



## WESTERN AUSTRALIA.

ANNO TRICESIMO TERTIO

## VICTORIÆ REGINÆ.

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NO. XIII.

AN ORDINANCE to provide for the establishment of a Legislative Council, the division of the Colony into Electoral Districts, and the election of Members to serve in such Council.

[ 1st June, 1870. ]

**W**HEREAS by an Act of the Imperial Parliament passed in the Session held in the thirteenth and fourteenth years of the reign of Her present Majesty, chap. 59, entitled *An Act for the better Government of Her Majesty's Australian Colonies*, it is amongst other things enacted that, upon the presentation of a Petition signed by not less than one-third in number of the householders within the Colony of Western Australia, praying that a Legislative Council according to the provisions of the said Act be established within such Colony, and that provision be made for charging upon the revenues of such Colony all such part of the expenses of the Civil Establishment thereof as may have been previously defrayed by Parliamentary grants, it should be lawful for the persons authorized and empowered to make, ordain, and establish Laws and Ordinances for the government of the said Colony, by any Law or Ordinance to be made for that purpose, subject to the conditions and restrictions

Preamble.

13 & 14 Vic., c. 59.

to which Laws or Ordinances made by such persons are now subject, to establish a Legislative Council within such Colony, to consist of such number of Members as they shall think fit; and such number of the Members of such Council as is equal to one-third part of the whole number of Members of such Council, or if such number be not exactly divisible by three, one-third of the next greater number which is divisible by three, shall be appointed by Her Majesty, and the remaining Members of the Council shall be elected by the inhabitants of the Colony; and it should be lawful for such persons as aforesaid, by such Law or Ordinance as aforesaid, to make all necessary provision for dividing Western Australia into convenient Electoral Districts, and for appointing and declaring the number of Members of Council to be elected for each 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 of the necessary writs for such elections, and for the taking the poll thereat, and for determining the validity of all disputed returns, and otherwise ensuring the orderly, effective, and impartial conduct of such elections: Provided that no Law or Ordinance establishing such Legislative Council within the Colony shall have any force or effect unless provision be thereby made for permanently granting to Her Majesty, her heirs and successors, out of the revenues of the said Colony, towards defraying such of the expenses of the Establishments of the said Colony as may have been previously defrayed in whole or in part by Parliamentary grants, a yearly sum not less in amount than the sum which may have been lastly before the making of such Law or Ordinance authorized by Parliament to be issued and applied out of the aids or supplies granted by Parliament to defray the charge for one year of the said Colony, and for raising the yearly sum so granted by means of sufficient taxes, duties, rates, or imposts, to be levied on Her Majesty's subjects within such Colony. And whereas the necessary Petition signed by not less than one-third in number of the householders within the said Colony, praying that a Legislative Council according to the provisions of the aforesaid in part recited Act be established within the Colony, has been duly presented; and whereas no part of the expenses of the Civil Establishments of the Colony are defrayed by Parliamentary grants within the meaning of the said recited proviso of the said in part recited Act, and it is expedient to carry into effect the provisions of the said in part recited Act: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

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**1** THERE shall be a Legislative Council in the said Colony, which said Legislative Council shall consist of eighteen Members, six of whom being one-third part of the whole number of Members are to be appointed by Her Majesty according to the provisions of the said in part recited Act in that behalf contained, and twelve of whom shall from time to time be elected by the inhabitants of the said Colony in manner hereinafter mentioned.

Legislative Council established, to consist of 18 members.

**2** THE said Colony of Western Australia shall be divided into Electoral Districts for the purpose of returning Members to serve in the said Legislative Council in manner following: that is to say—

The Colony to be divided into Electoral Districts.

- 1, The District of Perth; 2, the District of Fremantle;
- 3, the District of Geraldton; 4, the District of York;
- 5, the District of Toodyay; 6, the District of the Swan;
- 7, the District of Greenough; 8, the District of Wellington; 9, the District of the Vasse; 10, the District of Albany, shall respectively constitute Electoral Districts.

**3** THE Perth District and the Fremantle District shall each return two Members to serve in the said Legislative Council, and each other Electoral District shall return one Member to serve in such Council.

Number of Members to be returned by each.

**4** THE boundaries of the several Electoral Districts hereinbefore mentioned shall, for the purposes of this Ordinance, be deemed and taken to be the boundaries set forth in the Schedule hereunto annexed, marked A.

Boundaries of Electoral Districts.

**5** THE Governor may, from time to time, appoint to be the returning officer of and for each Electoral District, a fit and proper person willing to accept such office, whose appointment shall be notified in the usual manner in the *Government Gazette*, and in case any returning officer shall by death, sickness, or other cause, be prevented or disabled from acting, or shall neglect or refuse to act at any Election, it shall be lawful for the Governor at any time to appoint, some fit and proper person to act in the stead of such returning officer at such Election, and every appointment of returning officer made as aforesaid shall be good and valid until death or until such appointment shall be cancelled by the Governor, and some other person is appointed to be returning officer.

Appointment of returning Officers.

**6** THE Governor may from time to time, by notice in the *Government*

Polling places to be fixed and appointed by Governor.

*ment Gazette*, declare, fix, and appoint one or more place or places as and to be the polling place or polling places for each Electoral District, and such polling place or polling places in like manner from time to time to change or alter, and to declare fix or appoint other polling place or polling places in lieu thereof.

Qualification of Voters.  
13 & 14 Vic., c. 59, s. 12.

