

LOCAL ELECTIONS AND POLLS BILL.

EXPLANATORY MEMORANDUM.

THIS is a Bill to consolidate the Local Elections and Polls Act, 1908, and its amending Acts—1911, No. 20; 1913, No. 16; 1914, No. 18; and 1915, No. 53.

The tables annexed show the correspondence between the clauses of this Bill and the sections of the Act of 1908 and the several amending Acts embodied in the Bill.

The general scheme of the Bill is to embody the law as it stands, omitting repealed sections and sections such as the introductory sections of amending Acts the effect of which is spent. Occasionally the language of a section has had to be slightly altered, either to give effect to the result of an amendment or to make an expression clearer without altering its effect.

Section 20 of the Local Elections and Polls Amendment Act, 1913, incorporated sections 215 to 218 of the Legislature Act, 1908, by reference only, with certain modifications. Those sections, as modified, have been set out in full in this Bill as clauses 48 to 51, so that the whole law relating to offences at local elections will now be contained in one Act. The words "for any other purpose prohibited by this Act" have been substituted for the words "for any corrupt or illegal practice" in clause 49 (b) (i), as corrupt and illegal practices are not defined in this Bill.

E. Y. REDWARD, Compiler of Statutes.

HISTORICAL TABLES SHOWING DISPOSITION IN THE BILL OF SECTIONS OF CONSOLIDATED ENACTMENTS.

1908, No. 107.—*The Local Elections and Polls Act, 1908.*

Section of Act.	Clause of Bill.	Section of Act.	Clause of Bill.	Section of Act.	Clause of Bill.	Section of Act.	Clause of Bill.
1	1	15	16	29	( <sup>1</sup> )	43	56
2	2	16	17	30	35	44	( <sup>4</sup> )
3	3	17	18	31	36	45	58
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5	5	19	20	33	( <sup>2</sup> )	47	60
6	6	20	21	34	( <sup>3</sup> )	48	61
7	7	21	22	35	38	49	62
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13	14	27	( <sup>1</sup> )	41	54	55	68
14	15	28	( <sup>1</sup> )	42	55	56	69

(<sup>1</sup>) Repealed by 1913, No. 16, section 13. (2) Repealed by 1913, No. 16, section 19. (3) Repealed by 1913, No. 16, section 20. (4) Repealed by 1913, No. 16, section 15.

1911, No. 20.—*The Local Elections and Polls Amendment Act, 1911.*

Section of Act.	Clause of Bill.	Section of Act.	Clause of Bill.
1	( <sup>1</sup> )	2	18

(<sup>1</sup>) Omitted as being no longer necessary.

1913, No. 16.—*The Local Elections and Polls Amendment Act, 1913.*

Section of Act.	Clause of Bill.	Section of Act.	Clause of Bill.	Section of Act.	Clause of Bill.
1	( <sup>1</sup> )	9	.. 31	17	.. 45
2	.. 7	10	.. 32	18	.. 46
3	.. 14	11	.. 33	19	.. 47
4	.. 9	12	.. 34	20	48, 49, 50, 51
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6	.. 28	13 (2)	.. 39	22	.. 53
7	.. 29	14	.. 18	23	.. 70
8	.. 30	15	.. 57	24	.. 71
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(<sup>1</sup>) Omitted as being no longer necessary.

(<sup>2</sup>) Omitted as spent.

1914, No. 18.—*The Local Elections (Proportional Representation) Act, 1914.*

Section of Act.	Clause of Bill.	Section of Act.	Clause of Bill.	Section of Act.	Clause of Bill.
1	( <sup>1</sup> )	5	.. 77	9	.. 81
2	.. 72	6	.. 78	10	.. 82
3	.. 75	7	.. 79	11	.. 83
4	.. 76	8	.. 80		

(<sup>1</sup>) Omitted as being no longer necessary.

1915, No. 53.—*The Local Elections (Proportional Representation) Amendment Act, 1915.*

Section of Act.	Clause of Bill.	Section of Act.	Clause of Bill.
1	.. ( <sup>1</sup> )	3	.. 74
2	.. 73		

(<sup>1</sup>) Omitted as being no longer necessary.

*This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.*

*House of Representatives,*

*24th September, 1925.*

*Hon. Mr. Bolland.*

LOCAL ELECTIONS AND POLLS.

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## A BILL INTITULED

Title. AN ACT to consolidate certain Enactments of the General Assembly, relating to Local Elections and Local Polls.

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

Short Title and commencement.

1. This Act may be cited as the Local Elections and Polls Act, 1925, and shall come into force on the first day of April, nineteen hundred and *twenty-six*.

## PART I.

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## LOCAL ELECTIONS AND POLLS.

Interpretation.

1908, No. 107, sec. 2  
 1920, No. 38, sec. 2  
 (2)

2. In this Act, if not inconsistent with the context,—
- “Chairman” includes the Mayor of a borough;
- “District” means the district comprised within the jurisdiction of a local authority; and includes the riding of a county, the ward of a borough, and any other subdivision of a district for electoral purposes;
- “Election” means election to any office in, under, or in connection with any local authority required by law to be filled by the election of the electors, ratepayers, or other constituency of any district;
- “Elector” means any person entitled under any law for the time being in force to vote at an election or on a proposal, as the case may be;
- “Extraordinary vacancy” means a vacancy occurring in any elective office otherwise than at a time and in a manner specified by law;
- “Local authority” means the Council of a borough or county, Road Board, Town Board, Electric-power Board, or any other elective or partly elective body to which this Act is made to apply;
- “Ordinary vacancy” means a vacancy occurring in any elective office at a time and in a manner specified by law;
- “Public notice” means publication in a newspaper commonly circulating in the district; and if there is no such newspaper, publication by placards posted in conspicuous places throughout the district;
- “Roll” means any roll made in the manner provided by law, containing the names of the persons entitled to vote at an election.

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3. Subject to the provisions of any Act by which this Act is made to apply, every election, and every poll on a proposal to be submitted to the vote of the electors under any such Act, shall be held and taken in the manner provided by this Act.
- 5 4. For every district there shall be a Returning Officer appointed by the local authority, who shall hold office until his removal by such local authority, or his resignation, incapacity, or death, in any of which events the local authority shall appoint a Returning Officer in his stead.
- 10 5. (1.) Every election and every poll on any proposal shall be held or taken by the Returning Officer, but if from any cause he is unable to fulfil the duties of his office at any election or poll he shall by writing under his hand appoint a substitute, who for all the purposes of that election or poll shall be deemed to be the Returning Officer.
- 15 (2.) If at any time, either before or during an election or poll, a Returning Officer who is unable to act fails to appoint a substitute as aforesaid, the local authority may appoint a substitute, who for the purposes of that election or poll shall be deemed to be the Returning Officer.
- 20 (3.) No member of the local authority shall be appointed or shall act as Returning Officer or as his substitute, and no Returning Officer or his substitute shall be capable of being a candidate at any election to be held by him or by his substitute in virtue of his office.
- 25 6. Every Returning Officer and every substitute for a Returning Officer shall, before entering on the duties of his office, make and sign before a Justice, or before the Chairman of the local authority, a declaration in the form numbered (1) in the *First* Schedule hereto.

Elections, &c., to be taken under this Act.

1908, No. 107, sec. 3

Returning Officer.

*Ibid.*, sec. 4

Returning Officer to appoint substitute when unable to act.

*Ibid.*, sec. 5

Returning Officer's declaration.

*Ibid.*, sec. 6.

#### *Regulation of Elections.*

7. Not less than fourteen clear days before any election to fill an ordinary vacancy, the Returning Officer shall give public notice thereof, and shall in such notice appoint a place within the district, and a day not less than five nor more than ten days (exclusive of the day of election) before the election, for the nomination of candidates: Provided that—
- 30 (a.) Where a local authority has its public office outside the limits of its district, such public office shall be deemed to be within the limits of the district for all purposes incident to or connected with an election; and
- 40 (b.) No election shall be liable to be questioned by reason only that any nomination of candidates, taking of votes, or declaration of the poll has occurred at any place outside the district affected by such election, or that any polling-place was appointed outside the said district, if such public office or polling-place has been actually appointed.
- 45 8. No person shall be deemed to be a candidate for any local elective office unless nominated as follows: A nomination-paper, in the form numbered (2) in the *First* Schedule hereto, signed by two electors of the district, and by the candidate in token of his assent to such nomination, shall be delivered to the Returning Officer, or
- 50 addressed to him and delivered at the place named in the said notice, at any time after the publication thereof and before noon of the day appointed therein.

Notice of election.

*Ibid.*, sec. 7

1913, No. 16, sec. 2

Nomination of candidates.

