

other election frauds, which some persons, otherwise honest, seem to regard as venial offences, the Registrar has the power of calling upon claimants for proof of the validity of these claims. Unfortunately the Act does not distinguish between claims sent in within a reasonable time prior to the issue of the writ and those sent in so late as to prevent the procedure for testing the validity of disputed claims being adopted. The intention of the statute is to allow the Registrar an opportunity of investigating every claim, but at the same time to allow claims to be sent up to the last moment, and these intentions clash in actual practice.

Sections 35, 36, and 40 are among the principal sections touching the points under consideration, and on the interpretation put upon these sections depends a good deal of the argument addressed to us.

Section 40 says: "It shall be the duty of the Registrar to make the rolls as complete as possible, and to place thereon the name of every person of whose qualification he is satisfied." It is urged by the complainants that this compels the Registrar to ignore any informalities in claims, and, if satisfied that the qualification is good, to put the claimant on the roll. Section 35 says: "The Registrar shall reject as informal every claim which is not complete in all particulars." No person may be registered on more than one electoral roll (section 27). It appears to us that section 40 does authorise the Registrar to treat an informal or incomplete claim as a nullity, and, if satisfied of the person's right to be registered, to insert his name on the roll. Where there is a doubt, such as would be raised for instance in the case of a claim coming in for registration in Grey Lynn by a person whose name and identity seem to be similar to that of a person already on the City of Auckland roll, but there is no certainty as to this, the Registrar cannot act under section 40 because he cannot be satisfied of the facts, and he cannot act under section 36 unless the claim has been lodged a sufficient period before the closing of the rolls to allow for the procedure mentioned in that section.

Section 36 requires the Registrar to inquire as to the truth of the claim within five days from receipt, and if not satisfied to give to the claimant notice of the particulars required. The claimant then has twenty-one days to either withdraw or make good his claim, and if he do not do either the Registrar must obtain a summons from a Magistrate, and, after the necessary delay in serving the same and obtaining a hearing, the matter is dealt with. If therefore the last day on which any names can be put on the roll is the 17th November, it is obviously impossible to deal under this section with claims lodged within thirty days prior to that date. The period of thirty days is made up by reckoning five days for inquiry, twenty-one days for the period to elapse before obtaining a summons, and at least four days for service and hearing. Whether the Registrar should not have given a formal notice in each case in which he was not satisfied is rather a difficult question. If he had done so, it appears that he would have had to go on with the matter, and obtain summonses in each case, and the matters would have been in suspense at the time the election took place, and he took a *via media* by making such inquiries as he was able to make in the time at his disposal. Whether the Registrar was right or wrong in this view we are not called on to say. It is a view which might well be honestly held, and there is no ground for a suggestion of *mala fides* in his doing so.

It is difficult to formulate any scheme of practically working the Act, which is not open to objection either on technical or practical grounds. In the case of application for enrolment, treated as transfers, the difficulty arises that if there is any doubt about the identity of the claimant with a person of similar name and description on another roll, the Registrar cannot proceed under section 41 to remove the person's name from one roll with a view of placing it on another unless there is sufficient time for the procedure under sections 41 and 42 to be adopted. In these cases, as in the cases considered under section 36, the Registrar before removing a name from a roll must give the person objected to a fifteen-days' notice, and if not then satisfied by proof, one way or the other, must apply for a summons, which must be heard by a Magistrate in due course; but no such proceeding can be taken unless the matter can be heard before the issue of the writ, and no name can be removed until the matter has been so determined. If then, in the before-mentioned case of Christina McLeod, the Registrar had elected to proceed by notice he would have been defeated on two grounds—first, that no sufficient time was given to enable the matter to be heard before the issue of the writ and the closing of the roll; and, second, that the objected name must remain until the objection was determined. The provisions with regard to the sitting of a Revision Court are peculiar; such a Court is not mentioned before the 43rd section, which suddenly declares that no sitting of a Magistrate's Court shall be held for the revision of any roll for any district, or for hearing objections to any name thereon, after the issue of the writ for an election until the completion of such election, but that the Magistrate may hold a special sitting, not later than four days after the issue of an election-writ, for the sole purpose of investigating the validity of any new claims for registration received within fifteen days prior to the issue of the election-writ. Notwithstanding this strict limitation section 50 empowers the Magistrate, on the *ex parte* application of the Registrar, or of any other person, to order the Registrar to correct any mistake proved to have been made in the roll, and to insert in the electoral roll the name of any person who proves his claim to be enrolled thereon, and also empowers the Magistrate to expunge from the roll (a) fictitious names, (b) names objected to and proved to be on another roll, (c) names of persons objected to who have lost their qualification, (d) the name of any person who is included in any such roll which is insufficiently described for the purpose of being identified. The confusion which appears to exist in these sections is referable to the want of recognition of the question of time. Section 50 appears to require to be placed before section 43 and to have a time-limitation added; and section 58 confirms this view, for it says, "except as provided in sections 43 and 51, and notwithstanding anything in the Act, it shall not be lawful for any Registrar, either by virtue of any authority conferred upon him by this Act or by direction of a Magistrate, to insert or to remove from the roll of any electoral district the name of any person after the date of issue of the writ for