

SECOND BALLOT BILL.

MEMORANDUM.

THIS Bill amends the electoral laws by introducing the system of a second ballot. This system is already in force in Germany in substantially the same form as that proposed by the Bill, and is designed to prevent any candidate at a parliamentary election being returned by a minority of the total number of votes recorded. If at any election no candidate obtains an absolute majority of votes a second ballot is to be held between the candidates who obtain the first and second places at the first ballot, the other candidates being excluded. The system is essentially simple and easily worked, and the length of the Bill is due to the inclusion of a number of clauses dealing with contingencies which will seldom occur, but for which it is necessary to make due provision.

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No. 38—1.

Right Hon. Sir J. G. Ward.

SECOND BALLOT.

ANALYSIS.

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A BILL INTITULED

AN ACT to amend the Law relating to the Representation of the People in Parliament.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Second Ballot Act, 1908, and it shall be deemed part of and be read together with the Legislature Act, 1908 (hereinafter referred to as the principal Act).

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Second Ballot.

2. (1.) Notwithstanding anything in the principal Act, no candidate shall at any election be deemed to be elected for any electoral district as the result of the ballot taken at the poll under the principal Act (hereinafter called the first ballot) unless he has received an absolute majority of votes.

No candidate at election to be deemed elected unless he has received an absolute majority of votes.

(2.) The expression "absolute majority of votes" means a number of valid votes greater than one-half of the number of all the

1905, No. 29,
sec. 138

Second ballot
between two
candidates receiving
most votes at first
ballot.

Date of second
ballot.

ibid. sec. 11.

Ibid, sec. 11.

Declaration by
Returning Officer
as to taking of
second ballot.

Candidate receiving
most votes at
second ballot
deemed elected.

valid votes recorded at the election, including the casting-vote of the Returning Officer when given in accordance with section one hundred and forty-six of the principal Act.

3. (1.) If as the result of the first ballot the Returning Officer finds that no candidate has received an absolute majority of votes, a second ballot shall be taken between the candidate who has received the highest number of votes and the candidate who has received the next highest number of votes : **5**

(2.) The second ballot shall in all cases and notwithstanding any equality of votes be taken between two candidates only. **10**

(3.) If no candidate has received an absolute majority of votes, but two or more candidates have received the same number of votes, and it is necessary for the purposes of a second ballot to determine the order of precedence of those candidates, the Returning Officer shall determine the order of their precedence by giving such casting vote or votes as may be necessary for this purpose to such of those candidates as he thinks fit, and the candidates at the second ballot shall be determined accordingly. **15**

4. (1.) Except in the electoral districts mentioned in the *First* Schedule hereto the second ballot shall be taken on the seventh day after the close of the poll on the first ballot. **20**

(2.) In the electoral districts mentioned in the *First* Schedule hereto the second ballot shall be taken on the fourteenth day after the close of the poll on the first ballot.

(3.) The electoral districts referred to in the *First* Schedule hereto are the electoral districts as defined in the several Proclamations made by the Governor, in pursuance of section eleven of the "Electoral Act, 1905," and dated the eighth day of February, nineteen hundred and seven. **25**

(4.) Every report hereafter made by the Representation Commissions under section twenty-two of the principal Act establishing a new electoral district, or altering the boundaries of an electoral district, shall determine the interval which is to take place between the taking of a first and a second ballot in that district, and so soon as the report comes into effect in accordance with the said section twenty-two the interval so determined shall be observed in that district in the same manner as if set forth in this Act in lieu of the interval (if any) prescribed by this Act. **30**

5. When the Returning Officer finds as the result of the first ballot that a second ballot is required in accordance with the foregoing provisions, he shall thereupon make a public declaration to that effect in the form contained in the *Second* Schedule hereto, and shall as soon as practicable thereafter give public notice in such newspaper or newspapers circulating in the electoral district as he thinks fit of the day on which the second ballot is to be taken and of the names of the candidates at that ballot. **40**

6. (1.) The candidate who at the second ballot receives the higher number of votes shall be declared to be elected. **45**