1908, No. 107, sec. 8

How assent to nomination may be given.  
1913, No. 16, sec. 4

9. The assent of any person to his nomination as a candidate may, notwithstanding anything in the *last preceding* section be signified to the Returning Officer, within the time limited for making nominations, by writing sent by post or affixed to the nomination-paper, or by an ordinary message by telegraph, which message shall be deemed to be delivered in time if delivered at the telegraph-office for transmission within the time limited for making nominations. 5

Names of candidates to be posted.  
1908, No. 107, sec. 9

10. At the hour of noon on the said appointed day, or as soon thereafter as practicable, the Returning Officer shall post the names of all the candidates so nominated in a conspicuous public place outside the place appointed in the said notice. 10

If number of candidates equal to vacancies, candidates to be declared elected.  
Ibid., sec. 10.

11. If the number of the candidates does not exceed the number of vacancies to be filled, the Returning Officer shall, at the place and on the day so appointed, publicly declare the candidate or candidates so nominated to be duly elected to the office or offices to be filled at the election then being held. 15

If number of candidates exceeds vacancies, Returning Officer to give notice of poll.  
Ibid., sec. 11

12. (1.) If the number of candidates exceeds the number of offices then to be filled, the Returning Officer shall forthwith give public notice of the day on which the poll is to be taken, of the names of the several candidates, and of the situation of the polling-booths. 20

(2.) The day on which the poll is to be taken shall be the day appointed for holding the election as hereinbefore provided.

Candidate may retire.  
Ibid., sec. 12

13. (1.) If a candidate at an election signs and delivers to the Returning Officer, not later than three clear days before the polling-day, a paper in the form numbered (3) in the *First Schedule* hereto stating that such candidate retires from the election, the Returning Officer shall give public notice thereof; and if by such retirement the number of candidates is reduced to the number of vacancies to be filled, the Returning Officer shall publicly declare the remaining candidates to be duly elected; but if the said number of candidates is not so reduced, the poll shall proceed, but the person so retiring shall not be capable of being elected. 25

(2.) If a candidate retires after the voting-papers have been printed, the Returning Officer shall, before the poll, erase his name from every voting-paper. 30

Appointment of Deputy Returning Officers and poll-clerks.  
Ibid., sec. 13  
1913, No. 16, sec. 3

14. (1.) The Returning Officer may appoint as many Deputies and poll-clerks as he deems necessary for the effective taking of the poll at every polling-booth. 35

(2.) Every such Deputy shall have and may exercise in and about the polling-booth for which he is appointed all the powers and duties of the Returning Officer. 40

(3.) Every Deputy Returning Officer shall, before acting as such, make and subscribe before the Returning Officer a declaration in the form numbered (1) in the *First Schedule* hereto; and every poll-clerk shall, before acting, make and subscribe before the Returning Officer, or the Deputy Returning Officer at the booth at which he is to act, a declaration in the form numbered (4) in the said Schedule: 45

Provided that where the residence of any Deputy Returning Officer is situated more than five miles from the office of the Returning Officer the declaration may be taken and subscribed by the Deputy Returning Officer before any Justice of the Peace or Postmaster. 50

15. The Returning Officer shall provide the following things for taking the poll :—

Booths, ballot-boxes,  
voting-papers, &c.  
1908, No. 107, sec. 14

(a.) One or more rooms for polling-booths, and in each booth one or more inner compartments, separated from but opening into the booth, and having no other opening.

(b.) In each booth a ballot-box, having a lock and key, and a slit in the upper side by which the voting-papers may be put into the box.

(c.) In each booth one or more copies of the roll for the district, and a sufficient number of voting-papers.

(d.) In each inner compartment pencils for the use of the voters.

16. The voting-papers shall be printed on paper of uniform colour, and shall be in the form numbered (5) in the *First* Schedule hereto, and shall bear the imprint of the person who printed them.

Form of  
voting-papers.  
Ibid., sec. 15

17. (1.) Each candidate may, by writing under his hand, appoint one scrutineer for each polling-booth at any election.

Scrutineers.  
Ibid., sec. 16

(2.) Every scrutineer shall, before being allowed to act, make and subscribe before the Returning Officer, or the Deputy Returning Officer at the polling-booth for which he is appointed, a declaration in the form numbered (4) in the *First* Schedule hereto.

Declaration of  
scrutineers.

18. (1.) The poll at every election shall commence at nine o'clock in the forenoon of the day appointed, and shall close at six o'clock in the afternoon of the same day :

Duration of poll.  
Ibid., sec. 17  
1911, No. 20 sec. 2  
1913, No. 16, sec. 14

Provided that the Governor-General may, on the application of any local authority, by Order in Council gazetted, extend the hour at which the poll shall close in the district of such local authority to seven o'clock.

(2.) Any such Order in Council may provide for the extension of the hours of polling at all polls to be taken in the district of the local authority, or may apply to any specified poll.

(3.) Every elector who on the close of the poll is present in a polling-booth for the purpose of voting shall be entitled to receive a voting-paper, and to mark and deposit it in the same manner as if he had voted before the close of the poll.

Voters in polling-  
booth at close of  
poll to be allowed  
to vote.

19. The Returning Officer shall, before the opening of the poll, and in the sight of any scrutineers present, see that the ballot-box is empty, and shall close and lock it, and retain the key in his possession, and the ballot-box shall not again be opened till after the close of the poll.

Ballot-box to be  
kept locked during  
poll.  
1908, No. 107, sec. 18

20. Not more than six voters shall be allowed in a polling-booth or more than one voter in any inner compartment at one and the same time, and no person shall be allowed to remain in any polling-booth except the Returning Officer and his clerks, any of the scrutineers, and as many constables as the Returning Officer thinks necessary to keep the peace.

Persons not to  
remain in polling-  
booth.  
Ibid., sec. 19

21. (1.) No scrutineer or other official or unofficial person shall speak to any voter in a polling-booth either before or after such voter has given his vote, except only the Returning Officer (with an interpreter, if necessary), who may ask the questions he is authorized to put, and give such general directions as may assist any voter to give his vote.

Voters not to be  
spoken to in booth.  
Ibid., sec. 20

(2.) Every person who offends against this section is liable to a fine not exceeding *twenty* pounds and may be at once removed from the booth by order of the Returning Officer.

Returning Officer  
to give voting-papers  
to voter.  
1908, No. 107, sec. 21

22. Every person proposing to vote shall inform the Returning Officer of his name, and the Returning Officer having satisfied himself, by reference to the roll, that such person is entitled to vote, and has not already voted, shall deliver to him one voting-paper for every vote he is entitled to give.

Questions may be  
put to voter.  
Ibid., sec. 22

23. (1.) The Returning Officer may, and if so required by any scrutineer shall, before giving any voting-paper, put the following questions to any person proposing to vote:—

(a.) Are you the person whose name appears as A. B. in the roll now in force for this borough [*or as the case may be*], being enrolled in respect of [*Here read the description in the roll*]?

(b.) Are you twenty-one years of age?

(c.) Are you still possessed of the qualification in respect of which you are enrolled?

(d.) Have you already voted at this election?

(2.) Any person to whom such questions are put, who does not answer the same, or does not answer the first three in the affirmative and the fourth in the negative, shall not be permitted to vote.

Before given, voting-  
paper to be marked.  
Ibid., sec. 23

24. (1.) Before giving any voting-paper the Returning Officer shall write upon the left-hand corner of the back thereof his initials, and the number appearing on the roll against the name of the voter to whom he gives the paper, and, after securing the said corner by gum or otherwise, shall place thereon an official mark, and shall draw a line in pencil or ink through the number and name of such voter on the roll, as evidence that he has proposed to vote at such election.

(2.) At elections where any voter is entitled to give more than one vote, the Returning Officer shall also write on the roll against the name of the voter a number denoting the number of voting-papers given to him.

Voter, how to vote.  
Ibid., sec. 24.

25. (1.) The voter, having received the voting paper or papers, shall immediately retire into one of the inner compartments provided, and shall there alone and secretly on each voting-paper indicate the candidate or candidates for whom he desires to vote by marking a cross in a square set opposite to the name of each such candidate:

Provided that no voting-paper shall be rejected as informal that clearly indicates the candidate or candidates for whom the voter intended to vote, whether such indication is made in the manner prescribed by this section or by striking out the names of the candidate or candidates for whom the voter did not intend to vote.

(2.) Every voter shall, before leaving the inner compartment, fold the paper so that the contents cannot be seen, and shall then deposit it so folded in the ballot-box.

Provision where  
voter is blind or  
cannot write.  
Ibid., sec. 25

26. If any voter is blind, or is unable to read or write, and so desires, the Returning Officer shall, together with any scrutineers present not exceeding two, and if necessary an interpreter, retire with him into the inner compartment and there make up the ballot-paper according to the instruction of the voter, and such Returning Officer shall sign his own name at the foot thereof.

