or places of public resort or recreation.

The erection establishment or providing of hospitals asylums and other buildings or places for charitable purposes.

11 Plans &c of works &c to be prepared.

Whenever any Council shall deem it expedient to execute any such permanent work or undertaking as they are by this Act empowered to execute they shall cause their Surveyor to prepare such specifications maps plans sections and elevations as may be necessary expressing the nature and extent of such work or undertaking and the exact site and admeasurements thereof and on and through what lands the same is proposed to be placed and to be extended and the names of the owners or reputed owners lessees or reputed lessees and the occupiers thereof so far as known And the same when so prepared and approved by the Council shall be deposited at the office of the Council and shall be open for inspection by all persons interested at all reasonable hours for the space of forty clear days after notice shall have been given by advertisement in the General Government *Gazette* and the Government *Gazette* of the Province as next hereinafter provided And any Clerk or other person having the custody of the said specifications maps or other papers who shall refuse to permit such inspection shall on conviction before any two Justices forfeit and pay for every such offence a penalty not exceeding five pounds.

12 Publication of notice. Service of notice.

The Council shall forthwith after the said specifications maps plans sections and elevations shall have been deposited cause to be published in the General Government *Gazette* and the Government *Gazette* of the Province and twice in some newspaper generally circulating in the city or borough a notice describing shortly the purport of the said specifications maps and other papers and stating that the same are deposited for inspection and the place where they are so deposited and calling upon all persons affected by the proposed work or undertaking to set forth in writing addressed to the Council or the Town Clerk within forty days from the publication of such notice in the said *Gazettes* all objections which they may have to the work or undertaking And shall further within one week after such publication in the said *Gazettes* serve a notice in manner hereinafter mentioned on every owner or reputed owner lessee or reputed lessee and occupier of such lands defining in each case the particular land intended to be taken and requiring an answer stating whether the person so served assents dissents or is neuter in respect of taking such land such notice to be served—

By delivery of the same personally to the person required to be served or if such person is absent from New Zealand to his agent or

By leaving the same at the usual or last known place of abode of such person as aforesaid or

By forwarding the same by post in a registered letter addressed to the usual or last known place of abode of such person.

13 Objections.

At the next ordinary meeting of the Council after the expiration of forty days from the publication of such notice in the said *Gazettes* any person affected by the proposed work or undertaking or his agent or manager for the property in respect of which he is so affected who shall have set forth in writing his objections to the said work or undertaking within the time hereby limited for the purpose may appear before the Council in support of such objections.

14 Power to receive evidence.

The Council shall touching all such objections have authority to hear receive and examine evidence and by summons under the hand of the Mayor or person who shall act as Chairman at the meeting of the Council to require all such persons as the Council may think fit to appear personally before the Council at their office at a time to be fixed in and by such summons and to produce to such Council all such books and papers in their possession or under their control as may appear necessary for the purpose of their examination and the Mayor or person who shall act as Chairman at the meeting shall administer and take for the Council all necessary oaths affirmations and declarations.

15 Order for execution of work.

If after the expiration of such term of forty days and hearing all objections (if any) so set forth as aforesaid and such evidence as the Council shall require it shall appear to them expedient to proceed with the work or undertaking they shall make an order directing the work or undertaking to be executed according to the specifications maps plans sections and elevations deposited as aforesaid and shall cause such order together with true copies of all such specifications maps plans sections and elevations and with the written objections (if any) set forth as aforesaid to be transmitted to the Superintendent and the said Superintendent shall consider the same respectively and shall for the purpose of such consideration have the like powers as are by the last section vested in the Council and may confirm the said order with or without variation or may disallow such order and notice of the confirmation or variation of any such order shall be forthwith published in the General Government *Gazette* and in the Government *Gazette* of the Province.

16 After confirmation work may be executed. Compensation being made.

Upon the confirmation of such order as aforesaid and not before the Council shall be authorized to execute the work or undertaking referred to therein and to take and use subject to the provisions hereinafter contained for the purpose of such work or undertaking all such land as shall be described in and by the said specifications maps plans and sections as being required for the said work or undertaking Provided that the Council shall make to the owners of and all persons interested in any lands taken or used for the purposes of such work or undertaking or injuriously affected by the execution thereof full compensation for the value of the lands so taken or used and for all damage sustained by such owners occupiers and other persons by reason of the exercise of the powers vested in the Council by this Act and the amount of such compensation shall be ascertained and determined in manner hereinafter provided.