7 AND whereas by the said in part recited Act it was amongst other things enacted that all the provisions therein contained concerning the qualification and disqualification of Electors in New South Wales, should apply to and be in force in the Colony of Victoria, and in each of the Colonies of Van Dieman's Land, South Australia and Western Australia in which a Legislative Council should be established under the said Act, as if all such provisions were there repeated the name of such respective Colony being substituted for the name of the Colony of New South Wales. And whereas it is expedient to form within each Electoral District in the Colony of Western Australia a Register of all persons entitled to vote at any Election of a member or members of Council for such Electoral District; The clerks of the Magistrates in any district comprised within an Electoral District are hereby required and empowered on or before the 1st day of August, in this present year and on or before the 10th day of April in any succeeding year to make out alphabetical lists to be called Electoral Lists according to the form of the Schedule to this Ordinance annexed marked B of all persons within their respective districts entitled to vote in the Election of members of Council for the Electoral Districts in which their respective districts may be comprised and shall sign such lists. And such lists shall and may be perused by any person without payment of any fee at all reasonable hours and every such clerk shall forthwith cause copies to be made of such list and shall deliver a copy of such list to any person requiring the same on payment of the fee or sum of five shillings for each copy and also cause a copy of such list of such district to be kept fixed on the Magistrate's office of such district on every day during the week ending on the 31st day of August, in this present year and the 24th day of April in any succeeding year. Whenever any district shall form portions of two or more Electoral Districts such clerk shall make separate lists for each portion of the district which may be comprised within a separate Electoral District; Provided that if there be no Magistrates' clerk of any district or if there be any impediment to any such clerk acting in the performance of any of the said duties, the Magistrates at some Court of Petty Sessions held in and for such district shall and may appoint persons to act in the capacity of such clerk for the purposes of this Act.

Electoral lists.

Electoral Lists to be  
delivered to Magistrates'  
Clerks.

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**8** ANY person who shall desire to have his name inserted in any such Electoral List shall on or before the said 1st day of August, in this present year, or the said 10th day of April, in any succeeding year, apply personally or otherwise to the clerk of the Magistrates of the district within which the premises in respect of which such person shall so desire to have his name inserted is situate, and thereupon the said clerk shall on being satisfied of the applicant's qualification, duly insert the name of such applicant in such list; And any person whose application to have his name inserted in any such list shall have been refused by such clerk, and who shall claim to have his name inserted therein, shall within fourteen days after such refusal give or cause to be given notice thereof in writing in the form in the Schedule to this Ordinance annexed marked C or to the like effect, and any person whose name shall have been inserted in any Electoral List of any Electoral District may object to any other person as not entitled to have his name retained in the said Electoral List and any person so objecting shall on or before the 31st day of August, in this present year, or the said 24th day of April in any succeeding year, give or cause to be given to the Magistrates' clerk of the district within which the premises for which the name of such person so objected to shall appear to be registered is situate and also to the person objected to or leave at such premises notice thereof in writing in the form in the Schedule to this Ordinance annexed marked D or to the like effect, and the Magistrates' clerk for each such district shall include the names of all persons so claiming to be inserted on the Electoral List of any Electoral District in a list in the form in the Schedule to this Ordinance annexed marked E, and a list of all persons objected to in the form in the Schedule to this Ordinance annexed marked F, and shall cause copies of such several lists to be kept fixed on the Magistrates' office of such district during the 8 days next preceding the 10th day of September, in this present year, and the 4th day of May in any succeeding year and shall likewise keep a list of the names of all persons so claiming as aforesaid, and so objected to as aforesaid to be perused by any person without payment of any fee at all reasonable hours during the eight days next preceding the said 10th day of September, in this present year, and the said 4th day of May in any succeeding year, and shall deliver a copy of any such lists to any person requiring the same on payment of a fee or sum of one shilling for each copy.

Claims of persons to have their names inserted.

Notice of claim.

Objection to Names on the Lists.

Lists to be prepared of Claimants and of Persons objected to.

List of Persons objected to.

**9** THAT Courts of Petty Sessions shall be Courts for the revision of the said Electoral Lists and that Courts of Petty Sessions shall be holden in each Magistrates' district for the revision of the said Electoral Lists so far as the same relate to or affect such district

Courts of Petty Sessions to be Courts for revision of Electoral Lists and proceedings and powers of such Courts.

any portion of which may be comprised within an Electoral District between the said 10th day of September, inclusive, and the 20th day of September, inclusive, in this present year, and the said 4th day of May, inclusive, and the 19th day of May, inclusive, in any succeeding year, and the Magistrates' clerks of such district shall give or cause to be given 5 clear days notice of the time and place of holding such Court and the purpose for which the same is intended to be holden by affixing the same on the Magistrates' office of such district, and causing Notice to be served on any person so objected to or claiming as aforesaid whose reputed place of residence may be at a distance exceeding twenty miles from such Magistrates' office, and the said clerks shall at the opening of such Courts of Petty Sessions produce the said Electoral Lists and a copy of the list of persons so claiming as aforesaid, and of the persons so objected to as aforesaid made out in the manner aforesaid, and all collectors of rates shall on being thereto summoned attend the said 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 said Electoral Lists and the chairman of such Court or person acting as such shall insert in such lists the name of every person who shall be proved to the satisfaction of the Court to be entitled to have his name inserted therein and shall retain on the said lists the names of all persons to whom no objection shall have been duly made as aforesaid and shall also retain on the said lists the name of every person who shall have been objected to by any person unless the person 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 any such list 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 that the person so objected to is by virtue of the said in part recited Act duly qualified to vote at the Election of a member of such Legislative Council and in case the qualification of such person shall not be proved to the satisfaction of the Court the said chairman or person acting as such 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 and supply any omission which shall be proved to the Court to have been made in any such list 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 chairman or person acting as such in any such list or shall be expunged therefrom except in the case of death

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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 in any Electoral District shall sit or act as a Magistrate at any Court of Petty Sessions at which the Electoral Lists of the Electoral District for which he shall have so declared himself to be a candidate shall be revised. 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 such Courts of Petty Sessions assembled.