At close of poll,  
numbers to be made  
up from voting-  
papers.

Ibid., sec. 26.  
1913, No. 16, sec. 5

27. (1.) Immediately on the close of the poll the Returning Officer and each of his Deputies (if any) shall, in the presence of the poll-clerks (if any) and of such of the scrutineers as may be present, open their respective ballot-boxes and ascertain from the voting-papers deposited



therein the number of votes received by each candidate; and shall, upon and after such opening, both abstain themselves from inspecting the writing on the back of the voting-papers and take care that the same is not seen by any person present.

6 (2.) Immediately after ascertaining the number of votes recorded for each candidate, the Returning Officer or Deputy Returning Officer, as the case may be, shall announce the result of the voting at the polling-place of which he is in charge.

10 (3.) The Deputy Returning Officer shall forthwith send the said numbers to the Returning Officer, who shall make up and provisionally announce the whole number of votes received by each candidate at the election.

15 28. (1.) Immediately after ascertaining the number of votes received by each candidate, the Returning Officer and each Deputy Returning Officer shall make up into a packet all the voting-papers used by him at the polling-place at which he presided; and shall seal the same and endorse it with a description of its contents, the name of the district, the name of the polling-place, and the date of the polling; and such endorsement shall be signed by the Returning  
20 Officer or Deputy Returning Officer, as the case may be.

Voting-papers to be made into packet and delivered to Returning Officer. 1913, No. 16, sec. 6

(2.) Each Deputy Returning Officer shall deliver the said packet to the Returning Officer, together with the copy of the roll on which the fact of any person having received a voting-paper has been noted, as prescribed by section *twenty-four* hereof.

25 29. (1.) The Returning Officer shall make arrangements for a scrutiny of the rolls as soon as practicable after the close of the poll, and shall give notice in writing to each of the candidates or their scrutineers of the time and place at which he will commence the  
30 scrutiny.

Scrutiny of the rolls. Ibid., sec. 7

(2.) No person other than the Returning Officer and his assistants, and one person appointed as scrutineer by each candidate for the purpose, shall be present at the scrutiny.

(3.) No candidate shall act as scrutineer under this section.

35 30. (1.) The Returning Officer shall, in the presence and hearing of such scrutineers as are present, compare one with another all the certified copies of rolls on which the fact of any person having received a voting-paper has been noted.

Marked copies of rolls to be prepared. Ibid., sec. 8

40 (2.) If on such comparison it appears that the same person has received a voting-paper at two or more polling-places, the Returning Officer shall, in the presence of such scrutineers as choose to be present, open the packets of voting-papers used at the several polling-places at which such person appears to have received a voting-paper, and shall select therefrom the voting-papers on which the number corresponding to the name of that person appears, and shall  
45 disallow every vote appearing to have been given by means of the voting-papers so selected.

50 (3.) Upon and after the opening of such packets the Returning Officer shall abstain from inspecting the faces of the voting-papers in the several packets so opened, other than the voting-papers selected therefrom, and shall take care that the faces of the same are not seen by any person present.

Packets to be sealed  
up after scrutiny.  
1913, No. 16, sec. 9

31. (1.) When the Returning Officer has selected from any packet all the voting-papers he is required to select therefrom, he shall forthwith, in the presence of the scrutineers, close and seal up the said packet, and shall endorse thereon a memorandum of the fact of such voting-papers having been selected from such packet, specifying the same by the name of the person to whom the same appear to have been delivered, and shall sign the endorsement with his name. 6

(2.) The Returning Officer shall set aside all voting-papers selected by him from any packet, as herein provided, and shall, in the presence of the scrutineers, seal up the same in a separate packet, and shall endorse the same with a description of the contents thereof, and shall sign the endorsement with his name. 10

Official count and  
declaration of poll.  
Ibid., sec. 10

32. (1.) On completion of the scrutiny hereinbefore directed, the Returning Officer with such assistance as he deems necessary, and in the presence of such scrutineers as are present, shall open all the packets of voting-papers used at the election other than the separate packet mentioned in subsection *two* of the *last preceding* section, and setting aside all informal papers shall ascertain the total number of votes received by each candidate at the election, and shall declare those candidates, not exceeding the number of vacancies to be filled, who have received the highest number of votes to be duly elected. 15 20

(2.) Where there is an equality of votes between candidates and the addition of a vote would entitle any of those candidates to be declared elected, the Returning Officer shall determine by lot which candidate shall be elected. 25

(3.) For the purposes of this section a voting-paper shall be deemed to be informal—

- (a.) If it does not bear the official mark and there is reasonable cause to believe that it was not issued to a voter by the Returning Officer or any Deputy Returning Officer; or 30
- (b.) If anything not authorized by this Act is written or marked thereon by which the voter can be identified; or
- (c.) If the number of candidates for whom the elector has voted exceeds the number of candidates to be elected; or
- (d.) If it does not clearly indicate the candidates for whom the elector desired to vote: 35

Provided that a voting-paper shall not be deemed informal merely on the ground of some informality in the manner in which it has been dealt with by the elector if it is otherwise regular, and if in the opinion of the Returning Officer the intention of the elector in voting is clearly indicated. 40

Recount.  
Ibid., sec. 11

33. (1.) Where any candidate has reason to believe that the public declaration by the Returning Officer of the number of votes received by each candidate is incorrect, and that on a recount thereof such first-mentioned candidate might be found to be elected, he may within three days after such public declaration apply to a Magistrate for a recount of the votes. 45

(2.) Every such application shall be accompanied by a deposit of ten pounds.

(3.) The Magistrate shall, as soon as practicable after receiving the application and deposit as aforesaid, cause a recount of the votes to be made, and shall give at least two days' public notice of the time and place at which the recount will be made. 50

(4.) At the recount the Returning Officer shall produce to the Magistrate all the voting-papers used at the election.

(5.) The recount shall be made in the presence of the Magistrate, or of an officer appointed by him for the purpose, and shall, as far as practicable, be made in the manner provided in the case of the original count, and the provisions of subsection *three* of section *thirty* hereof, relating to the secrecy of the ballot, shall, with the necessary modifications, apply to such recount.

(6.) If on the recount the Magistrate finds that such public declaration was incorrect, he shall order the Returning Officer to give an amended public declaration of the total number of votes received by each candidate as disclosed by such recount, and the candidates then found to have received the highest number of votes, not exceeding the number of vacancies to be filled, shall be declared to be elected.

(7.) The Magistrate may make such order as to the costs of and incidental to the recount as he deems just, and, subject to any such order, shall direct the deposit made under this section to be returned to the person who made the same.

34. (1.) As soon as practicable after the day of the polling the Returning Officer shall make up into one packet all the packets of voting-papers used at the election and all the copies of the roll marked as provided by section *twenty-four* hereof, and shall seal the packet and endorse it with a description of its contents and the date of the polling, and shall sign such endorsement, and shall transmit the packet to the Clerk of the nearest Magistrate's Court, who shall keep the same for six months thereafter, and shall not open the packet or permit the same to be opened, except on the order of some Court of competent jurisdiction, and shall at the end of six months effectually destroy the same.

Disposal of voting-papers.  
1913, No. 16, sec. 12

(2.) Every person who opens any such packet, or destroys the same or any of the contents thereof, except as provided by the *last preceding* subsection, is liable to a fine of *fifty* pounds.

35. (1.) Every Deputy Returning Officer shall be personally responsible for the safe custody of all voting-papers used at the polling-booth at which he presides from the time each voting-paper was placed in the ballot-box by the voter until the parcel of used ballot-papers has been delivered to the Returning Officer as prescribed by section *twenty-eight* hereof, and the Deputy Returning Officer has obtained from the Returning Officer a receipt in writing for the same, which receipt the Returning Officer is in all cases required to give on such delivery.

Safe custody of voting-papers.  
1908, No. 107, sec. 30

(2.) In like manner every Returning Officer shall be personally responsible for the safe custody of all voting-papers used at the polling-booth at which he presides until the same have been dealt with in the manner prescribed by the *last preceding* section hereof, and also for the safe custody of all parcels of used voting-papers for which he has given a receipt under the *last preceding* subsection until the same have been dealt with by him as aforesaid.

(3.) Every Returning Officer or Deputy Returning Officer who on any inquiry under section *fifty-eight* hereof is reported by the Court as having failed to take reasonable steps to secure the safe custody of all voting-papers for which he is responsible, and thereby any such voting-paper was removed from his custody, shall be liable to a fine not exceeding *fifty* pounds or to *six* months' imprisonment.