17 Power to sell certain lands not required for borough purposes.

Subject to the approval of the Superintendent it shall be lawful for the Council of any city or borough by special order to authorize the sale and conveyance of any lands which have been acquired by purchase from any person and which may not be required for the purposes of such city or borough or the public works thereof in the opinion of a majority of the Council for the time being of such city or borough in such manner and subject as aforesaid as the Council of such city or borough may think fit and by deed under their common seal to assure such lands for the estate and interest of such city or borough therein or for any less estate or interest.

18 Lands may be leased.

All lands purchased by the Council of any city or borough and not wholly required for the purposes for which purchased may be leased by the Council of such city or borough for any period not exceeding twenty-one years.

19 “Land Clauses Consolidation Act 1863” incorporated with this Act.

“The Lands Clauses Consolidation Act 1863” and all Acts amending the same are hereby incorporated with and shall form part of this Act and be construed together herewith as forming one Act and shall take effect with regard to all such permanent works and undertakings as aforesaid which the Council shall be authorized to execute and not otherwise.

*WATER RATE ETC.***20 Water rate may be levied.**

In addition to the general and special rates and separate rates in the said Act mentioned and thereby authorized to be made and levied and subject to the laws regulations and conditions in the said Act referred to the Council of every city or borough may by special order make and levy a water rate on all or such part of the rateable property within such city or borough for water supplied by the Council to all or some of the inhabitants of such city or borough or for the purpose of constructing waterworks or paying the interest on any loan contracted by the Council for such purpose and such rate shall not (unless it be otherwise expressly provided or required by any law regulation or condition aforesaid) exceed in any year the sum of one shilling in the pound on the assessment of the rateable property of the city or borough Such rate shall be within the meaning of the said Act a special rate and subject to the provisions of the said Act relating to loans the Council may raise moneys on the security of such rates Save when it is herein or in the said Act or in any law regulation or condition aforesaid otherwise expressly provided or there is something in the context repugnant thereto all the provisions of the said Act and this Act relating to loans rates and special rates shall apply to every such water rate and every such water rate shall be deemed for the purposes of the said last-mentioned provisions to have been made in each year upon all rateable property as aforesaid at and upon the expiration of each successive period of twelve months from the date of the special order by which such rate shall have been first made.

21 Council may contract for water supply.

The Council of any city or borough may with the consent of the Governor purchase any waterworks situate within or without the city or borough and suitable for the supply of such city or borough with water.

*POLLING AT ELECTIONS BY BALLOT***22 Repeal of clauses of said Act.**

The sections of the said Act numbered from eighty-eight to one hundred and four both inclusive shall from and after the first day of December next be repealed and thereupon the provisions contained in the sections of this Act numbered from three to eighteen both inclusive shall come into force in lieu thereof: Provided that the said repeal shall not affect or apply to any elections the nomination of candidates for which shall have taken place before the said first day of December.

23 Contested election. First Schedule. Notice and time and place of poll.

If at the expiration of the time limited as in the said Act provided for the nomination of candidates the number of candidates shall exceed the number of Councillors to be elected then the Returning Officer shall forthwith cause ballot papers to be printed with the Christian or first names and surnames of all the candidates in full in the form in the First Schedule hereto and shall also forthwith give public notice by advertisement inserted in some newspaper generally circulating in the borough stating the names of the persons so nominated and that a poll will be taken for the election of such Councillors on the day appointed for holding the election under the provisions of the said Act and this Act and named in such notice at such places within the borough as the said Returning Officer shall in and by such notice appoint and such poll shall take place accordingly and shall commence at eight o'clock in the forenoon and close at four o'clock in the afternoon.