**10** The Courts of Petty Sessions holden under this Ordinance for the revision of the said Electoral Lists shall have power to adjourn from time to time provided that no such Court shall be adjourned beyond the said 20th day of September, in this present year, and the said 19th day of May in any succeeding year, and the chairman of every such Court or person acting as such shall have power to require any person having the custody of any book containing any rate made in or for any city or town or any part of this Colony during that or the preceding year to produce the said book and allow the same to be inspected by such Court and shall have power to administer an oath or oaths as well to any Magistrates' clerk and to collectors of rates as to all persons claiming to be inserted in or making objections to the omission or insertion of any name in any of the said Electoral Lists and to all persons objected to in any such list and to all persons claiming to have any such mistake in any such list 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 if any such person shall wilfully and knowingly swear falsely in answer to any lawful question put to him at such examination he shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury and the chairman of every such Court of Petty Sessions or person acting as such 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 or omissions shall have been corrected or supplied and shall sign his name to every page of the several lists which shall be so revised and settled at such Court of Petty Sessions as aforesaid.

Powers of adjournment to compel production of Books and to administer Oaths.

**11** THE Electoral Lists of each Electoral District, when so revised and settled as last aforesaid, shall on or before the 30th day of September in this present year, and the twenty-ninth day of May

Revised Lists to be delivered to Returning Officers and entered in Books.

in any succeeding year, be delivered by the Chairman or person acting as such of each Court of Petty Sessions at which the same shall have been so revised and settled, to the returning officer of such Electoral District, who shall keep the said Electoral Lists, and shall cause the same as revised and settled to be fairly and truly copied in alphabetical order into a book or books to be by him provided for that purpose, and shall cause such books to be completed on or before the seventh day of October in this present year and the twenty-fourth day of June in any succeeding year, and shall deliver such books together with the said lists, at the expiration of his tenure of office, to the person succeeding him in such office; and such book or books shall be the Electoral List or Roll of Electors entitled to vote in such Electoral District at all elections that may take place of Members of the Legislative Council between the said seventh day of October in the present year and the fourth day of June in the year one thousand eight hundred and seventy-one, and between the fourth day of June in any subsequent year wherein such Electoral Roll shall have been prepared and the fourth day of June in the year thence next ensuing: Provided that if in any year the Electoral Lists of an Electoral District shall be omitted to be regularly made out or shall not be perfected, then and in that case the Electoral Roll for the preceding year, or so much thereof as relates to such part of an Electoral District, shall be the Electoral Roll or portion of the Electoral Roll for that year.

Copies to be printed for  
Distribution.

**12** THE returning officer of each Electoral District shall in each and every year cause copies of the Electoral List or Roll of Electors of such Electoral Districts to be written or printed, and shall deliver copies thereof to all persons applying for the same on payment of the fee or sum of five shillings.

Personal attendance of  
Claimants before Courts  
where necessary.

**13** NO person claiming to be registered as an Elector 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 any such Court of Petty Sessions to attend in person, which attendance such Court is hereby empowered to require by any order in writing for that purpose, signed by the Chairman thereof or person acting as such: Provided however, that if any such claimant shall so attend personally pursuant to any such order made on the application of any person objecting to such claimant's right to be registered as an Elector, such person so objecting, if his objection be disallowed, shall pay to such claimant such expenses as such Court of Petty Sessions shall award for such claimant's attendance; and if such expenses so awarded shall not be paid upon demand made for

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the same to the person so objecting, it shall be lawful for such Court, and it is hereby empowered, upon proof of such demand and refusal, to issue a warrant to levy and raise the same by distress and sale of the goods and chattels of the person so objecting, together with the costs and charges of such distress and sale.

**14** THE writ or writs for the election of any Member or Members to serve in the Legislative Council for the said Electoral Districts, whether for the purpose of any general election or in the case of any vacancy, shall be issued by the Governor directed to the returning officer of each District, in which writs shall be named the day and place for such elections, and also the day on which such writs shall be made returnable to the said Governor.

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

**15** ALL writs to be issued for the election of Members of Council under this Ordinance may be framed in any manner and form which shall be sufficient for carrying the provisions of this Ordinance into effect.

Form of Writs.

**16** AT any election the returning officer, if it shall appear to him expedient for taking the poll at such election, may cause such number of places to be used as polling places as occasion may require and to the returning officer shall seem most convenient; and the returning officer shall appoint such clerk or clerks as to him may seem necessary to take the poll, and shall before the day fixed for the election, if there be a contest, cause to be furnished for the use of each polling place a copy of the Electoral List of the Electoral District for which such election shall take place, and shall under his hand certify such copy to be true; and the returning officer shall permit a scrutineer to attend the polling in the interest of each candidate at such polling place; but no such scrutineers shall be entitled to peruse the voting papers, or to communicate with the voters as they deliver in their votes.

Returning Officers may hire or erect Polling places.

**17** THE returning officer of each Electoral District shall preside at one polling place within or allotted for his District, and 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 writing under the hand of the said returning officer, and that such writing be posted up at the Magistrates' office of the District within which the polling place at which such deputy is intended to act may be situate at least seven days before the day of election.

Returning Officer to preside at one Polling place and to appoint deputies to preside at others.

**18** WHERE the proceedings at any election shall be interrupted

OR  
Adjournment of nomination or polling in case of riot.

or obstructed by any riot or open violence, whether such proceedings shall consist of the nomination of candidates or of the taking the poll, the returning officer or the deputy of the 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, and if necessary shall further adjourn such nomination or poll as the case may require 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 at the place or places at which the same respectively may have been interrupted or obstructed.

Returning Officer to endorse on Writ date of receipt and notify day of nomination and poll.

**19** THE returning officer of each Electoral District shall endorse on the writ the day on which he received it, and within four days from the date of his receiving such writ shall give public notice of the day and place of election named in such writ.

Mode of proceeding on day of election.

