



ANALYSIS

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1966, No. 101

An Act to consolidate and amend certain enactments of the General Assembly relating to local elections and local polls

[20 October 1966]

1. Short Title—This Act may be cited as the Local Elections and Polls Act 1966.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Chairman” includes the Mayor of a borough; and, where there is no Chairman for the time being in office, means the Deputy Chairman:

- “District” means the district comprised within the jurisdiction of a local authority; and includes a subdivision of a district:
- “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 of any district:
- “Elector” means any person entitled under any law for the time being in force to vote at an election or poll, as the case may be, held under this Act:
- “Extraordinary vacancy” means a vacancy occurring in any elective office otherwise than for the purpose of any triennial or other general election:
- “Local authority” means a Borough Council, a County Council, a Town Council, an Electric Power Board, a Harbour Board, a Hospital Board, a Catchment Board, a Drainage Board, a River Board, or a Rabbit Board; and includes the Waiheke Road Board, the Auckland Regional Authority, the Christchurch Transport Board, the Christchurch Drainage Board, the North Shore Drainage Board, the Waimakariri-Ashley Water Supply Board, and the Ohai Railway Board; and also includes any other elective or partly elective body to which this Act or any former Local Elections and Polls Act is or has been made to apply by any other enactment:
- “Minister” means the Minister of Internal Affairs:
- “Nomination day” means the day appointed for the closing of nominations:
- “Poll” means the submission to the vote of the electors for decision of a proposal, other than an election, which is required to be so submitted under the provisions of any Act to which this Act or any former Local Elections and Polls Act is or has been made to apply; but does not include any proposal not so required to be submitted:
- “Polling day” means the day appointed for holding an election or poll:
- “Public notice” means a notice published in some newspaper circulating generally in the district, or, where there is no newspaper in general circulation, means a notice on printed placards affixed to public places in the district; and “published” and “publicly notified” have meanings corresponding to the meaning of the term “public notice”. A public notice setting forth the

object, purport, or general effect of a document shall in any case be sufficient notice of that document:

“Roll” or “roll of electors”, in relation to any local authority, means any list or roll made in a manner provided by law which contains the names of the persons entitled to vote at an election or poll:

“Subdivision” means a riding of a county, a ward of a borough, a constituent or combined district forming part of a district, or any other subdivision of a district for electoral purposes or for the purposes of any poll.

Cf. 1953, No. 16, s. 2

3. Elections and polls to be held under this Act—Subject to the provisions of any Act by which this Act or any former Local Elections and Polls Act is or has been made to apply, or by or under which any local authority is constituted, 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.

Cf. 1953, No. 16, s. 3

PART I

LOCAL ELECTIONS

4. Date of triennial general elections—Except in the case of the local authorities mentioned in section 5 of this Act or where otherwise provided in any Act, and subject to the provisions of section 6 of this Act, the next triennial general election of members of any local authority shall be held on the second Saturday in October in the year nineteen hundred and sixty-eight, and a general election of members of the local authority shall be held on the second Saturday in October in every third year thereafter.

Cf. 1953, No. 16, s. 4 (1); 1961, No. 22, s. 2

5. Date of triennial general elections in special cases—
(1) The next triennial general election of members of the Auckland Electric Power Board shall be held on the second Saturday in October in the year nineteen hundred and sixty-seven, and a general election of members of the Board shall be held on the second Saturday in October in every third year thereafter.

(2) The next triennial general election of members of the Christchurch Transport Board shall be held on the first Saturday in October in the year nineteen hundred and sixty-seven, and a general election of members of the Board shall be held on the first Saturday in October in every third year thereafter.

(3) In each of the several subdistricts of the Christchurch Drainage District the electors shall for their subdistrict, on the first Saturday in October in the year nineteen hundred and sixty-seven, and on the first Saturday in October in every third year thereafter, elect one person (being an elector of that or any other subdistrict) to be a member of the Christchurch Drainage Board.

(4) The next triennial general election of members of the Ohai Railway Board shall be held on the last Saturday in January in the year nineteen hundred and sixty-nine, and a general election of members of the Board shall be held on the last Saturday in January in every third year thereafter.