24 Candidate may retire within certain time. Second Schedule.

If after a poll shall stand appointed as aforesaid at any election any person who shall duly become a candidate for such election and two of the persons having signed the paper nominating him as aforesaid shall be desirous that he retire from such candidature such candidate and the persons aforesaid, not later than two clear days before the day of polling may sign and deliver to the Returning Officer a notice in the form in the Second Schedule hereto stating that such candidate so retires and may publish in some newspaper generally circulating in the borough a copy of such notice and the Returning Officer on such receipt of such notice and on sufficient proof of such publication as aforesaid if the number of candidates shall by such retirement be reduced to the number of persons to be elected at such election shall on the day appointed for the election declare the remaining candidates to be duly elected and if the said number shall not be so reduced shall omit the name of such person so retiring from the ballot papers to be, used at the said election and if such papers shall have been already printed shall erase such name therefrom and such person shall not be capable of being elected at such election.

25 Polling booths &c.

At every such election the Returning Officer if it shall appear to him expedient for taking the poll may cause booths to be erected or rooms to be hired and used as such booths in places appointed as aforesaid for taking the poll and the same shall be so divided and allotted into compartments as to the Returning Officer shall seem most convenient and the Returning Officer may also appoint Poll Clerks to attend in each booth at such election If there be more booths than one the said booths shall be numbered in arithmetical order and there shall be affixed over the entrance of each booth in succession so many letters of the alphabet in their alphabetical order as shall denote by the initial letter of the surname the burgesses entitled to vote thereat and no burgess shall vote in any booth save that denoted by the initial letter of his surname.

26 Returning Officer or Deputy to preside at each booth.

The Returning Officer or his Deputy or some one to be appointed by writing under the hand of the Returning Officer or his Deputy shall preside at each polling booth for taking the poll within the borough.

27 Scrutineers. Who may be present in booth.

Each candidate shall be entitled to appoint in writing one Scrutineer to be present at each polling booth and such Scrutineers and the said Returning Officer or Deputy or other person and the Poll Clerks and any burgesses not exceeding six in number actually engaged in voting and to be named if necessary by the Returning Officer or Deputy or other person so appointed shall alone be permitted at any one time to enter or remain in the polling booth.

28 Power of Returning Officer and Deputy &c.

Every such Returning Officer and Deputy and other person so appointed shall have power and authority to maintain and enforce order and keep the peace at any election or polling held by him and without any other warrant than this Act to cause to be arrested and taken before a Justice any person reasonably suspected of knowingly and wilfully making a false answer to any of the questions hereinafter mentioned or of personating or attempting to personate any voter or of attempting unlawfully to vote more than once at the same election or leaving or attempting to leave the polling booth after having received a ballot paper and before having deposited the same in the box as hereinafter provided or who shall cause a disturbance at any election and to cause any person to be removed who shall obstruct the approaches to any polling booth or shall conduct himself in a disorderly manner and all Constables and Peace Officers shall aid and assist such Returning Officer or Deputy or other person so appointed as aforesaid in the performance of his duty.

29 Pencils and ballot box.

The Returning Officer or his Deputy or other person so appointed shall provide pencils in every polling booth for the use of the burgesses and also a locked box to be called "the ballot box" with a cleft or opening therein capable of receiving the ballot papers and such box shall be opened and exhibited empty to the Poll Clerks and Scrutineers before the polling begins and shall stand on a table opposite the Returning Officer or Deputy or other person who shall keep the key of such box.

30 Copy of electoral roll to be given to each Deputy Returning Officer.

At all elections of Councillors of any borough in which a burgess roll shall be in force the Mayor shall supply to every Deputy Returning Officer and every Poll Clerk a written or printed copy of the burgess roll of the borough authenticated by the signature of the Mayor and every such copy shall be deemed sufficient to determine all questions and disputes which may arise before such Deputy Returning Officer or Poll Clerk in reference to anything contained in the burgess roll.

31 Ballot papers how delivered and dealt with. Voter to give all his votes at once.

The Returning Officer or his Deputy or other person so appointed shall deliver to every burgess who shall require the same a ballot paper or if such burgess shall appear by the roll to be entitled to give more votes than one then so many ballot papers as shall be equal to the number of votes which such burgess shall so appear to be entitled to give such ballot papers being in the form aforesaid and initialled by the Returning Officer and every such burgess shall without leaving the booth strike out from any or all of such papers the names of every candidate for whom he shall not desire to vote and in case any burgess shall be unable to read or write the Returning Officer or Deputy or other person so appointed if required shall in view of such one of the Scrutineers as such burgess may desire strike out the names of such candidates as such burgess may designate and after such names shall have been so struck out the ballot paper or ballot papers as the case may be shall be forthwith deposited in the said box Provided that all the ballot papers to which any person may be entitled at any polling booth shall be demanded and received by him at one and the same time and no person having once demanded and received any such ballot paper and voted by the same shall at the same election receive any other such paper or exercise any further right of voting.