**20** ON the day of election the returning officer shall preside at a meeting to be holden at ten o'clock of the forenoon at the place named for that purpose in the writ, 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 in the event of there being more candidates than the number of Members to be elected, the returning officer shall call for a show of hands separately in favor of each candidate, and after such show of hands shall declare the person or persons on whom the election has fallen, and shall return the same accordingly, unless a poll be demanded by any 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 immediately take place, or shall take place at the different polling places for such Electoral District on the day appointed by the Governor in the writ for that purpose.

Duration of poll and manner of voting.

**21** 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 close at six o'clock in the afternoon of the same day. Such election 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 elected by delivering by himself, or by his proxy or agent duly authorized in writing,

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to the said returning officer or his deputy a voting paper containing the Christian name and surname or Christian names and surnames of the person or 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, and in the case of a vote by agent or proxy, such voting paper shall be endorsed by the agent or proxy using the same: Provided 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 he shall think fit, or if required by any two Electors entitled to vote for the same Electoral District, put to any person tendering a voting paper at the time of his delivering in his voting paper, and not afterwards, the following questions or any of them, and no other; and when such voting paper shall be delivered by a proxy or agent of an Elector entitled to vote, it shall be signed by such Elector in the presence of a Justice of the Peace, who shall witness such signature by affixing his signature thereto, and such Justice of the Peace shall at the same time put the following questions to the Elector so signing:—

Inquiry which may be asked of a person tendering a Vote.

Are you the person whose name is signed to the voting paper now delivered in by you?

Are you the person whose name appears as [*here specify the name contained in the Electoral Roll*] in the Electoral Roll now in force for this Electoral District, being registered therein for property described to be situated in [*here specify the property described in the Electoral Roll*]?

Have you already voted at the present election for this District?

Have you the same qualification for which your name was originally inserted in the Electoral Roll for the District of [*specify in each case the particulars of the qualification as described in the Electoral Roll*]?

22 THE returning officer or his deputy shall, if he shall think fit, or if required by any candidate, or on behalf of any candidate by his agent, at the time aforesaid, and the Justice of the Peace witnessing a voting paper shall administer an oath, or in case of a Quaker or Moravian an affirmation, to any person so tendering a voting paper, or signing a voting paper as the case may be, in the following form: that is to say—

Oaths may be administered to any person tendering a Vote.

“I do swear [*or being one of the people called Quakers or Moravians, do solemnly and sincerely affirm*] that I am the person whose name appears as [*here specify name*] in the Electoral Roll now in force for the Electoral District of [*here specify Electoral District*] [*In case of an oath So help me God.*”

No person refusing to answer questions or take oaths entitled to Vote.

**23** NO person so required to answer the said questions, or make the affirmation or take the oath aforesaid, shall be qualified or permitted to vote until he shall have answered such question or questions, or made such affirmation or taken such oath as the case may be; and no such voting paper tendered to the returning officer or his deputy by a proxy or agent of an Elector entitled to vote shall be received by the returning officer or his deputy unless the same be endorsed by the agent or proxy and accompanied by the said authority in writing nor unless the said questions and the answers thereto, and the said oath or affirmation purporting to be duly signed and administered by a Justice of the Peace, shall be annexed to such voting paper so tendered as aforesaid.

Punishment for false answer or Oath.

**24** IF any person shall wilfully make a false answer to any of the questions aforesaid, or shall upon any such oath or affirmation as aforesaid wilfully and corruptly swear or affirm falsely or shall knowingly tender to the returning officer or his deputy a false, untrue, or fictitious voting paper, such person shall be deemed guilty of a misdemeanor and on conviction thereof shall suffer the like penalties as persons convicted of wilful and corrupt perjury.

No other oath to be necessary, and the grounds upon which any person may be excluded from voting.

**25** NO Elector shall at any such election be required to take any oath or affirmation except as aforesaid either in proof of his freehold or of his residence, age, qualification or right to vote or otherwise, and no person claiming to vote at any such election shall be excluded from voting thereat either in person or by proxy or agent as aforesaid except by reason of its appearing to the returning officer or his deputy upon putting such questions as aforesaid or any of them or by reading such questions and answers tendered by a proxy or agent as aforesaid that the person so claiming to vote is not the person whose name is signed to the voting paper tendered by him or his proxy or agent as aforesaid or that he is not a person whose name appears on such Electoral Roll as aforesaid, or that he has not then the same qualification for which his name was inserted in such Electoral Roll, or except by reason of such person refusing to answer the questions or make the affirmation or take the oath aforesaid or any of them.

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**26** NO voting paper shall be rejected by any returning officer or his deputy for mere want of form provided that the name of the person signing the paper the name of the place in which the property for which he appears on the Electoral Roll is situate and the name or names of the candidate or candidates for whom he votes be intelligibly expressed and in a manner to be commonly understood.

Voting Papers not to be rejected for want of form.

**27** 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 possible delay deliver the same or cause the same to be delivered to the returning officer of the Electoral District for which he shall act.

Deputy returning Officers to deliver Voting Papers to Returning Officers.

**28** THE returning officer of each Electoral District shall as soon as may be practicable after the election shall have been held openly declare the general state of the poll at the close of the election as the same shall have been made up and ascertained by him from the voting papers taken at the several polling places and shall at the same time and place declare the name or names of the person or persons who shall have been duly elected at such election and in the event of the number of votes being found to be equal for any two or more candidates such returning officer may if duly qualified under the said in part recited Act to vote as an Elector at such election by his casting vote or votes decide which of the said 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. Provided also that it shall and may be lawful for the deputy of any returning officer to vote at any election for the Electoral District for which he is registered as an Elector in like manner as if he had not been appointed and acted as deputy returning officer for such Electoral District.

Names of persons elected to be declared by Returning Officers.

**29** 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 such writ be returned to the Governor within the time for that purpose specified therein.