Returning Officer's  
power to keep the  
peace.

1908, No. 107, sec. 31

36. Every Returning Officer shall have power to enforce order and keep the peace at any election, and may, without other warrant than this Act, cause to be arrested and taken before a Justice any person reasonably suspected of knowingly and wilfully making a false answer to any of the questions the Returning Officer is authorized to put, or who attempts to personate any voter, or to vote more than once at the same election, or obstructs the approaches to any polling-booth, or otherwise behaves in a disorderly manner or causes disturbance at any election; and all constables shall aid and assist the Returning Officer in the performance of his duty.

5

Poll to be adjourned  
when riot takes  
place.

Ibid., sec. 32

37. If the proceedings at any polling-booth are interrupted or obstructed by riot or violence, the Returning Officer or Deputy Returning Officer may adjourn the polling at such booth to the following day, and if necessary may so adjourn the polling from day to day till the riot ceases, when he shall again proceed therewith.

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Illegal nomination,  
&c.

Ibid., sec. 35

1913, No. 16, sec. 19  
(4)

38. Every person is liable to a fine not exceeding *twenty* pounds who—

15

(a.) Procures himself to be nominated as a candidate for any elective office knowing himself to be incapable under the provisions of any Act of holding such office; or

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(b.) Signs any nomination-paper purporting to nominate to any such office a person who is, to the knowledge of the person so signing, incapable under any Act of holding such office; or

(c.) Signs any nomination-paper knowing himself not to be qualified to vote at the election of the candidate so nominated.

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Disclosing state of  
poll or voting.

1908, No. 107, sec. 36  
1913, No. 16, sec. 13  
(2)

39. Every Returning Officer, Deputy Returning Officer, scrutineer, clerk, or other person is liable to a fine not exceeding *fifty* pounds who makes known the state of the poll, or gives or pretends to give any information by which the state of the poll may be known, before the close of the poll, or who makes known for what candidate any voter has voted.

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Penalty on  
Returning Officers.

1908, No. 107, sec. 37

40. Every Returning Officer or Deputy Returning Officer is liable to a fine not exceeding *fifty* pounds who is guilty of any wilful or negligent act of commission or omission contrary to the provisions of this Act in respect of any election, and for which no other penalty is imposed by this Act.

35

If no candidate  
returned, to be an  
extraordinary  
vacancy.

Ibid., sec. 38

41. If at any election to fill any vacancy in any office no person is nominated or returned, or a less number of persons are returned than there are vacancies to be filled, any vacancy remaining unfilled shall be deemed to be an extraordinary vacancy occurring on the day appointed for the nomination or election.

40

Election to  
extraordinary  
vacancy.

Ibid., sec. 39

42. (1.) In the case of an extraordinary vacancy in an elective office, the Clerk or proper officer of the local authority shall forthwith give notice of such vacancy to the Returning Officer, and the Returning Officer shall forthwith by public notice appoint a day, not less than twenty nor more than twenty-five clear days from the occurrence of such vacancy, for the election to fill the same; and shall in such notice appoint a place and a day, not less than five nor more than seven days (exclusive of the day of election) before the election, for receiving the nomination of candidates.

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(2.) Except as provided by this section, all the proceedings in an election to fill an extraordinary vacancy shall be the same as in the case of an ordinary vacancy.

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43. All reasonable costs and expenses incident to any election, except expenses of the scrutineers and other expenses incurred by or on behalf of candidates, shall be paid out of the revenues at the disposal of the local authority.

Costs of election.  
1908, No. 107, sec. 40

5 *Offences at Elections.*

44. Every person is liable to a fine not exceeding *twenty* pounds who at an election—

Influencing voters.  
1913, No. 16, sec. 16

(a.) In any way interferes with any elector, either in the polling-booth or while on his way thereto, with the intention of influencing him or advising him as to his vote; or

10 (b.) Prints or distributes or delivers to any person on the day of the poll, or at any time during the three days immediately preceding the poll, anything being or purporting to be in imitation of any voting-paper to be used at the poll and having thereon the names of the candidates, or any of them,

Printing or distributing mock voting-papers.

15 together with any direction or indication as to how any person should vote, or in any way containing such direction or indication, or having thereon any matter likely to influence any vote; or

20 (c.) During the hours in which the poll is being taken makes any public demonstration having reference to the poll by means of living figures, effigies, paintings, placards, or other like means.

Making public demonstration.

25 45. Every person is liable to a fine not exceeding *fifty* pounds or to imprisonment for any period not exceeding three months who, at any time after public notice has been given pursuant to section *seven* of this Act of any election and before the close of the poll, publishes or exposes, or causes to be published or exposed, to public view any document, or writing, or printed matter containing any untrue

Publishing defamatory matter at election-time.  
Ibid., sec. 17

30 statement defamatory of any candidate and calculated to influence the vote of any elector.

46. Every person is liable to a fine not exceeding *fifty* pounds who erases, obliterates, or alters any official mark, stamp, or writing on the back of any voting-paper, or places thereon any writing, print,

Erasing, &c., official mark on voting-paper.

35 or other matter which might lead persons to believe that the same was put thereon by any officer or person duly authorized in that behalf.

Ibid., sec. 18

40 47. (1.) Every person is liable, if a Returning Officer or Deputy Returning Officer, or an officer or clerk in attendance at a polling-booth, to *two* years' imprisonment, with or without hard labour, and, if any other person, to *six* months' imprisonment, who—

Offences in respect of voting, voting-papers and ballot-boxes.

(a.) Forges, or counterfeits, or fraudulently defaces, or fraudulently destroys any voting-paper, or the official mark on any voting-paper; or

Ibid., sec. 19

45 (b.) Without due authority supplies any voting-paper to any person; or

(c.) Puts into any ballot-box any paper other than the voting-paper that he is authorized by law to put therein; or

50 (d.) Obtains possession of or has in his possession any voting-paper other than the one given him by the Returning Officer for the purpose of recording his vote, or retains in his possession any voting-paper after leaving the polling-booth; or

- (e.) Without due authority destroys, takes, opens, or otherwise interferes with any ballot-box or box or packet of voting-papers then in use for the purposes of the election, or in course of transmission by post or otherwise, or thereafter wherever the same may be kept as a record of such election. 5
- (2.) Every person is liable to *two* years' imprisonment who—
- (a.) Votes or offers to vote more than once at the same election ;
- (b.) Fraudently abstracts any voting-paper that has been put into the ballot-box ;
- (c.) Is guilty of bribery, treating, undue influence or personation, at any election. 10
- (3.) Every person is liable to a fine not exceeding *fifty* pounds who wilfully makes a false answer to any question the Returning Officer is authorized to put to him.
48. Every person commits the offence of bribery who— 15
- (a.) Directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure, any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, or to or for any other person, in order to induce any elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such elector having voted or refrained from voting at any election ; or 20
- (b.) Directly or indirectly by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers, promises, or promises to procure or to endeavour to procure, any office or place of employment to or for any elector, or to or for any person on behalf of any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any elector having voted or refrained from voting at any election ; or 25
- (c.) Directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement, or agreement as aforesaid to, for, or with any person in order to induce such person to procure or endeavour to procure the return of any person or the vote of any elector at any election ; or 30
- (d.) Upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procures, or engages or endeavours to procure, the return of any person or the vote of any elector at any election ; or 35
- (e.) Advances or pays, or causes to be paid, any money to or to the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election ; or 40
- 50

Bribery defined.

1908, No. 101, sec.

215

1913, No. 16, sec. 20

(f.) Being an elector, directly or indirectly, by himself or by any other person on his behalf, before or during any election, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting, at any election; or

(g.) After any election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or to refrain from voting, at any election.

49. Every person commits the offence of treating who—

(a.) Being a candidate at any election, directly or indirectly, by himself or by or with any person, or by any other ways or means on his behalf, on the polling-day of any election, gives or provides, or causes to be given or provided, or is accessory to the giving or providing of, or pays wholly or in part any expenses incurred for, any meat, drink, entertainment, or provision to or for any person, for the purpose of procuring himself to be elected, or on account of having been elected, or for the purpose of influencing any person to give or refrain from giving his vote at such election, or on account of such person having voted or refrained from voting, or being about to vote or refrain from voting, at such election; or

(b.) Being the holder of a license for the sale by retail of intoxicating liquor, knowingly supplies any meat, drink, entertainment, or provision—

(i.) To any person in case the supply thereof is demanded for the purpose of treating, or for any other purpose prohibited by this Act; or

(ii.) To any persons, whether electors or not, for the purpose of promoting or procuring the return of a candidate at an election, and without receiving payment for the same at the time when the same is so supplied.

