

1856.

HOUSE OF REPRESENTATIVES.

REPORT OF THE SELECT COMMITTEE
ON
THE CONSTITUTION ACT.

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

VOTES, No. 14, FRIDAY, MAY 9, 1856.

6. Constitution Act:—The Colonial Secretary moved, That a Select Committee be appointed to consider and report as to the changes which it may be desirable to make in the Constitution Act, and the best mode of effecting the same, with power to confer with any Committee appointed for the like or similar purpose by the Legislative Council; such Committee to consist of Mr. Speaker, Mr. Richmond, Mr. Domett, Mr. Fitzherbert, Mr. Fox, Mr. Carlton, Mr. Merriman, Mr. Brittin, Mr. Featherston, Mr. Stafford, and the mover. Report to be brought up this day fortnight.

Question put and passed.

VOTES, No. 24, FRIDAY, MAY 23, 1856.

9. Constitution Act:—On motion of Mr. Sewell, the time for the report of this Committee was extended to Tuesday, 3rd of June.
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VOTES, No. 31, WEDNESDAY, JUNE 4, 1856.

7. Constitution Act Committee:—Mr. Stafford, by leave of the House, moved that he be discharged from the Committee on changes in the Constitution Act.

Question put and passed.

VOTES, No. 33, FRIDAY, JUNE 6, 1856.

10. Constitution Act, Changes in:—Mr. Fox, pursuant to notice, moved that the names of Mr. Richmond, Mr. Merriman, Mr. Featherston, and Mr. Sewell, be removed from the Committee on the Constitution Act, and that the name of Mr. Ward be added.

Question put and passed.

VOTES, No. 35. WEDNESDAY, JUNE 11, 1856.

9. Constitution Act Committee:—Mr. Stafford, pursuant to notice, moved that Mr. Travers be added to the Committee on the Constitution.

Question put and passed.

VOTES, No. 41, THURSDAY, JUNE 19, 1856.

7. Postponements (3):—The report of the Committee on changes in the Constitution was postponed, on motion of Mr. Fox, until Tuesday next.
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VOTES No. 47, THURSDAY, JUNE 26, 1856.

7. Postponements (1):—On motion of Mr. Fox, leave was given to the Committee on changes in the Constitution Act to postpone their report to this day week.
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VOTES, No. 52, THURSDAY, JULY 3, 1856.

10. Postponements (1):—On motion of Mr. Fox, leave was given to the Committee on changes in the Constitution Act to postpone their report until Tuesday next.
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VOTES, No. 54, TUESDAY, JULY 8, 1856.

5. Postponement:—On motion of Mr. Fox, the report of the Committee on changes in the Constitution Act was postponed until Thursday next.
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VOTES, No. 57, FRIDAY, JULY 11, 1856.

7. Postponement:—On motion of Mr. Fox, the Report of the Committee on Changes in the Constitution Act was postponed till Thursday next.
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VOTES, No. 61, THURSDAY, JULY 17, 1856.

6. Postponement:—On motion of Mr. Fox, leave was given to the Committee on the Constitution Act to postpone their report to this day week.
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VOTES, No. 69, TUESDAY, JULY 29, 1856.

2. Constitution Act Committee:—Mr. Fox, Chairman of this Committee, brought up their report, which was read and ordered to be printed

R E P O R T.

THE SELECT COMMITTEE of the House of Representatives, appointed May 9, 1856, to enquire into and report as to the changes which it may be desirable to make in the Constitution Act, report as follows :—

Your Committee has considered the subjects referred to it, including the Bills for the Prevention of Bribery, and the Correspondence between Mr. Carlton and the Government relative to certain matters connected with elections at the Bay of Islands and elsewhere, in the Province of Auckland.

1. Your Committee is of opinion that the Regulations relating to the Electoral Roll and the conduct of Elections, contained in Sir George Grey's Proclamation of 5th March, 1853, require alteration in several particulars, among which the following appear of pressing importance :—

I.—THE PROVISIONS FOR THE MAKING UP OF THE ELECTORAL ROLL.

Your Committee has reason to believe that the existing Roll is far from complete or accurate; that many names are upon it which ought not to be, and that others have been omitted which ought to be upon it; and that no sufficient means of correcting it exist in conformity with the present Regulations.

They submit as remedies—1. That personal service of objections to voters on the Roll be not required, but that in lieu thereof a written objection, served at the usual or last usual place of abode of the party objected against, and published in the *Government Gazette* two months before the Roll is made up, be substituted. 2. That any claimant for enrolment may support his claim either in person or by deputy, and that no evidence of the appointment of such deputy be required. 3. That the officers appointed by Government to take the Census should be supplied with claiming papers; and wherever a party is not on the Roll, whose qualification as a voter is apparent on taking such Census, the officer should send in a claim to be enrolled on behalf of such person. 4. That any person may send in a claim on his own account. 5. That any person who may object to his name being on the Roll should have power, by application in writing, to require his name to be taken off the Roll. 6. That the existing Roll ought to be abolished so soon as a new one shall have been constructed in manner above suggested; and that the Government ought to take immediate steps towards creating such new Roll, for which purpose it may be necessary to pass a short Act, authorizing the Census to be taken during the now ensuing year.