Names of persons elected to be endorsed on Writ.

**30** ALL voting papers shall be sealed up by the returning officers and transmitted to the clerk of the Legislative Council who shall safely keep the same for the period of 5 years after the receipt thereof and the sealed packets containing the same shall on the outside thereof be described to be the voting papers of the Electoral Districts to which they relate and be signed by the said returning

Voting papers to be transmitted to Clerk of the Councils and be evidence of the Votes having been given.

officers, and in case any question shall at any time arise touching any vote alleged to have been given at any election the voting paper containing such vote shall upon production thereof together with a certificate thereon under the hand of the clerk of the Legislative Council for the time being that the same came to and then was in his custody as such clerk of the Legislative Council be received in evidence as proof of such vote having been so given.

General powers and subjects of inquiry by Chief Justice.

**31** AND whereas it is expedient to make provision for the determination of all questions as to the validity of any returns made by the returning officers of the several Electoral Districts and all questions as to the sufficiency of the qualification possessed by persons returned as members to serve in the said Legislative Council. Be it therefore enacted that the Chief Justice of Western Australia shall have power to inquire into and determine all petitions which may be referred to him by the Legislative Council respecting disputed returns of Members to serve in the said Council whether such disputes arise out of or relate to the capability of any person to be elected a member of such Council by reason that such person is not qualified as by the said in part recited Act is required or arise out of or relate to any alleged error in the return of any returning officer or the allegation of bribery or corruption against any person concerned in any election or any other allegation affecting the validity of any election under this Ordinance.

Powers of adjournment.

**32** THE said Chief Justice shall be competent to regulate the form of the proceedings and to appoint the time and place when and where such inquiry shall be held, and shall have power to adjourn the sitting in each case which may be referred to him from time to time as occasion may require, provided that the interval of adjournment shall not in any instance exceed five days, and that the proceedings before such Chief Justice shall not in any such case so referred to him as aforesaid extend beyond the period of 21 sitting days and if no decision be pronounced within such period the Chief Justice shall on such evidence as may then be before such Chief Justice pronounce a decision and every decision when so pronounced by the Chief Justice shall be final to all intents and purposes.

Powers of Chief Justice.

**33** THE Chief Justice shall subject to the provisions of this Ordinance, have the same powers, jurisdiction, and authority with reference to an election petition and the proceedings thereon as he would have if such petition were an ordinary cause within the jurisdiction of the Supreme Court, and on the trial of an election petition

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under this Ordinance he shall subject to the provisions of this Ordinance exercise the same powers, jurisdictions, and authority as when presiding in the Supreme Court at the trial of a Civil Cause without a jury.

**34** THE said Chief Justice in any such inquiry shall not enter into the consideration of the correctness of the Electoral Roll of any Electoral District but shall simply inquire into and determine the identity of any person whose vote may on the day of the election have been either admitted or rejected, and whether assuming the Electoral Roll to be correct any such person then retained the same qualification for which his name was originally inserted in such Electoral Roll and whether his vote was improperly admitted or rejected and whether any voters or persons entitled to vote gave their votes under the influence of bribery or corruption, force, menace, or fraud, or were prevented from giving their votes by bribery, corruption, force, menace, or fraud, and if the said Chief Justice shall find any vote or votes to have been given under the influence of bribery, corruption, force, menace, or fraud, by or on the part of any candidate or his proxy or agent the same may be taken off the file of votes, and if the said Chief Justice shall find any voter personally, or by his proxy or agent to have been prevented from voting by force, menace, or fraud by or on the part of any candidate or his proxy or agent it shall be competent to the voter so prevented from voting to tender his vote before the said Chief Justice and such vote shall be taken accordingly and on reckoning the votes received for any candidate such votes so rejected or received shall be taken into account by the said Chief Justice.

Powers of Chief Justice in respect of inquiry as to individual Votes.

**35** THE person or persons presenting a petition against the return of any Member of such Legislative Council shall if successful in setting aside the said return be entitled to recover such costs or expenses as shall be assessed and determined by such Chief Justice under his hand by action of debt from the Member against whose return such petition shall have been presented, and if the person or persons presenting any such petition shall not be successful in setting aside such petition such costs and expenses as shall be assessed and determined by such Chief Justice under his hand shall devolve on such person or persons so presenting such petition, and be in like manner recoverable by the Member against whose return such petition shall have been presented.

By whom expenses of petitions before Chief Justice, payable

**36** ALL complaints of the undue return of Members to serve in the said Legislative Council shall be addressed in the form of a

Manner and time of petitions against undue returns.

petition to the said Council and no petition shall be taken cognizance of nor any proceedings be had thereon unless it shall be so addressed to the said Council 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 Electors who either voted or were qualified to vote at the said election amounting to not less than one-tenth of the whole number of Electors on the Electoral Roll of the Electoral District for which such election shall take place or by a Member of the said Legislative Council, neither shall any such petition be taken cognizance of unless the same shall be received by the said Council in the case of a general election within seven days next after the day of the first meeting of such Council or in the case of a vacancy within seven days after the return of the writ for such election if the Legislative Council be then sitting but if not then within seven days next after the day of the next sitting of such Council which shall take place after such election, and every such petition when so presented as aforesaid shall by the said Council be referred to the said Chief Justice forthwith.

Chief Justice to be guided by equity and good conscience.

Decisions of Chief Justice and their effect.