50. Every person commits the offence of undue influence who, directly or indirectly, by himself or by any other person on his behalf, makes use or threatens to make use of any force, violence, or restraint, or inflicts or threatens the infliction, by himself or by or through any other person, of any injury, damage, harm or loss, or in any other manner practises intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting, at any election, or who by abduction, duress, or any fraudulent device or contrivance, hinders, prevents, or otherwise interferes with the free exercise of the franchise by any elector, or thereby compels, induces, or prevails upon any elector either to give or to refrain from giving his vote at any election.

51. Every person commits the offence of personation who at any election applies for a voting-paper in the name of some other person, living or dead, or of a fictitious person, or who, having

Treating defined.

1908, No. 101, sec.

216

1913, No. 16, sec. 20

Undue influence defined.

1908, No. 101, sec.

217

1913, No. 16, sec. 20

Personation defined.

1908, No. 101, sec. 218

1913, No. 16, sec. 20

voted once at any such election, applies again at the same election for a voting-paper in his own name.

Property may be stated as being in Returning Officer. 1913, No. 16, sec. 21

52. In any indictment or other prosecution for an offence in relation to the ballot-boxes, voting-papers, or marking-instruments at an election the property in such papers, boxes, and instruments may be stated to be in the Returning Officer at that election. 5

Infringement of secrecy. Ibid., sec. 22.

53. (1.) Every officer, clerk, scrutineer, interpreter, and constable in attendance at a polling-booth shall maintain and aid in maintaining the secrecy of the voting in such booth, and shall not communicate to any person, except for some purpose authorized by law, before the poll is closed, any information likely to defeat the secrecy of the ballot. 10

(2.) No person, except as provided by this Act, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling-booth information as to the candidate for whom any voter in such booth is about to vote or has voted, or communicate at any time to any person any information obtained in a polling-booth as to the candidate for whom any voter at such booth is about to vote, or has voted, or as to the number on the back of the voting-paper given to any voter at such booth. 15 20

(3.) Every person in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular voting-paper. 25

(4.) No person shall, directly or indirectly, induce any voter to display his voting-paper after he has marked the same, so as to make known to any person the name of the candidate for or against whom he has voted.

(5.) Every person who offends against this section is liable, on summary conviction before two Justices, to *six* months' imprisonment with or without hard labour. 30

#### *Regulation of Polls other than Elections.*

Notice of poll to be given. 1908, No. 107, sec. 41

54. Not less than fourteen clear days before any poll on a proposal to be submitted to the vote of the electors entitled to vote thereon (hereinafter referred to as "a poll") the Returning Officer shall give public notice thereof. 35

Form, &c., of voting-paper. Ibid., sec. 42

55. The voting-papers shall be in the form numbered (6) in the *First* Schedule hereto, and shall be printed on paper of uniform colour; and where an election and a poll are held simultaneously the voting-papers in each case shall be different in colour. 40

Appointment of scrutineers. Ibid., sec. 43

56. Scrutineers may be appointed in the following manner:—

(a.) Where the poll is taken pursuant to a resolution of the local authority, the Chairman of the local authority taking the poll may, by writing under his hand, appoint a scrutineer for each or any polling-booth, and the scrutineer so appointed shall be deemed to be a scrutineer for the proposal to be submitted at the poll. 45

(b.) Where the poll is taken pursuant to a petition of the electors or of the ratepayers, any five of the petitioners who are in favour of the proposal may, by writing under their hands 50



addressed to the Returning Officer and delivered to him not less than two clear days before the poll, nominate a scrutineer for each or any polling-booth.

(c.) Any five of the electors who are opposed to the proposal may in like manner nominate a scrutineer for each or any polling-booth.

(d.) Where not more than one person is nominated under either paragraph (b) or paragraph (c) as scrutineer for any polling-booth, that person shall be deemed to be a scrutineer for or against the proposal, as the case may be.

(e.) Where more than one person is nominated as aforesaid for any polling-booth, the Returning Officer shall select from the persons so nominated a scrutineer for that booth, and shall notify his selection to all the persons nominated for that booth, and the person so selected shall be deemed to be a scrutineer for or against the proposal, as the case may be.

57. Except where otherwise specially provided, the provisions of this Act as to elections shall, so far as applicable and with the necessary modifications, extend and apply to polls other than elections.

Provisions as to polls other than elections.  
1913, No. 16, sec. 15

#### *Disputed Elections and Polls.*

58. (1.) Where any candidate and five electors, or where any ten electors, are dissatisfied with the result of any election or poll held or taken under this Act, or under any Act to which this Act or any part thereof is applied, they may within fourteen days after the declaration of the result of the election or poll, by petition filed in the Court as hereinafter mentioned, demand an inquiry as to the conduct of the election or poll, or of any candidate or other person thereat.

Petition for inquiry.  
1908, No. 107, sec. 45

(2.) Every such petition shall be accompanied by a deposit of ten pounds.

(3.) Such petition shall be in such one of the forms in the *Second* Schedule hereto as is applicable, or to the like effect, and shall be filed in the Magistrate's Court nearest to the principal polling-place at the election or poll to be inquired into, and shall be heard and determined before any Magistrate exercising jurisdiction at that Court.

Form of petition.

59. The petition shall allege the specific grounds on which the complaint is founded, and no grounds other than those stated shall be investigated except by leave of the Magistrate and upon reasonable notice being given, which leave may be given on such terms and conditions as the Magistrate deems just :

Specified grounds only to be investigated.  
Ibid., sec. 46.

Provided that, in the case of an election, evidence may be given to prove that the election of any rejected candidate would be invalid in the same manner as if the petition had complained of his election ; and, in the case of a poll, evidence may be given to prove that some proposal other than that declared to be carried was carried and not rejected, or was rejected and not carried.

Recriminatory evidence.

60. Any candidate in the case of an election, or any six electors in the case of a poll, may, at any time before the commencement of the inquiry, file in the Court in which the petition is filed a notice in writing of his or their intention to oppose the petition, and thereupon the candidate or electors giving such notice shall be deemed to be the respondent or respondents to the petition.

Who may be respondent.  
Ibid., sec. 47

Time for holding inquiry.  
1908, No. 107, sec. 48

Powers of Magistrate.  
Ibid., sec. 49

Result of inquiry.  
Ibid., sec. 50

Persons committing irregularities to be prosecuted.  
Ibid., sec. 51

Costs of inquiry.  
Ibid., sec. 52

61. The inquiry shall be commenced within fourteen days after the filing of the petition, and not less than seven days' public notice shall be given of the time and place at which the inquiry will be held.

62. For the purposes of the inquiry the Magistrate shall have and may exercise all the powers of citing parties, compelling evidence, and maintaining order he would have in his ordinary jurisdiction, and, in addition, may at any time during the inquiry direct a recount or scrutiny of the votes given at the election or poll, and shall disallow the vote of every person who—

(a.) Has voted, not being entitled to vote ; or

(b.) Has given more votes than he was entitled to give.

63. The Magistrate shall determine whether, by reason of some irregularity that in his opinion materially affected the result of the election or poll, the election or poll is void ; or, whether, in the case of an election, the candidate whose election is complained of, or any and what other candidate, was duly elected ; or whether, in the case of a poll, any and what proposal was duly carried.

64. Where on any such inquiry the Magistrate is of opinion that any irregularity has been wilfully committed by any person, he shall direct the chief officer of police in the district to take proceedings for the prosecution of such person, who on conviction shall (unless some other penalty is elsewhere prescribed) be liable—

(a.) To a fine not exceeding *one hundred* pounds where the irregularity in the opinion of the adjudicating Court materially affected the result of the election or poll ; or

(b.) To a fine not exceeding *twenty* pounds where such irregularity did not in the opinion of the adjudicating Court materially affect the result, but defeated the fairness of the election or poll ; or

(c.) To a fine not exceeding *five* pounds where such irregularity did not in the opinion of the adjudicating Court either materially affect the result or defeat the fairness of the election or poll.

65. (1.) The Magistrate may order that the expenses of and incident to the inquiry shall be borne either by any party to the inquiry or, where he declares the election or poll void on the ground or partly on the ground of any negligence or misfeasance of any Returning Officer or other person acting officially at the election or poll, may order that such expenses or any part thereof shall be borne by that Returning Officer or other person ; and such order shall have the same effect and may be enforced in like manner as if it were a judgment for a sum of money obtained under the Magistrates' Courts Act, 1908, in an action for debt in the Magistrate's Court in which the petition is filed :

Provided that no such order shall be made against any person other than a party to the inquiry unless he has been summoned to attend and give evidence at the inquiry.