32 Ballot paper to be numbered.

Before delivering any ballot paper to a burgess the Returning Officer or his Deputy or other person so appointed shall write upon the back of each such ballot paper as near as practicable to the lower edge thereof the number corresponding to the number set opposite to the burgess's name in the burgess roll

and shall thereupon upon a copy of such roll check off such burgess's name as having voted and mark against such name the number of papers delivered to such burgess.

33 Certain indefinite votes to be void.

If any burgess shall suffer to remain upon his ballot paper a greater number of names not struck out than the number of Councillors to be elected the vote given on and by such paper shall be void and of no effect.

34 Questions at election previous to making of burgess roll.

At every first election of Councillors under the said Act and this Act and at every election of Councillors under the said Act and this Act in a borough in which a burgess roll shall not for the time being be in force or in a borough to which any portion of New Zealand shall have been annexed if such portion shall not at the time be embraced by any burgess roll in force the Returning Officer or his Deputy shall put in the cases firstly and secondly hereinbefore mentioned to every person tendering his vote and in the case thirdly hereinbefore mentioned to every person tendering his vote in respect of rateable property within the annexed portion the questions following:—

- (1.) What are your Christian names and surname?
- (2.) Are you an elector enrolled on an electoral roll now in force under the provisions of "The Registration of Electors Act 1866" and is your qualification as such elector in respect of lands or tenements within this borough [*or if the case so require within the annexed portion (describing it) of this borough*]?
- (3.) On the roll of what Electoral District are you so enrolled as an elector?
- (4.) What is the property in respect of which you are so enrolled and the name and situation thereof?
- (5.) Have you already voted at this present election?

And no other question shall be put to any person tendering his vote and no person who shall refuse to answer any of such questions or whose answers to the same shall not show his right to give such vote shall receive a ballot paper or be permitted to vote.

35 Questions to be put to voter at all other elections.

At all elections of Councillors in any borough in which a burgess roll shall be in force the Returning Officer or his Deputy may if he see fit or if required so to do by any candidate or Scrutineer shall put to any person tendering his vote the questions following—

- (1.) Are you the person whose name appears as A.B. in the burgess roll now in force for this borough being enrolled therein in respect of property described to be situated in [*Mere specify the street or other place described in the burgess roll*]?

- (2.) Have you already voted at the present election?

And no other question shall be put to any person tendering his vote and no person who shall refuse to answer any of such questions or who shall not answer the first of such questions absolutely in the affirmative and the third of such questions absolutely in the negative shall receive a ballot paper or be permitted to vote.

36 False answer polling twice and personation.

Every person who shall wilfully make a false answer to any of the questions aforesaid or who shall poll more than once or offer to poll more than once at the same election or who shall depart or attempt to depart from any polling booth after having received a ballot paper without having deposited the same in the ballot box as hereinbefore mentioned or who shall personate any other person for the purpose of polling at such election shall on conviction before any two or more Justices for every such offence be imprisoned for any period not exceeding one year but nothing contained in this section shall apply to any person only by reason of his exercising the right of voting as often as it appears by the roll he is entitled so to do.

37 Ascertaining result of polling. Declaration.

Immediately upon the close of the poll the Returning Officer or Deputy at each polling booth shall proceed in the presence and subject to the inspection of the Poll Clerks and of so many of the Scrutineers of the candidates as shall please to be present to ascertain the number of votes for each candidate and such Returning Officer or Deputy respectively shall abstain from inspecting the number written as aforesaid on any ballot paper and take care that the same is not seen by any person before being sealed up as herein provided and the Deputy or such other person shall immediately forward the ballot papers sealed up together with a list made up under the inspection of the said Scrutineers of the total number of votes for each candidate to the Returning Officer and the Returning Officer shall in like manner seal up the ballot papers deposited in the booth in which he shall have presided and such Returning Officer shall as soon as conveniently may be on or after the day of the poll give public notice of the number of votes given to each candidate and shall declare the candidates not exceeding the number of vacancies to be filled up who have received at all the polling booths taken together the greatest number of votes to have been duly elected as Councillors for the borough and shall forthwith publish in some newspaper generally circulating in the borough the names of the Councillors so elected and if two or more candidates shall have received an equal number of votes the Returning Officer shall in each case have the casting vote.