**37** THE said Chief Justice in hearing and deciding on the merits of any such petition shall be guided by equity and good conscience and the real and substantial justice of the case without regard to legal forms and solemnities, and shall receive or reject at his discretion any evidence that may be tendered to him, whether such evidence be such as the Law would require in other cases or not; and if the said Chief Justice shall so decide and declare as aforesaid that any person was not duly elected who shall have been returned as elected by the returning officer of any Electoral District, the person so decided and declared to have been not duly elected shall cease to be a Member of the said Legislative Council and vacate his seat accordingly; and if the said Chief Justice shall decide and declare as aforesaid any person to have been duly elected who shall not have been returned by any returning officer, the person so decided and declared to be duly elected shall be and be sworn a Member of the said Council, and take his seat accordingly; and if the said Chief Justice shall decide and declare as aforesaid any election for any Electoral District to have been absolutely void, which such Chief Justice is hereby authorized and empowered to do, it shall be lawful for the Governor, on the same being certified to him under the hand of the Speaker of the said Legislative Council, to issue a new writ for the holding of another election for such Electoral District, and every such writ as last aforesaid shall be issued within ten days after such certificate shall have been received by the said Governor.

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**38** AND (for the prevention of bribery and corruption at any election as aforesaid) be it enacted that from and after the passing of this Ordinance each of the following acts shall be deemed and taken to be an act of bribery and corruption on the part of any candidate at any such election, 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 to any Elector, or the making with or giving to any Elector any agreement or security for any gift or reward, or the holding out to any Elector any promise or expectation of profit, advancement, or enrichment to himself or to any of his family or kindred or friends or dependents in any shape, or making use of any threat to any Elector or otherwise intimidating him in any manner, or the treating of any Elector, 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 or coming to or going from such election, or 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, or the keeping open any public house, shop, booth, tent, or place of entertainment, whether liquor or refreshment of any kind be distributed thereat or not, or the giving of any dinner, supper, breakfast, or other refreshment or entertainment at any place whatsoever to any Elector with the view in any such case as herein specified of influencing the vote of any such Elector.

What shall be deemed Acts of Bribery.

**39** IF it shall be proved to the satisfaction of the said Chief Justice that any such candidate or his agent as aforesaid shall have been guilty of any one of the acts of bribery and corruption aforesaid, such Chief Justice shall declare and decide the election of such candidate to be void; and such decision of the said Chief Justice shall disqualify such candidate from sitting or voting in the said Legislative Council during the whole period that may intervene between such decision of such Chief Justice and the time of the next general election.

Commission of any such Act by a Candidate or his Agent to disqualify Candidate.

**40** UPON the hearing of any such petition as aforesaid before such Chief Justice, the acts in any matter connected with any election of any authorized agent of any candidate at such election shall be deemed and be taken to be the acts of such candidate.

Candidates to be bound by the Acts of their Agents.

**41** IF any of the acts aforesaid so declared to be acts of bribery and corruption shall be committed by any person, whether such person shall be a candidate at such election or not, the person so committing the same, whether by himself or by any person employed

Punishment for commission of Acts of Bribery.

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by him for that purpose, shall be deemed guilty of a misdemeanor, and may be prosecuted for such act or acts as for a misdemeanor in the Supreme Court, and be punished for such offence by a fine not exceeding £200 or imprisonment not exceeding six calendar months.

Punishment for receiving  
Reward for Voting or with-  
holding Vote.

**42** IF any person who shall have or claim to have any right to vote at any election of a Member or Members of such Council for any Electoral District shall by himself or any other person directly or indirectly ask for or receive any money or other emolument or reward by way of gift, employment, or otherwise for himself or any other person whatsoever as a consideration or inducement, expressed or implied, for giving his vote or for abstaining from giving his vote at such election, such person shall for such offence forfeit and pay the penalty or sum of £50 sterling to the person who shall first sue for the same, and such penalty or sum may be recovered with full costs by action of debt in the Supreme Court.

Punishment for Voting  
twice or personating a Voter

**43** EVERY person who shall vote a second time, or offer to vote a second time, at one and the same election for any Electoral District, or who shall personate or attempt to personate any other person for the purpose of voting at any such election, or shall falsely represent himself as a duly authorized proxy or agent of an Elector entitled to vote as aforesaid, shall be guilty of a misdemeanor, and shall, on conviction thereof, be imprisoned for any term not exceeding two years at the discretion of the Court before which such person shall be tried.

Payment of expenses in-  
curred at first Election.

**44** ALL necessary and reasonable expenses which shall be incurred prior to the first meeting of the Legislative Council so established as aforesaid by any person or persons appointed or acting under or by virtue of this Ordinance for the purpose of carrying the several provisions thereof into effect shall, if the same be allowed by the Governor, be paid and discharged out of the public funds by warrants under the hand of such Governor directed to the Colonial Treasurer.

Delays or impediments in  
the return of Writs.

**45** AND whereas divers of the Electoral Districts under this Ordinance 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 herein contained with regard to the elections for the said Electoral Districts: Be it therefore enacted that no election for any such District shall be held to be void in consequence solely of any delay in the holding of any election at the time

appointed, or in the return of the writ in consequence of any impediment of a mere formal nature: Provided, that such election shall by the Governor, within twenty days from the day on which such election was held, be declared not to be invalid for any such cause as aforesaid; Provided, also, that within the period of twenty days before or after the day appointed for any election it shall be lawful for the said Governor 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 such election may be impeded, and to supply any deficiency that may otherwise affect the same; Provided, also, that any measures so adopted by the said Governor shall be duly notified in the *Government Gazette*.

**46** IT shall be lawful for the Governor to appoint such additional officers in any Electoral District as may be necessary to ensure the carrying into effect the several provisions of this Ordinance.

Governor may appoint additional Officers.

**47** IT shall be lawful for the Governor to delegate to any other person the performance of any act or thing which by this Ordinance he is empowered to perform: Provided always that any such delegation shall be made under the hand of such Governor and the seal of the Colony, and be duly announced by proclamation in the *Government Gazette*.

Governor may delegate his powers.

**48** ANY and every person who may, under the provisions of this Ordinance, be appointed a returning officer or deputy returning officer, or be appointed to any other office under this Ordinance, shall, before he enter on the performance of the duties of any such office, make and subscribe the following declaration before any Justice of the Peace for this Colony or its dependencies:—

Declaration to be made by Officers before entering on duties.