(2.) Subject to any such order, the Magistrate shall direct that the deposit accompanying any petition under section *fifty-eight* hereof shall be returned to the person who paid the same, unless the Magistrate is of opinion that the petitioners have failed to establish the grounds specified in their petition, or any other grounds investigated by leave of the Magistrate, in which case the deposit or the surplus remaining after satisfying such order shall be forfeited to the Crown.

66. Where an election or poll is declared void, a fresh election or poll shall, on a day to be fixed by the Returning Officer, being not later than twenty-five days after the date of such declaration, be held or taken under the same provisions, so far as practicable, as the voided election or poll.

Fresh election or poll.  
1908, No. 107, sec. 53

67. Every determination or order under this Act shall be final and conclusive, and no such determination or order shall be removed by certiorari or otherwise into the Supreme Court, nor shall any writ of *quo warranto* issue for trying therein the validity of any election.

Order to be final.  
Ibid., sec. 54

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*Miscellaneous.*

68. No polling-booth shall be in any house licensed under the Licensing Act, 1908, or in any premises belonging to such house.

Polling-booth not to be on licensed premises.

69. All fines under this Act may be recovered in a summary way before any two Justices.

Ibid., sec. 55

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70. (1.) An election or poll shall not be questioned by reason only of any defect in the title or any want of title of the person by or before whom the election or poll was held, if such person was actually appointed or was acting in the office giving a right to preside at that election or poll.

Fines recoverable summarily.

Ibid., sec. 56

Election not invalid by reason of certain irregularities.

1913, No. 16, sec. 23

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(2.) An election or poll shall not be declared invalid by reason of any irregularity in any of the proceedings preliminary to the polling, or by reason of any failure to hold a poll at any place appointed for holding a poll, or to comply with the directions contained in this Act as to the taking of the poll or the counting of the votes, or by reason of any mistake in the use of the forms contained in the *First Schedule* hereto, if it appears to the Magistrate having cognizance of the question that the election or poll was conducted in accordance with the principles laid down in this Act, and that such irregularity, failure, or mistake did not affect the result of the election or poll.

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71. Where anything is omitted to be done or cannot be done at the time required by or under this Act, or is done after such time, or is otherwise irregularly done in matter of form, or sufficient provision is not made by or under this Act, the Governor-General may, by Order in Council gazetted, at any time before or after the time within which such thing is required to be done, extend such time, or may validate anything so done after the time required or so irregularly done in matter of form, or make other provision for such case as he thinks fit.

Validation of certain irregularities.

Ibid., sec. 24

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## PART II.

## PROPORTIONAL REPRESENTATION.

72. (1.) The Council of an undivided borough may by special order adopt the provisions of this Part of this Act with respect to all general elections of Councillors held after three months from the making of the order.

Adoption of this Part in undivided boroughs.  
1914, No. 18, sec. 2

(2.) Any such special order may be revoked by a special order made not later than three months before the day fixed for any general election of Councillors.

Adoption in divided  
boroughs.  
1915, No. 53, sec. 2

73. (1.) Notwithstanding anything in the *last preceding* section, the Council of a divided borough may by special order adopt the provisions of this Part of this Act.

(2.) Such special order shall take effect as from a date fixed by the order. 5

(3.) On the date on which the special order takes effect all subdivisions shall be deemed to be abolished, and at all subsequent general elections the whole of the Councillors shall be elected by the electors of the whole borough.

(4.) All general elections of Councillors held after the date so fixed shall be held in accordance with the provisions of this Part of this Act. 10

(5.) For the purposes of such general elections an electors roll shall be prepared containing the names of all persons entitled to vote at an election of Councillors :

Provided that at the first general election of Councillors under this Part of this Act the rolls of the several subdivisions together may be the roll required, but so that the name of any person shall not appear on such roll more than once. 15

(6.) Any such special order may be revoked by a special order made not later than three months before the day fixed for any general election of Councillors. 20

Adoption by  
local authorities  
generally.  
Ibid., sec. 3

74. (1.) Any local authority (other than a borough), of which the number of members is not less than seven, may by special order adopt the provisions of this Part of this Act.

(2.) Such special order shall have no effect unless it is approved by the Governor-General in Council. 25

(3.) Such approval shall be signified by an Order in Council gazetted.

(4.) By the same or any subsequent Order in Council the Governor-General may modify any provisions of any Act relating to the election of members of the local authority so as to give full effect to this Part of this Act in the district of that local authority. 30

(5.) Any such special order may be revoked by a special order made not later than three months before the day fixed for any general election of members of the local authority. 35

(6.) Where by any Act under which a local authority is constituted, or by which a local authority is governed, provision is not made for making a special order, such order shall be made as follows :—

(a.) A resolution shall be passed at a meeting of the local authority, and confirmed at a subsequent meeting held not sooner than the twenty-eighth day after the first meeting and not later than the forty-second day after that meeting. 40

(b.) Public notice of such resolution, and of the time and place fixed for such subsequent meeting, shall be given once in each period of seven days intervening between the two meetings. 45

Form of  
voting-paper.  
1914, No. 18, sec. 3  
Method of recording  
votes.  
Ibid., sec. 4

75. At elections held under this Part of this Act the voting-papers shall be in the form numbered (1) in the *Third* Schedule hereto.

76. In lieu of marking his voting-paper in the manner prescribed by Part I of this Act, the voter at an election pursuant to this Part of this Act shall place in the squares respectively opposite the names of three candidates the figures 1, 2, and 3, so as to indicate the order of his 50

preference. He may also indicate the order of his preference for as many of the other candidates (if any) as he pleases by placing in the squares respectively opposite their names other figures next in numerical order after those already used by him.

5 77. (1.) Immediately on the close of the poll the Returning Officer or Deputy Returning Officer presiding at each polling-place shall, in the presence of the poll-clerks (if any) and of such of the scrutineers as may be present, open the ballot-box and, after setting aside all informal voting-papers, ascertain in respect of  
10 each candidate the number of voting-papers which are marked with the figure 1 opposite the name of such candidate.

(2.) The number so ascertained in respect of each candidate shall be deemed provisionally, and until the official count, to be the number of first-preference votes recorded for that candidate at the  
15 polling-place at which they were so recorded.

78. (1.) A voting-paper is informal—

- (a.) If there is reasonable cause to believe that it was not issued to a voter by the Returning Officer or Deputy Returning Officer ; or  
20 (b.) If it has upon it any unauthorized mark or writing by which the voter can be identified ; or  
(c.) If it has no vote indicated on it ; or  
(d.) If it has the same figure (being one of the figures 1, 2, or 3) opposite the names of more than one candidate ; or  
25 (e.) If the number of candidates marked in the order of the voter's preference is less than three.

(2.) A voting-paper shall not be rejected as informal on any ground other than those stated in the *last preceding* subsection.

(3.) In particular a voting-paper shall not be informal by reason  
30 only of—

- (a.) A figure (not being one of the figures 1, 2, or 3) being placed opposite the names of more than one candidate ; but the votes indicated by that figure or any higher figure shall not be effectual ; or  
35 (b.) A figure (not being one of the figures 1, 2, or 3) being omitted in the numerical sequence of the order of the voter's preference ; but the votes indicated by any figure higher than the figure so omitted shall not be effectual.

40 79. Immediately after ascertaining the number of first-preference votes recorded for each candidate the Returning Officer or Deputy Returning Officer shall announce the result at the polling-place at which he presides, and, in the case of a Deputy Returning Officer, shall transmit the result by telegraph or other expeditious means  
45 to the Returning Officer, who on receipt of all such returns shall ascertain therefrom the total number of first-preference votes recorded for each candidate respectively.

50 80. On completion of the scrutiny of the rolls, as directed by sections *thirty* and *thirty-one* hereof, the Returning Officer, with such assistance as he deems necessary, shall open separately each of the parcels of voting-papers used at the election, and shall count the votes in accordance with the rules set out in the *Fourth* Schedule hereto.

Number of first-preference votes recorded at each polling-place for each candidate to be ascertained.  
1914, No. 18, sec. 5

Informal ballot-papers.  
Ibid., sec. 6

Result of voting to be announced.  
Ibid, sec. 7

Official count of the votes.  
Ibid., sec. 8.

Count may be  
adjourned.  
1914, No. 18, sec. 9

81. (1.) The count of the votes by the Returning Officer may be adjourned from time to time as the Returning Officer deems necessary.

(2.) Each adjournment and also the time and place for the continuation of the count shall be announced to the scrutineers and officers by the Returning Officer. 5

(3.) Before any such adjournment all voting-papers and other documents connected with the count shall be locked up by the Returning Officer in one or more ballot-boxes or other safe receptacle under seal. 10

Public declaration  
of the poll.  
Ibid., sec. 10

82. As soon as conveniently may be after the counting of the votes has been completed the Returning Officer shall publicly declare in the form numbered (2) in the *Third* Schedule hereto the result of the poll, and the persons therein declared to be elected shall be deemed to be elected accordingly. 15

Part I of this Act  
to apply.  
Ibid., sec. 11

83. Except as provided by this Part of this Act, the provisions of Part I of this Act relating to the election of members of a local authority shall apply to elections held under this Part of this Act.