Cf. 1953, No. 16, s. 4 (2)-(5); 1960, No. 70, s. 2 (1); 1961, No. 22, s. 2

6. Where triennial general election not necessary—Where the first or any other general election of members of a local authority is held within twelve months before the date fixed for any triennial general election of members of that local authority, it shall not be necessary to hold that triennial general election, but the members shall remain in office in all respects as if they were duly elected at that triennial general election.

Cf. 1953, No. 16, s. 5

7. When members come into office—Every member of a local authority (not being the Mayor of a borough) shall come into office as follows:

(a) In the case of a triennial general election, if he is declared to be elected before polling day, he shall come into office on polling day, but if he is declared to be elected on or after polling day, he shall come into office on the day next after the day on which the Returning Officer's declaration is made:

(b) In any other case he shall come into office on the day next after the day on which he is declared to be elected, or, as the case may require, at the time when he is appointed to fill an extraordinary vacancy pursuant to the provisions of any Act.

Cf. 1953, No. 16, s. 7 (1); 1958, No. 48, s. 2 (1)

8. When members vacate office—(1) Except as otherwise provided in subsection (2) or subsection (3) of this section, every member of a local authority (not being the Mayor of a borough) shall, unless he sooner vacates office by reason of death, resignation, retirement, or disqualification, vacate his office when the members elected at the next triennial general election come into office, or, in any case where a general election (not being a triennial general election) of the members of the local authority is required to be held, when the members elected at that election come into office, notwithstanding that all the vacancies to be filled at that election are not then filled.

(2) Except as otherwise provided in subsection (3) of this section, in any case where a district is divided into subdivisions for the purposes of any such election, every member representing any such subdivision shall, unless he sooner vacates office as aforesaid, vacate his office when the member or members elected for that subdivision at that election come into office, notwithstanding that all the vacancies for that subdivision to be filled at that election are not then filled.

(3) Notwithstanding anything in subsection (1) or subsection (2) of this section, where by any other Act provision is made for the filling of any vacancy in the office of a representative of any district or of any subdivision of any district by the appointment, in default of an elected representative, of a person to fill that office, every representative of that district or subdivision shall, unless he sooner vacates office as aforesaid, vacate his office when his successor comes into office.

Cf. 1953, No. 16, s. 7 (2)–(4); 1958, No. 48, s. 2 (2)

PART II

CONDUCT OF ELECTIONS

Returning Officer

9. Returning Officer—(1) For every district there shall be a Returning Officer appointed by the local authority, who shall hold office until his removal by the local authority, or his resignation, incapacity, or death, in any of which events the local authority shall appoint a Returning Officer in his stead.

(2) Every election and every poll 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, the local authority shall appoint a substitute, who, for all the

purposes of that election or poll, shall be deemed to be the Returning Officer.

(3) Subject to the provisions of subsection (4) of this section, if at any time, either before or during an election or poll, a Returning Officer is unable to act and time does not permit the local authority to appoint a substitute, the Chairman may appoint a substitute, who, for all the purposes of that election or poll, shall be deemed to be the Returning Officer.

(4) If a Returning Officer becomes unable to act during a polling period, he shall in writing under his hand appoint a substitute, who, for all the remaining purposes of the election or poll concerned, shall be deemed to be the Returning Officer.

(5) 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.

Cf. 1953, No. 16, ss. 8, 9

10. Deputy Returning Officers and poll clerks—(1) The Returning Officer shall appoint for each polling booth a Deputy Returning Officer to conduct the election or poll at that booth and may appoint a poll clerk to assist the Deputy Returning Officer, and such additional Deputy Returning Officers and poll clerks as he considers necessary.

(2) Every such Deputy Returning Officer 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, or, as the case may be, shall have and may exercise generally such powers and duties as are assigned to him by the Returning Officer.

(3) Every poll clerk shall carry out such duties as are assigned to him by the Returning Officer or by the Deputy Returning Officer at the booth at which the poll clerk is to act.

(4) The Returning Officer may himself exercise all the powers, duties, and functions of a Deputy Returning Officer in respect of any one polling booth.

(5) Any Deputy Returning Officer may at any time during the polling period appoint in writing a substitute to act for him in respect of that election in case of his absence from duty.

(6) If the Deputy Returning Officer fails to open the polling at any booth, or if he is absent from duty and has not appointed a substitute, the poll clerk at the booth may act

for him and in that event shall be deemed to be his substitute.