“I, A. B., do hereby declare that I accept the office of \_\_\_\_\_, and I do hereby promise and declare that I will faithfully perform the duties of the same to the best of my understanding and ability.”

And the Justice of the Peace before whom any such declaration shall be made is hereby required to transmit the same by the first convenient opportunity to the Clerk of the Legislative Council.

**49** IF any returning officer, or deputy returning officer, after having accepted office as such, or any Magistrates' clerk, or any other person appointed or enjoined to perform any duty, matter, or

Misconduct by Officers.

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thing under this Ordinance shall wilfully neglect or refuse to perform any of the duties, matters, or things which by the provisions of this Ordinance he is so appointed, enjoined, or required to perform, every such returning officer, deputy returning officer, Magistrates' clerk, or other person shall for every such offence forfeit and pay a penalty or sum not less than £20 nor exceeding £100; and any such penalty or sum shall be recoverable with full costs of suit by any person who shall sue for the same within three calendar months after such neglect or refusal as aforesaid by action of debt in the Supreme Court, or if the sum sued for be in amount within the jurisdiction of any Local Court, in such Local Court and such penalty or sum when recovered shall be paid and apportioned as follows: that is to say, one moiety thereof to the person so suing for the same, and the other moiety thereof to Her Majesty, her heirs and successors for the public uses of this Colony.

General issue.

**50** IF any action shall be brought against any person for any matter or thing done under the authority or in pursuance of this Ordinance, such person may plead the general issue, and give this Ordinance and the special matter in evidence.

When things to be done fall on Sunday.

**51** WHEN any matter or thing shall be directed by this Ordinance to be performed on a certain day, and that day shall happen to be Sunday, Good Friday, or Christmas Day, the said matter or thing shall be performed on the day next succeeding such Sunday, Good Friday, or Christmas Day.

Grants for Civil and Judicial Services.

**52** OUT of the revenue fund there shall be payable every year to the use of Her Majesty, her heirs and successors the sum of £4480 for defraying the expenses of the several services and purposes in the Schedule marked G, the said sum of £4480 to be issued by the Colonial Treasurer in discharge of such warrant or warrants as shall be from time to time directed to him under the hand of the Governor.

FRED. A. WELD,  
GOVERNOR AND COMMANDER-IN-CHIEF,

(L.S.)

*Passed the Legislative Council, }  
this 1st day of June, 1870. }*

HENRY WELD BLUNDELL,  
*Clerk of the Council,*

SCHEDULE A.

BOUNDARIES OF ELECTORAL DISTRICTS.

1.—Electoral District of Perth.

Bounded on the *West* by the Sea coast: on the *South* by the North and East boundaries of North Fremantle Townsite, then by the southern shores of the Swan Inlet and of the Canning River to the South-west corner of Bull's Creek, then by a South-easterly line to that part of the Albany Road from Kelmscott lying East from the South end of Mangles Bay; on the *East* by a North-easterly line to Mount Dale, then by a North-westerly line to the East corner of Swan Location No. 34 known as Belmont, then by the North-east boundary of said Location 34 prolonged North-west to the Swan River's right bank, then by a line extending North by West to the East end of Lake Gnangarra and then by a North line; and on the *North* by a West line to the Sea coast through the North end of Lake Nowergup; all bearings true.

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2.—Electoral District of Fremantle.

Bounded on the *West* by the Sea coast, including Rottneet, Garden, Carnac and Penguin Islands; on the *North* by Bull's Creek, by the Canning River and Swan Inlet, by the East and North boundaries of North Fremantle Townsite, by the North-east boundary of Swan Location No. 34, known as Belmont, by a South-easterly line from the East corner of said Location 34 to summit of Mount Dale by a South-easterly line thence to where the Albany Road to York crosses the Hotham River, then by said river upwards to centre of Milling-gnalling Pool near its source, and thence by a true East line to the Sea coast of the Great Australian Bight; on the *East* by the said coast; and on the *South* by a true East line from the Sea coast passing through the summit of Mount William to the Murray, then by that river and the Williams upwards (including the locations and leased lands having frontage on both sides of those Rivers), and by a true East line from the North boundary of Bannister Townsite on the Williams to the shore of the Bight aforesaid.

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3.—Electoral District of Geraldton.

Bounded on the *South* by an Easterly line from Mouth of Greenough River to the summit of Wizard Peak, then by an Easterly line to the Coal Seam in bed of Irwin River, and then by a true East line to the East bound-

dary of the Colony ; on the *East* by part of said East boundary extending true North ; on the *West* and *North* by the Sea coast, including the Islands adjacent to it.

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#### 4.—Electoral District of York.

Bounded on the *West* by a North-westerly line to the summit of Mount Dale from where the Albany Road to York crosses the Hotham River, then by a northerly line from Mount Dale to the North-east corner of Helena Location No. 22, once the half-way station between Guildford and York, thence by a North-westerly line towards the South-west corner of Location 95 at Bailip on the road Guildford to Toodyay ; on the *North* by a magnetic East-north-east line to the river Avon, passing along the southern boundary of Avon Location (e), then by said river downwards, and by a magnetic East-north-east line thence, passing along the South boundary of Northam Townsite until it meets a true East line from summit of Wongan Hills, and finally by said true East line to the Colony's east boundary ; on the *East* by part of the boundary last aforesaid extending true South to the Sea coast ; and on the *South* by said coast extending Westward, and by a true West line from it to centre of Milling-gnalling Pool in Hotham River, and then by said river downwards to commencement of the West boundary hereinbefore described.

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#### 5.—Electoral District of Toodyay.