38 Casting vote. Disposal of ballot papers.

The Returning Officer shall forthwith after the declaration of the poll cause all the sealed parcels of ballot papers to be sealed up in a packet indorsed

with a description of the contents thereof signed by the Returning Officer and delivered to the Town Clerk of such borough to be by the said Clerk safely and secretly kept for six months after such delivery of the same and such Clerk shall after the expiration of such period of six months cause such ballot papers to be destroyed in the presence of three of the Councillors.

39 Penalty for breaking seal of or opening parcel or packet.

If any person shall knowingly and wilfully break the seal of or open any such sealed parcel or packet of ballot papers as aforesaid unless by the lawful command of some competent Court or other tribunal he be required so to do or to produce some portion of the contents of such parcel or packet he shall be guilty of a misdemeanour.

40 Penalty for Returning Officer, or Deputy &c divulging the name of the candidate for whom any person may vote.

If any Returning Officer or Deputy or any Scrutineer or Poll Clerk shall in the discharge of his duties under this Act at or concerning any election learn or have the means of learning for what candidate any person shall vote or have voted at such election he shall not by word or act or any other means whatsoever directly or indirectly divulge or discover or aid in divulging or discovering the same save in answer to some question which he is legally bound to answer and every such Returning Officer Deputy person appointed as aforesaid Scrutineer or Poll Clerk who shall knowingly and wilfully offend against the provisions of this section shall be guilty of a misdemeanour.

41 On petition of one-fourth of number of burgesses Superintendent may divide borough.

It shall be lawful for the Superintendent of any Province if he shall have received a petition to that effect signed by not less than one-fourth of the number of persons whose names appear on the burgess roll of any single borough divided into wards by Proclamation to divide anew such single borough into three separate wards as may seem fit by such names and with such boundaries as shall in and by the Proclamation be assigned to them and such new wards shall be in lieu of the former wards.

The provisions contained in the First Part of the said Act relating to Petitions to and Proclamations by Superintendents shall apply to Petitions and Proclamations under this section and the provisions of the said Act applying to boroughs newly divided into wards shall so far as applicable apply to boroughs newly divided into wards under this Act.

No borough shall be newly divided into wards upon or within thirty days before or after any day appointed for an annual election of Councillors in or for the borough or any ward thereof.

The Councillors who shall be in office in any borough at the time when the same shall be newly divided into wards shall be severally allotted to each such

ward by the Superintendent in and by the Proclamation newly dividing such ward or in and by any other instrument and if any seat or seats shall be vacant at the time of such new division the Superintendent shall determine for which ward or wards such seats shall be deemed to be vacant and the same shall be deemed extraordinary vacancies.

42 Governor may annex reclaimed land to borough notwithstanding the whole or a majority of the inhabitants petition against such annexation.

The power conferred on the Governor by the eighteenth section of the said Act of annexing to any borough or to any ward or in separate parts to any two or more wards of a borough any portion of territory adjoining such borough may in the case of land reclaimed from the sea be exercised notwithstanding that the whole or the majority of the inhabitant householders of such portion petition the Governor that such annexation be not made and notwithstanding that the population of such portion is less than that required by the said eighteenth section of the said Act.

SCHEDULES**FIRST SCHEDULE**

Borough of [*If Borough divided into Wards add* Ward]. Candidates' names arranged in alphabetical order of surnames—

A.B.

C.D.

E.E.

Directions

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

He must be careful not to leave uncanceled the names of more than candidates otherwise this ballot paper will be invalid.

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

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

SECOND SCHEDULE

We the undersigned nominators of A.B. as a candidate at the election of Councillor to be held on the day of in and for the Borough of [*or* the Ward of the Borough of] do hereby withdraw the said A.B. as such candidate.

[Here follow signatures of nominators.]

And I the said A.B. do hereby retire from being such candidate.

A.B.