(7) Every substitute while acting for any Deputy Returning Officer shall have all the powers, duties, and functions of that Deputy Returning Officer.

Cf. 1953, No. 16, s. 11 (1)–(3)

11. Declaration of Returning Officer, Deputy Returning Officers, and poll clerks—(1) Every Returning Officer and every substitute for a Returning Officer shall, before entering on the duties of his office, make a declaration in form 1 in the First Schedule to this Act before a Justice, or before the Chairman of the local authority.

(2) Every Deputy Returning Officer and every poll clerk shall, before the polling period, and every substitute for a Deputy Returning Officer shall, before acting as such, make a declaration in form 1 in the First Schedule to this Act before the Returning Officer, or a Justice or solicitor or Postmaster, or another Deputy Returning Officer.

Cf. 1953, No. 16, ss. 10, 11 (4)

Regulation of Elections

12. Notice of election—Not less than thirty-five clear days before the day fixed by law for the triennial general election of the members of any local authority, the Returning Officer shall give public notice thereof in form 2 in the First Schedule to this Act, and shall in that notice appoint a place for the nomination of candidates and a closing day and time for the receipt of such nominations, being noon on the twenty-ninth day before the elections.

Cf. 1953, No. 16, s. 12

13. Nomination of candidates—(1) Any qualified person may, with his consent, be nominated as a candidate for election to a local authority by not less than two electors of the district, or, in the case of an election in any subdivision, by not less than two electors of that subdivision, by a nomination paper in form 3 in the First Schedule to this Act.

(2) Consent to the nomination of any person shall be given by that person in writing or by telegram, but need not be given at the time when the nomination paper is lodged:

Provided that the consent of any person who is for the time being outside New Zealand may be signified to the Returning Officer in any manner approved by the Returning Officer.

(3) Every nomination paper and every consent shall be lodged with or given to the Returning Officer for the district not later than noon on nomination day. The Returning Officer shall give a receipt in writing for every nomination accepted by him.

(4) Each candidate shall be nominated by a separate nomination paper.

(5) Any elector of the district may inspect any nomination paper or consent at the Returning Officer's office without fee at any time during ordinary office hours.

Cf. 1953, No. 16, ss. 13, 14; 1958, No. 48, s. 3

14. Deposit by candidates—(1) Every candidate at any election, or some person on his behalf, shall, at the time the nomination paper is delivered to the Returning Officer, deposit with the Returning Officer the sum of ten pounds in the case of a candidate for the office of Mayor and three pounds in the case of a candidate for any other office, and no nomination of a candidate at any such election shall be accepted by the Returning Officer unless that deposit is so made.

(2) The deposit shall be paid in the form of money, a money order, a money-order telegram, a bank draft, or a cheque:

Provided that where the deposit is paid by cheque the nomination shall not be rejected on the ground that any exchange payable has not been added to the amount of the cheque.

15. Forfeiture of deposit, and refund of deposit—If the total number of votes received by any candidate is less than one-eighth of the votes received by the successful candidate, or, as the case may be, by the successful candidate who receives the fewest votes, the deposit shall be forfeited and paid into the general fund or account of the local authority; but otherwise, or if the candidate—

(a) Withdraws or retires pursuant to section 16 or section 22 of this Act; or

(b) Is elected without a poll; or

(c) Dies before the close of nominations; or

(d) Being a candidate for the office of Mayor of a borough, dies in such circumstances that a new election is required to be held pursuant to section 23 of this Act; or

(e) Not being a candidate for the office of Mayor of a borough, dies before the close of voting,—
the deposit shall be returned to the person who paid it or, as the case may require, to his personal representatives.

Cf. 1953, No. 16, s. 15 (2)

16. Withdrawal of nomination—(1) Any candidate may withdraw his nomination by a notice in form 4 in the First Schedule to this Act, signed by him and duly witnessed.

(2) No withdrawal of nomination shall have any effect unless it is lodged with the Returning Officer not later than noon on nomination day.

17. Death of candidate before close of nominations—

(1) Where before the close of nominations the Returning Officer receives advice that a candidate who has been nominated and has not withdrawn his nomination has died, his nomination shall be treated in all respects as if it had not been made.