(2.) If at the second ballot the candidates receive an equal number of votes, the Returning Officer shall give his casting-vote in favour of one of the candidates, and that candidate shall be declared to be elected accordingly. **50**

7. For the purpose of the second ballot the Returning Officer shall cause ballot-papers to be printed in accordance with the provisions of section one hundred and ten of the principal Act, save that those papers shall contain the names of those persons only who are candidates at the second ballot.
8. (1.) At the second ballot the polling-places appointed for the first ballot shall be used, except in any case in which a new polling-place is substituted in respect of the second ballot in accordance with section one hundred and fourteen of the principal Act.
- (2.) It shall be the duty of the owners and occupiers of any polling-place so appointed for the first ballot to place the same at the free disposal of the Returning Officer from four o'clock in the afternoon of the day preceding the day of the second ballot until ten o'clock on the evening of the day of the second ballot.
9. It shall not be lawful for any candidate at the second ballot to withdraw from the election.
10. If any candidate at the second ballot dies before the closing of the poll at the second ballot, the provisions of section one hundred and eleven of the principal Act shall apply, and all proceedings with reference to the election shall, subject to the provisions of that section, be commenced afresh accordingly.
11. (1.) Subject to this Act, all the provisions of the principal Act with respect to a ballot or poll under that Act shall apply with the necessary modifications to a ballot or poll under this Act.
- (2.) Without limiting the generality of the *last preceding* subsection, sections one hundred and fifty-seven and one hundred and fifty-eight of the principal Act shall extend and apply to the whole of the interval between the first and second ballots.
12. When in any election a second ballot is required to be taken by virtue of this Act, the writ for that election shall be deemed to be returnable within ten days after the close of the poll on the second ballot, anything to the contrary in the principal Act or in the tenor of the writ notwithstanding.
- Recounts and Election Petitions.*
13. (1.) The right of demanding a recount conferred by section one hundred and forty-seven of the principal Act shall not be affected by any notification of a second ballot under this Act.
- (2.) The said right of demanding a recount is hereby extended to any candidate who has reason to believe that he has been wrongly excluded from a second ballot, or that any candidate declared to be elected has not received an absolute majority of votes.
- (3.) The said right of demanding a recount is hereby extended to the candidates at the second ballot in respect of the result of that ballot.
14. Where on any recount in respect of the first ballot the Magistrate finds that any candidate obtained an absolute majority of votes at that ballot, the second ballot shall be abandoned or, if already taken, shall have no effect; and the Returning Officer shall make an amended public declaration of the result of the first ballot in accordance with the finding and order of the Magistrate, and the said candidate shall be declared to be elected.

Ballot-papers.
1905, No. 29, sec. 102

Polling-places at
second ballot.
Ibid, sec. 106

Candidate at second
ballot to have no
right of withdrawal.
Death of candidate
before closing of
poll.
Ibid, sec. 103

Provisions of
principal Act where
applicable to apply.

Ibid, secs. 149, 150

Return of election
writ in cases of
second ballot.

Right to recount.
Ibid, sec. 139

Second ballot
abandoned if on
recount after first
ballot candidate
declared duly
elected.

Amended declaration when on recount it is found that candidate declared to be elected not duly elected.

15. (1.) Where in any recount in respect of the first ballot the Magistrate finds that any candidate who was declared to be elected has not received an absolute majority of votes, the Returning Officer shall forthwith make an amended public declaration of the result of the first ballot, and shall notify therein and by public advertisement in manner hereinbefore provided that a second ballot will be taken on a day to be named in that behalf in the said declaration. 5

(2.) A second ballot shall thereupon be taken accordingly between the same candidates and subject to the same provisions as if a correct declaration of the result of the first ballot had been made in the first instance. 10

Substituted second ballot to be taken where original second ballot not taken between proper candidates.