### PART III.

#### REPEALS.

20

Repeals.

84. The enactments mentioned in the *Fifth* Schedule hereto are hereby repealed, and with respect to those enactments the following provisions shall apply:—

Savings.  
1908, No. 107, sec. 1  
(2).

(a.) All offices, appointments, notices, declarations, polls, petitions, records, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated. 25 30

(b.) All elections, polls, appeals, matters, and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act. 35

SCHEDULES.

Schedules.

FIRST SCHEDULE.

(1.) DECLARATION BY RETURNING OFFICER OR DEPUTY RETURNING OFFICER.

Sections 6, 14.  
1908, No. 107,  
Second Schedule.

I, A. B., do solemnly declare that I will faithfully and impartially, according to the best of my skill and judgment, exercise and perform all the powers and duties reposed in or required of me by the Local Elections and Polls Act, 1925, as Returning Officer [or Deputy Returning Officer] for the [Naming the district]; and I solemnly promise that I will not, directly or indirectly, disclose any fact coming to my knowledge at any election or poll which I am required by the said Act not to disclose.

A. B.

Declared and signed before me, at  
this day of , 19 .  
C. D., Justice of the Peace  
[or Chairman of the above-named District,  
or Returning Officer].

(2.) NOMINATION-PAPER.

Section 8.

To the Returning Officer of [Name the district].

We, A. B. and C. D., being two duly qualified electors for the [Name the district], hereby nominate X. Y. as a candidate for the office of [Name the office] at the present election.

Signed this day of , 19 .  
A. B., Elector.  
C. D., Elector.

I hereby consent to this nomination.

Received at the hour of on the day of , 19 .  
X. Y., Candidate.  
M. N., Returning Officer.

(3.) NOTICE OF RETIREMENT OF A CANDIDATE.

Section 13.

To the Returning Officer of [Name the district].

I HEREBY give notice that I withdraw my name as a candidate at the election for the office of [Name the office], to which I was nominated on the day of , 19 .

Received at the hour of on the day of , 19 .  
X. Y., Candidate.  
M. N., Returning Officer.

(4.) DECLARATION OF POLL-CLERKS AND SCRUTINEERS.

Sections 14, 17.

I, A. B., poll-clerk [or scrutineer for C. D., a candidate] at the present election for the office of [or at the present poll], do solemnly declare that I will observe the provisions of the Local Elections and Polls Act, 1925, relating to the office of poll-clerk [or scrutineer]; and I solemnly promise that I will not, directly or indirectly, disclose any fact coming to my knowledge at such election [or poll] which I am forbidden by the said Act to disclose.

A. B.,  
Poll-clerk [or Scrutineer for C. D.].

Declared and signed before me,  
this day of , 19 .  
M. N., Returning Officer  
[or Deputy Returning Officer].

## Section 16.

## (5.) VOTING-PAPER AT AN ELECTION.

[Name of District.]

ELECTION OF MAYOR [or of Six Councillors, or as the case may be].

## VOTING-PAPER.

ARMSTRONG, Thomas.	
BURTON, Gerald.	
HORNSBY, William.	
McKENZIE, Donald, Ironmonger.	
McKENZIE, Donald, Grocer.	
SHAW, Thomas.	

*Directions.*

The voter is to mark a cross in the square set opposite to the name or names of the candidate or candidates for whom he desires to vote.

The voting-paper is to be folded up so that its contents cannot be seen, and, the official mark on the back having been shown to the Returning Officer, the voting-paper is to be put into the ballot-box by the voter.

This voting-paper is not to be taken out of the polling-booth.

## Section 55.

## (6.) VOTING-PAPER AT A POLL ON A PROPOSAL.

[Name of District.]

PROPOSAL to [State full particulars of the proposal.]

For the Proposal.	
Against the Proposal.	

*Directions.*

If the voter desires to vote *for* the proposal he must mark a cross in the square at the end of the line "For the proposal." If he desires to vote *against* the proposal he must mark a cross in the square at the end of the line "Against the proposal."

The voting-paper is to be folded up so that its contents cannot be seen, and, the official mark on the back having been shown to the Returning Officer, the voting-paper is to be put into the ballot-box by the voter.

This voting-paper is not to be taken out of the polling-booth.



## SECOND SCHEDULE.

## PETITION FOR INQUIRY.

(1.) *On an Election.*Section 58.  
1908, No. 107,  
Third Schedule.

In the matter of an election to the office of \_\_\_\_\_ for the [State district], held  
on the \_\_\_\_\_ day of \_\_\_\_\_, 19 .

To the Stipendiary Magistrate exercising jurisdiction at the Magistrate's Court  
at \_\_\_\_\_, being the Courthouse at or nearest to the principal polling-place.

THE petition of the undersigned electors of the [State district]—namely, A. B., of \_\_\_\_\_,  
C. D., of \_\_\_\_\_, &c.

1. Your petitioners state that the said election was held on the \_\_\_\_\_ day of \_\_\_\_\_,  
19 , when A. B., X. Y., and S. T. were candidates, and the Returning Officer  
has returned S. T. as being duly elected.

2. And your petitioners say that [State the facts and grounds on which the petitioners  
rely].

Wherefore your petitioners pray that it may be determined that the said S. T. was  
not duly elected, and that the election was void [or that the said A. B. was duly elected,  
and ought to have been so declared].

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19 .

A. B.,  
C. D.,  
&c.(2.) *On a Poll, not being an Election.*

In the matter of a poll under the [State Act under which the proposal was sub-  
mitted], held in the [State district] on the \_\_\_\_\_ day of \_\_\_\_\_, 19 .

To the Stipendiary Magistrate exercising jurisdiction at the Magistrate's Court  
at \_\_\_\_\_, being the Courthouse at or nearest to the principal polling-place.

THE petition of the undersigned electors of the [State district]—namely, A. B., of \_\_\_\_\_;  
C. D., of \_\_\_\_\_, &c.

1. Your petitioners state that the said poll was held on the \_\_\_\_\_ day of \_\_\_\_\_,  
19 , on the proposal [Set out proposal], and that the Returning Officer has declared  
the said proposal to be carried [or rejected].

2. And your petitioners say that [State the facts and grounds on which the petitioners  
rely].

Wherefore your petitioners pray that it may be determined that the said proposal  
was rejected and not carried [or was carried and not rejected, as the case may be, or that  
the said poll was void].

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19 .

A. B.,  
C. D.,  
&c.

Section 75.  
1914, No. 18,  
First Schedule.

## THIRD SCHEDULE.

(1.) VOTING-PAPER.

(Front.)

	BROWN, Charles James.
	CAMPBELL, Arthur Peter.
	CLARK, Alfred.
	EVANS, John George.
	GIBBS, Mark John.
	JONES, Thomas.
	LEWIS, Edward William.
	MASON, Frederick.
	MURPHY, Samuel John.
	REID, Herbert Thomas.
	SMITH, Joseph [ <i>Contractor</i> ].
	SMITH, William [ <i>Solicitor</i> ].

## DIRECTIONS.

The voter must not strike out the name of any candidate.

The voter must place within the squares respectively opposite the names of three candidates the numbers 1, 2, and 3, so as to indicate the order of his preference.

The voter may, in addition, indicate the order of his preference for as many more candidates as he pleases by placing within the squares respectively opposite their names other numbers next in numerical order after those already used by him.

The voting paper is to be folded so that the contents cannot be seen, and, the official mark on the back having been shown to the Deputy Returning Officer, the voting-paper is to be put into the proper ballot-box by the voter.

This voting-paper is not to be taken out of the polling-place.

1117

(Back.)

Consecutive No. :

To be entered here and also on the top left-hand corner of the back of voting-paper.

No. on Roll :

To be entered here **only**.

Stamp across the perforation so that the number of the polling-place shall appear on both the counterfoil and the voting-paper.

Official

Mark.

Initials of Deputy Returning Officer :

(2.) DECLARATION OF RESULT OF POLL.

Section 82.

I, A. B., Returning Officer for the Borough of \_\_\_\_\_, do hereby declare that at the poll taken on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, for the election of \_\_\_\_\_ members of the Council for the said borough the following candidates secured the quota (or as the case may be) :—

[Set out names of candidates as appearing on voting-paper.]

I therefore declare the said candidates to be duly elected.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

A. B.,  
Returning Officer.

FOURTH SCHEDULE.