II.—AS REGARDS THE CONDUCT OF ELECTIONS.

That it is desirable, if possible, to abolish the system of voting by written ticket, and to require *viva voce* voting instead. But if the present system be adhered to, greater precautions should be adopted against personation, the tendering of papers without the presence of the voter, during the absence of the two electors whose objection is requisite, and other frauds which appear to have been practised. That the Returning Officer should not be allowed to reject any vote except on the ground either that the voter is not on the Roll, or that he cannot satisfactorily answer the questions required by the existing regulations.

That there should only be one place for nomination of a Superintendent within the same Province.

1 That any candidate, or any two electors on his behalf, should, at any nomination, have power to demand a poll.

2. That no Resident Magistrate should be Returning Officer *virtute officii*, but that such officers should be specially appointed.

3. That petitions against returns should be presented within 21 days from official declaration of the poll, and not from the day of election, as at present.

4. Your Committee has abstained from considering many matters of importance connected with the Constitution Act, on account of the proposal of the Government to endeavour to obtain power from Parliament to alter the Act.

5. Your Committee has agreed to the provisions of a Bill for the prevention of bribery, and to make provision for the decision of disputed returns, which they append for the consideration of your Honorable House. They would also suggest that a Bill should be laid before your House disqualifying persons who have been guilty of bribery or treating at any election from holding the office for which they have been returned, by such influence, till after one other election for the same shall have taken place. They have not inserted provisions to that effect in the appended Bill, because, as altering the qualification fixed by the Constitution Act, it would have been necessary to obtain the sanction of the Imperial Government, and so have delayed the operation of the Bill.

6. Your Committee also suggests the necessity for an Act enabling the Governor to appoint a Commission to adjudicate on disputed returns of Superintendents.

7. If possible, an Act should be passed during the present session to carry into effect the foregoing suggestions.

8. In reference to the correspondence with the General Government concerning the proceedings of Mr. Clendon, who acted as Returning Officer at the Bay of Islands during the late elections, and the return of voting papers rejected by Returning Officers in the Province of Auckland during the late elections, laid upon the table of the House, your Committee are of opinion that Mr. Clendon acted in excess of his powers; and that it was the duty of the General Government, when the matter was brought officially before them, to have taken cognizance of proceedings which are subversive of the first principles of representative institutions.

Your Committee are of opinion that Captain Haultain, in the Southern division of the Province of Auckland, also acted in excess of his powers.

Your Committee are informed, by the correspondence laid before them, that voting papers were also cancelled by the Sheriff of Auckland, who acted as principal Returning Officer. No return of those papers has been laid before them.

WILLIAM FOX, *Chairman.*

*Committee Room, House of Representatives,
July 29, 1856.*

of the Nelson purchasers, and the resolutions have for the most part been acted upon and treated as binding by all parties concerned.

2nd. We are of opinion that Colonel Wakefield having had authority to bind the Company, and having done so by his assent to the resolutions, it was not competent to the Directors subsequently to add the qualification in regard to the meaning of the word "arbitration" in the 2nd clause.

3rd. We are of opinion that the resolutions in question did form one of those contracts in regard to Lands or existing engagements with reference to the settlement at Nelson, which by the surrender of the Company's Charters, have devolved on Her Majesty's Government. It appears that the word existing must be taken as referring to engagements existing at the time of the surrender of the Charter, not of the passing of the Act 10 & 11 Victoria, cap. 112.

We have, &c.,

(Signed)

{ A. G. COCKBURN.
{ W. P. WOOD.

Right Hon. Earl Grey, &c., &c., &c.

No. 55.

Downing Street,

1st September, 1852.

Sir,

I have to acknowledge your despatches of the numbers and dates specified in the margin, conveying memorials from Wanganui, Nelson, and Wellington, and a letter from Messrs. Fell and Seymour, of Nelson, on the subject of the Land Claimants' Ordinance, and of the New Zealand Company's terms of purchase at Nelson and Wellington.

Altho' the several parties who thus address you, are not wholly agreed as to the measures to be taken with respect to these complicated land questions, yet the memorials afford abundant evidence that the settlers in general are satisfied of the impolicy of maintaining the price of land fixed by the Company's terms of purchase at Nelson, Wellington, and New Plymouth.

You have acted fully in accordance with Lord Grey's directions in obtaining this strong expression of opinion; but I had already become so satisfied, from other evidence, of the general inclination of the colonists, that I had felt myself justified in already giving you directions to place the land affairs of these settlements on such a footing as you might find advisable, and have only to refer you to my despatch of the 21st July last, No. 34, in which those directions and observations on the legal position of the case are contained.

I defer any more particular notice of Messrs. Fell and Seymour's memorial, until the fuller report, which you propose to send, respecting the subject of it, reaches me.

I have, &c.,

(Signed)

JOHN S. PAKINGTON.

Governor Sir George Grey, &c., &c., &c.