16. (1.) Where notification of a second ballot has been given, and on a recount in respect of the first ballot the Magistrate finds (whether before or after the taking of the second ballot) that any candidate has been wrongly excluded from the second ballot, the second ballot as notified shall be abandoned or, if taken, shall be of no effect; and the Returning Officer shall forthwith make an amended public declaration of the result of the first ballot, and shall notify therein and by public advertisement, in manner hereinbefore provided, that a substituted second ballot will be taken on a day to be named in that behalf in the said declaration. 15 20

(2.) A substituted second ballot shall thereupon be taken accordingly between the two persons who are entitled to be candidates thereat in accordance with the finding of the Magistrate on the recount. 25

(3.) The substituted second ballot shall be taken in accordance with the same provisions as if it were an original second ballot taken in pursuance of a correct declaration made by the Returning Officer in the first instance.

Election petitions not affected.

17. (1.) Nothing in this Act shall affect either the right of any person under Part V of the principal Act to present an election petition in respect of any first ballot, or the powers of the Election Court in respect of any such petition. 30

(2.) The provisions of the said Part V shall, with the necessary modifications, extend and apply to every second ballot in the same manner as they apply to the first ballot. 35

(3.) If on the trial of an election petition the Election Court is of opinion that a second ballot is void, and that no candidate was entitled to be declared elected at the first ballot, the Court shall determine that the whole election is void. 40

(4.) If on the trial of an election petition the Election Court is of opinion that a second ballot is void, and that a candidate at the first ballot was entitled to be declared elected, the Court shall determine that that candidate was duly elected.

Miscellaneous.

Expenses of candidates with respect to both ballots.
1905, No. 29, sec. 165

18. (1.) In the case of every candidate who has been a candidate at a second ballot taken under this Act, the account required by section one hundred and seventy-three of the principal Act to be transmitted to the Returning Officer shall state separately the expenses incurred by that candidate in respect of the second ballot. 45 50

(2.) A certified copy of every account so containing a statement of expenses incurred in respect of a second ballot shall, forthwith after the receipt of the account, be sent by the Returning Officer to the Minister of Internal Affairs.

5 (3.) The Minister of Internal Affairs shall lay the said certified copy before the House of Representatives within ten days after the receipt thereof if Parliament is then sitting, and, if not, then within ten days after the commencement of the next ensuing session.

10 (4.) The expenses so incurred by the candidate in respect of the second ballot shall, to the extent determined by the House of Representatives, or by any Committee thereof to which the matter may be referred (not exceeding in any case the sum of fifty pounds), be paid to the candidate by the Minister of Finance out of the Consolidated Fund without further appropriation than this Act.

15 19. When a second ballot has been taken under this Act, the inquiry directed to be made by the Registrar under section one hundred and fifty of the principal Act shall be made only in respect of those voters who have not voted either at the first or the second ballot.

Inquiry by Registrar as to persons not voting. 1905, No. 29, sec. 142.

20 20. This Act shall not apply to the election of representatives of the Maori race under the provisions of Part IV of the principal Act, but shall apply to the election of such representatives in accordance with any Order in Council issued under the authority of section one hundred and eighty-seven of the principal Act.

Act not to apply to election under Part IV of principal Act. Ibid, sec. 179

25 21. This Act shall not apply to any election which takes place prior to the next general election after the passing of this Act.

Application of Act.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

Section 4.

ELECTORAL DISTRICTS IN WHICH THE SECOND BALLOT IS TAKEN FOURTEEN DAYS AFTER THE FIRST BALLOT.

Bay of Islands	Marsden	Wakatipu
Bay of Plenty	Taumarunui	Wallace
Kaipara	Tauranga	Westland.

SECOND SCHEDULE.

Section 5.

DECLARATION OF RESULT OF POLL AND NOTIFICATION OF SECOND BALLOT.

I, A. B., Returning Officer of the Electoral District of _____, do hereby declare the result of the poll taken on the _____ day of _____, 19____, for the election of a member of the House of Representatives for the said district to be as follows:—

Candidates.						Votes polled.
C. D.
E. F.
G. H.
I. J.
K. L.
Total number of valid votes polled	_____
Absolute majority required	_____
Number of votes rejected as informal	_____

And I further declare that, as no candidate has received an absolute majority of votes, a second ballot will be taken on _____, the _____ day of _____, 19____, between C. D. and E. F.

Dated at _____, this _____ day of _____, 19____.

A. B.,
Returning Officer.

By Authority : JOHN MACKAY, Government Printer, Wellington.—1908.