

1856.

HOUSE OF REPRESENTATIVES.

REPORT OF THE SELECT COMMITTEE

ON

DISPUTED ELECTIONS.

EXTRACTS FROM THE VOTES AND PROCEEDINGS OF THE HOUSE OF REPRESENTATIVES.

VOTES No. 2, THURSDAY, APRIL 17, 1856.

2.—Disputed Elections.

THOMAS GORE BROWNE,
Governor.

Message No. 3.

In conformity with the 54th clause of the Proclamation dated 4th March, 1853, prescribing certain regulations, amongst others, for determining the validity of all disputed returns of elections, the Governor refers to the House of Representatives the accompanying petitions (as specified below), received by him against the return of certain members of that House:—

Petition of James O'Neill against the return of Thomas Beckham, for the City of Auckland.

Petition of Daniel Pollen against the return of Walter Brodie, for the Suburbs of Auckland.

Petition of Walter Brodie against the return of Frederick Ward Merriman, for the Suburbs of Auckland.

Petition of certain electors of the Northern Division, in the Province of Auckland, against the return of Walter Lee, for that district.

Petition of James Farmer against the return of Joseph Greenwood and John Williamson, for the Pensioner Settlements District, in the Province of Auckland.

Petition of William Buckland against the return of Charles John Taylor, for the Southern Division, in the Province of Auckland.

Government House,

Auckland, 17th April, 1856.

On motion of Mr. Sewell, consideration of his Excellency's Message No. 3 ordered to stand an order of the day for a future day.

VOTES, No. 3, FRIDAY, APRIL 18, 1856.

7. Disputed Election Returns:—Mr. Fox moved the suspension of Standing Order No. 29.

Question put and passed.

Mr. Fox then moved, That a Select Committee be appointed, to which shall be referred all the petitions against the return of any Member of this House, with power to call for witnesses and papers; the Committee to consist of Mr. Brittin, Mr. Cuff, Mr. Fitzherbert, Mr. Hall, Mr. Richmond, Mr. Sewell, Mr. Stafford, Mr. Ward, and the mover; to report on this day fortnight, May 2nd, 1856.

Question put and passed.

VOTES, No. 5, MONDAY, APRIL 28, 1856.

11. Report of Committee on Disputed Elections:—Mr. Fox, pursuant to notice, moved for leave to bring up the Report of the Committee on Disputed Elections on the next sitting day of the House.

Question put and passed.

VOTES, No. 6, TUESDAY, APRIL 29, 1856.

18. Disputed Election Returns:—Mr. Fox, Chairman of the Committee on Disputed Election Returns, brought up the Report of the Committee, which was read and ordered to be printed.

D.—No. 1.

REPORT.

THE SELECT COMMITTEE, appointed April 18, 1856, to whom were referred "*All Petitions against the Return of any Member of this House, with power to call for witnesses and papers,*" report as follows :—

YOUR COMMITTEE report that, having read and considered the petitions against the returns of Messrs. Brodie, Taylor, Merriman, Greenwood, Williamson, Beckham, and Lee, which had been referred to it by your Honorable House, gave notice to the petitioners to attend before your Committee to prosecute their petitions.

The petitioners, in every case except that of the petition against Mr. Lee, appeared in obedience to the summons of your Committee, when they declined to prosecute the petitions. The petitioners in Mr. Lee's case have not appeared before your Committee, nor offered any excuse for abstaining from doing so.

In the existing state of the law, your Committee was unable to compel the prosecution of the petitions, and was obliged to acquiesce in the course adopted by the petitioners. It cannot, however, refrain from expressing its regret at the adoption of that course. It conceives that petitions, seriously impugning the character of honorable Members of this House, ought not to have been presented, unless the petitioners were in possession of ample evidence to support their allegations; while, if they did possess such evidence, it was their duty towards this House and the community at large to prove the charges they had made.

To prevent the recurrence of such a circumstance, your Committee recommend that, before any petition be received by this honorable House, some sufficient guarantee should be required from petitioners that they will prosecute the same in a *bona fide* manner. With this object, and in order to regulate the manner in which petitions against the return of Members of this House should be investigated (for which no provision has yet been made by your honorable House), your Committee has suggested to the Standing Orders Committee certain "*Standing Orders on Election Petitions,*" which, the latter Committee having adopted, will be found embodied in the amended Standing Orders now on the table of the House, and to which, therefore, further allusion need not be made.

But, as the Standing Orders of your honorable House only bind its Members, it has appeared essential to your Committee that certain provisions should be made by legislative enactment to enable the House effectually to conduct enquiries of this nature, and to enforce its decisions. It is also desirable, in the opinion of your Committee, that the Legislature should provide for the purity of election, by making certain acts penal, and the ground of avoidance of the return of any Member whose election has been secured by such means. For these purposes your Committee would recommend that an Act be passed by the General Assembly to make provision for the following particulars :

1st. To make bribery, treating, intimidation, and personation penal, and to make void any vote induced by such means; and, if effected with the previous knowledge or connivance of the sitting Member, to disqualify him for re-election during the continuance of the then Assembly.

2nd. To enable Election Committees to compel attendance of all persons whom they may think proper to summon on hearing of any petition, and to compel production of papers and books.

3rd. To require the Returning Officer or Resident Magistrate to perform the duties imposed upon him by the Standing Orders.

4th. To require the Attorney-General, on order of the Speaker, to prosecute on bonds.

5th. To enable the Committee to direct payment of costs, expenses of witnesses, &c., and authorise persons entitled thereto to sue for same, on certificate of Speaker.

6th. That if any petitioner, or the sitting Member petitioned against, should, by petition presented to the House in the usual manner, request the same, the House may direct a Commission to be issued by the Speaker to any number of persons, not exceeding three, to hear and adjudicate upon such petition; for which purpose they should be empowered to exercise all the powers vested by the Standing Orders of this House in special Committees for the trial of elections, and should in their proceedings be guided by such Standing Orders to report to the House, with a full statement of their proceedings, and of the evidence taken in the enquiry. No Member should be considered to have vacated his seat on the report of any commission till the same should have been adopted by the House.

7th. That any person who should wilfully give false evidence before any Committee on the investigation of an election petition, or before any Commission of inquiry thereon, should, on conviction thereof before the Supreme Court, be liable to the penalties of wilful and corrupt perjury, although such evidence might not have been given on oath.

WILLIAM FOX, *Chairman.*