Bounded on the *North* by a true East line from the Sea coast through a spot 20 miles North from Dandaraga Spring, then by a true South line to the summit of Wongan Hills, and then by a true East line from said summit ; on the *West* by the Sea coast, and by a true East line thence to centre of Jilgin Pool in a branch of Moore River, then by said branch downwards to its junction with Moore River, then by a South-easterly line to a spot 4 miles true East from the bridge at Bindoon, then by a Southerly line to the South-west corner of Location 95 at Bailip and then by a Southerly line towards the North-east corner of Helena Location No. 22, once the half-way station between Guildford and York ; and on the *South* by a magnetic East-north-east line to the river Avon, passing along the Southern boundary of Avon location (e), then by said river downwards, and by a magnetic East-north-east line thence passing along the South boundary of Northam Townsite to the East end of the North boundary hereinbefore first described.

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#### 6.—Electoral District of the Swan.

Bounded on the *West* by the Sea coast ; on the *South* by a true East line

from said coast through the North end of Lake Nowergup, then by a South line through the East end of Lake Gnangarra, then by a South by East line to Swan River's right bank at the upper boundary of Peninsula Farm, then by the upper boundary of Swan Location No. 34 known as Belmont, and then by a South-easterly line to summit of Mount Dale; on the *East* by a Northerly line from Mount Dale to the North-east corner of Helena Location No. 22, once the half-way Station between Guildford and York, thence to the South-west corner of Location No. 95 at Bailip on the Guildford road to Toodyay, thence Northerly to a spot 4 miles East from the bridge at Bindoon, thence by a North-westerly line to the junction of the Mouverin and Jilgin branches of Moore River, and by said Jilgin branch upwards to the centre of Jilgin Pool in its bed; and on the *North* by a true West line to the Sea coast.

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## 7.—Electoral District of Greenough.

Bounded on the *South* by a true East line from the Sea coast through a spot 20 miles North from Dandaraga Spring, then by a true South line to the summit of Wongan Hills, and then by a true East line from said summit to the East boundary of the Colony; on the *East* by part of the said East boundary extending true North; on the *West* by the Sea coast; and on the *North* by an Easterly line from Mouth of Greenough River to the summit of Wizard Peak, then by an Easterly line to the Coal Seam in bed of Irwin River, and finally by a true East line to the East boundary of the Colony.

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## 8.—Electoral District of Wellington.

Bounded on the *North* by a true East line from the Sea coast to the River Murray passing through the summit of Mount William, then by that River and the River Williams upwards (excluding the Locations and leased lands on both banks of those Rivers) and by a true East line from the North boundary of Bannister Townsite on the Williams to the shore of the Great Australian Bight; on the *East* by the Sea coast; on the *South* by a true West line thence to the junction of the Beaufort and Balgarup Rivers with Blackwood River, thence by Blackwood River downwards (inclusive of all Locations and leased lands on both its banks) to the junction of Padbury Brook, then by a North-westerly line to the South-west corner of Location 171 on the River Capel, then by that river downwards (including the appropriated lands having frontage on it) and by a true West line to the Sea coast through the North end of Wonnerup Inlet; and bounded on the *West* by the Sea coast.

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## 9.—Electoral District of Vasse.

Bounded on the *North* by the River Blackwood downwards from its junction with the Beaufort and Balgarup Rivers (exclusive of any appropriated lands having frontage on either of its banks) to the mouth of Padbury Brook, then by a North-westerly line to the South-west corner of Location 171 on the River Capel, then by that river downwards (exclusive of any appropriated lands having frontage on its banks) and then by a true *West* line to the Sea coast through the North end of Wonnerup Inlet; on the *West* and *South* by the Sea coast; and on the *East* by a South-Westerly line from junction of the Beaufort and Balgarup Rivers to the South extremity of Point D'Entrecasteaux.

## 10.—Electoral District of Albany.

Bounded on the *South* and *East* by the Sea coast, including the several Islands adjacent to it; on the *North* by a true *West* line from said coast to the junction of the Beaufort and Balgarup Rivers with the River Blackwood; and on the *West* by a South-westerly line from said junction to the South extremity of Point D'Entrecasteaux.

## SCHEDULE B.

### List of Electors for the Electoral District of

Christian name and Surname of each Person in full	Nature of the Qualification.	Where the Property affording the Qualification is situated.

Dated the                      day of                      18 .

*(Signed by the Magistrates' Clerk.)*

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## SCHEDULE C.

### NOTICE OF CLAIM.

To the Magistrates' Clerk of the District of

I hereby give you notice that I claim to have my name inserted in the Electoral List for the Electoral District of \_\_\_\_\_ in virtue of the Freehold Property which I possess at \_\_\_\_\_ (or of the Dwelling House which I occupy at \_\_\_\_\_) (or other Qualification as the case may be).

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 18 .

*(Signed.)*

*(Place of Abode.)*

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## SCHEDULE D.

### NOTICE OF OBJECTION.

To the Magistrates' Clerk of the District of \_\_\_\_\_ and to \_\_\_\_\_  
*(the person objected to)*

I hereby give you and each of you notice that I object to the name of \_\_\_\_\_ of \_\_\_\_\_ *(describe the person objected to as described in the Electoral List)* being returned on the Electoral List for the Electoral District of \_\_\_\_\_

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 18 .

*(Signed.)*

\_\_\_\_\_ of *(here state the dwelling house or property for which the person objecting is included in the Electoral List.*



## SCHEDULE G

## SALARIES.

	£	s.	d.
Governor .. .. .	700	0	0
Private Secretary and Clerk of } Executive Council	250	0	0
One Clerk .. .. .	80	0	0
Chief Justice .. .. .	1000	0	0
Colonial Secretary .. .. .	800	0	0
Surveyor General .. .. .	600	0	0
Attorney General .. .. .	500	0	0
Treasurer .. .. .	550	0	0
	<hr/>		
	£4480	0	0
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