METHOD OF COUNTING VOTES.

Section 80.

In this Schedule, unless the contrary intention appears,—

1914, No. 18,  
Second Schedule.

“Quota” means the number of votes sufficient to elect a candidate :

“Surplus” means the number of votes which a candidate has obtained, at any stage of the scrutiny, over and above the quota :

“First choice recorded for a candidate” means a voting-paper on which the number 1 is placed in the square opposite his name :

“Second choice recorded for a candidate” means a voting-paper on which the number 2 is placed in the square opposite his name :

“Transfer value” means that portion of a vote which is unused by—

(a.) An elected candidate who has obtained a surplus :

(b.) A candidate excluded on account of his being lowest on the poll, and which is therefore transferred to the candidate next in order of the voter's preference. The transfer value of all votes is either 1 or some fraction of 1.

1. The number of first choices recorded for each candidate shall be counted, and all informal voting-papers shall be rejected.

First choice of each candidate to be counted.

2. The aggregate number of such first choices shall be divided by one more than the number of candidates required to be elected, and the quotient increased by one, disregarding any remainder, shall be the quota, and (except as hereinafter provided in Rule 10) no candidate shall be elected until he obtains a number of votes equal to or greater than the quota.

To find the quota.

Candidates who have the quota to be declared elected.

If first choices exactly equal to quota, voting-papers to be set aside.

If a surplus, surplus to be transferred.

Voting-papers re-examined and second choices counted.

Find the transfer value.

Multiply second choices by transfer value.

Add result on.

If more than one surplus, largest to be first dealt with.

If surpluses equal, last difference to decide.

If transfer raises candidate up to or above quota, he to be declared elected.

If votes exactly equal to quota, voting-papers to be set aside.

If surplus created, surplus to be transferred.

Voting-paper of last transfer re-examined and third choices counted.

Find the transfer value.

Multiply third choices by transfer value.

Add result on.

When all surpluses dealt with candidate lowest on poll to be excluded and his votes transferred.

3. Any candidate who has, upon the first choices being counted, a number of such votes equal to or greater than the quota shall be declared elected.

4. Where the number of such votes obtained by any candidate is equal to the quota, the whole of the voting-papers on which a first choice is recorded for such elected candidate shall be set aside as finally dealt with.

5. Where the number of such votes obtained by any candidate is in excess of the quota, the proportion of votes in excess of the quota shall be transferred to the other candidates not yet declared elected, next in the order of the voters' respective preferences, in the following manner:—

(i.) All the voting-papers on which a first choice is recorded for the elected candidate shall be re-examined, and the number of second choices, or (in the case provided for in Rule 12) third or next consecutive choices, recorded for each unelected candidate thereon shall be counted:

(ii.) The surplus of the elected candidate shall be divided by the total number of votes obtained by him on the counting of the first choices, and the resulting fraction shall be the transfer value:

(iii.) The number of second or other choices, ascertained in paragraph (i) to be recorded for each unelected candidate, shall be multiplied by the transfer value:

(iv.) The resulting number, disregarding any fractional remainder, shall be credited to each unelected candidate, and added to the number of votes obtained by him on the counting of the first choices.

6. (a.) Where, on the counting of the first choices or on any transfer, more than one candidate has a surplus, the largest surplus shall be first dealt with. If then more than one candidate has a surplus, the then largest surplus shall be dealt with, and so on: Provided that if one candidate has obtained a surplus at a count or transfer previous to that at which another candidate obtains a surplus, the surplus of the former shall be first dealt with.

(b.) Where two or more surpluses are equal, the surplus of the candidate who was the highest on the poll at the count or transfer at which they last had an unequal number of votes shall be first dealt with; and if they have had an equal number of votes at all preceding counts or transfers, the Returning Officer shall decide which candidate's surplus shall be first dealt with.

7. (a.) Where the number of votes obtained by a candidate is raised up to or above the quota by a transfer as aforesaid, he shall thereupon be declared elected; and in such case, notwithstanding the fact that he may have reached the quota, such transfer shall be completed, and all the votes to which he is entitled therefrom shall be transferred to him, but no votes of any other candidate shall be transferred to him.

(b.) Where the number of votes obtained by a candidate is raised up to, but not above, the quota by a transfer as aforesaid, the whole of the voting-papers on which such votes are recorded shall be set aside as finally dealt with.

(c.) Where the number of votes obtained by a candidate is raised above the quota by a transfer as aforesaid, his surplus shall be transferred to the candidates next in the order of the voters' respective preferences, in the following manner:—

(i.) The voting-papers on which are recorded the votes obtained by the elected candidate in the last transfer shall be re-examined, and the number of third, or (in the case provided for in Rule 12) next consecutive choices recorded for each unelected candidate thereon counted:

(ii.) The surplus of the elected candidate shall be divided by the total number of voting-papers mentioned in paragraph (i), and the resulting fraction shall be the transfer value:

(iii.) The number of third (or other) choices, ascertained in paragraph (i) to be recorded for each unelected candidate, shall be multiplied by the last-mentioned transfer value:

(iv.) The resulting number, disregarding any fractional remainder, shall be credited to each unelected candidate, and added to the number of votes previously obtained by him.

8. (a.) Where, after the first choices have been counted and all surpluses (if any) have been transferred as hereinbefore directed, no candidate, or less than the number of candidates required to be elected, has or have obtained the quota, the candidate who is lowest on the poll shall be excluded, and all the votes obtained by him shall be transferred to the candidates next in the order of the voters' respective preferences, in the same manner as is directed in Rule 5.

- (b.) The votes obtained by such excluded candidate as first choices shall first be transferred, the transfer value of each vote in this case being 1.
- (c.) The other votes of such excluded candidate shall then be dealt with in the order of the transfers in which, and at the transfer value at which, he obtained them.
- (d.) Each of the transfers which takes place under the two previous clauses of this rule shall be deemed for all purposes to be a separate transfer.
9. (a.) Where the number of votes obtained by a candidate is raised up to or above the quota by any such transfer as aforesaid, he shall thereupon be declared elected. And in such case, notwithstanding the fact that he may have reached the quota, such transfer shall be completed, and all the votes to which he is entitled therefrom shall be transferred to him, but no other votes shall be transferred to him.
- (b.) Where the number of votes obtained by a candidate is raised up to, but not above, the quota by any such transfer as aforesaid, the whole of the voting-papers on which such votes are recorded shall be set aside as finally dealt with.
- (c.) Where the number of votes obtained by a candidate is raised above the quota by any such transfer as aforesaid, his surplus shall be transferred to the candidates next in the order of the voters' respective preferences in the same manner as is directed in Rule 7, clause (c): Provided that such surplus shall not be dealt with until all the votes of the excluded candidate have been transferred.
- (d.) Where any surplus exists it shall be dealt with before any other candidate is excluded.
10. The same process of excluding the candidate lowest on the poll and transferring to other candidates his votes shall be repeated until all the candidates, except the number required to be elected, have been excluded, and the unexcluded candidates who have not already been so declared shall then be declared elected.
11. Where at any time it becomes necessary to exclude a candidate, and two or more candidates have the same number of votes and are lowest on the poll, then whichever of such candidates was lowest on the poll at the last count or transfer at which they had an unequal number of votes shall be first excluded, and if such candidates have had an equal number of votes at all preceding counts or transfers the Returning Officer shall decide which candidate shall be first excluded.
12. In determining what candidate is next in the order of the voters' preference, any candidates who have been declared elected or who have been excluded shall not be considered, and the order of the voters' preference shall be determined as if the names of such candidates had not been on the voting-paper.
13. Where on any transfer it is found that on any voting-paper there is no candidate opposite whose name a number is placed, other than those who have been already either declared elected or excluded, such voting-paper shall be set aside as exhausted.

First choices to be transferred first.

Then other votes in order.

Each transfer deemed a separate transfer.

If transfer raises candidate up to quota, he to be declared elected.

If votes exactly equal to quota, voting-papers to be set aside.

If surplus created, surplus to be transferred.

Surpluses to be dealt with before further exclusion.

Process of exclusion to be repeated until there remains number of candidates required.

If lowest candidates equal, last difference to decide.

If a candidate elected or excluded, his name not considered on voting-paper.

Exhausted votes.

## FIFTH SCHEDULE.

### ENACTMENTS REPEALED.

- 1908, No. 107.—The Local Elections and Polls Act, 1908.  
 1911, No. 20.—The Local Elections and Polls Amendment Act, 1911.  
 1913, No. 16.—The Local Elections and Polls Amendment Act, 1913.  
 1914, No. 18.—The Local Elections (Proportional Representation) Act, 1914.  
 1915, No. 53.—The Local Elections (Proportional Representation) Amendment Act, 1915.