(2) Where in any such case the Returning Officer receives that advice on nomination day or on the day before nomination day, the time for the close of nominations in the district or, as the case may be, in the subdivision for electoral purposes, shall be deemed to be postponed until noon on the third day after nomination day.

(3) Where the time for the close of nominations is extended in accordance with subsection (2) of this section, the provisions of this Act shall apply as if the third day after the original nomination day were nomination day.

Cf. 1953, No. 16, s. 15A; 1958, No. 48, s. 5

18. Names of candidates to be posted—At the hour of noon on nomination day, or as soon thereafter as practicable, the Returning Officer shall post the names of all the candidates so nominated so that those names can be seen in or from a conspicuous public place outside the place appointed in the notice of the election.

Cf. 1953, No. 16, s. 16

19. If number of candidates does not exceed number of vacancies, candidates to be declared elected—If the number of the candidates does not exceed the number of vacancies to be filled, the Returning Officer shall, by public notice given before polling day, 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.

Cf. 1953, No. 16, s. 17; 1958, No. 48, s. 6 (1)

20. Vacancies remaining unfilled to be extraordinary vacancies—Except as otherwise provided in any other Act, if no person is nominated for election or the number of persons nominated is less than the number of vacancies to be filled, any vacancy remaining unfilled shall be deemed to be an extraordinary vacancy occurring on polling day, notwithstanding that any member or members continue in office pursuant to section 8 of this Act.

Cf. 1953, No. 16, s. 47

21. If number of candidates exceeds vacancies, Returning Officer to give notice of election—(1) If the number of candidates exceeds the number of offices to be filled, the Returning Officer shall, immediately after the close of nominations, give public notice in form 5 in the First Schedule to this Act of the day on which the election is to be held and of the names of the several candidates, and of the polling places appointed by him for the holding of the election:

Provided that the public notice of the polling places or any of them may be given subsequently, but not later than two clear days before polling day.

(2) The Returning Officer may appoint any place outside the district of the local authority to be a polling place, if in his opinion the appointment is necessary to facilitate the holding of the election.

Cf. 1953, No. 16, s. 18

22. Candidate may retire—(1) A candidate at an election may retire after the close of nominations at any time before a declaration has been made pursuant to section 19 of this Act, or, where an election is required to be held, at any time before polling day, by delivering to the Returning Officer a notice in form 4 in the First Schedule to this Act, signed by the candidate and duly witnessed. The completion and delivery of such a notice shall have the following effect:

(a) Where practicable, the Returning Officer shall before polling day give public notice of the retirement:

(b) If a candidate retires after the voting papers have been printed, the Returning Officer shall take such steps as are practicable to strike out the name of the retiring candidate from the voting papers; but the

fact that any voting paper is issued without the name of the retiring candidate being struck out shall not invalidate the election:

- (c) Any vote cast for that candidate shall be void.
- (2) If by the retirement of a candidate in accordance with subsection (1) of this section the number of candidates is reduced to or below the number of vacancies to be filled,—
 - (a) The Returning Officer shall, by public notice given before polling day, declare the remaining candidates to be duly elected; or
 - (b) If the candidate retires at such a time that it is not possible to give such a public notice before polling day, the election shall not be held and the declaration shall be made on polling day or as soon thereafter as practicable.

Cf. 1953, No. 16, s. 19; 1958, No. 48, s. 6 (2)

23. Death of candidate for Mayor after close of nominations—(1) Where any candidate for the office of Mayor of a borough dies after the close of nominations and before polling day, the Returning Officer shall, upon being satisfied of the fact of the death, by public notice countermand the notice of the election.

(2) Where any such candidate dies on polling day before the hour of seven o'clock in the afternoon, the Returning Officer shall, upon being satisfied of the fact of the death, immediately instruct every Deputy Returning Officer to cease issuing voting papers for that election, and by public notice declare the election to be void.

(3) Where any such candidate dies after the hour of seven o'clock in the afternoon of polling day and before the declaration of the result of the election, and it is found on the completion of the count of votes or on a recount that the candidate, if still living, would have been elected, the Returning Officer shall, upon being satisfied of the fact of the death, by public notice declare the election to be void.

(4) The provisions of this Act as to an equality of votes between candidates shall apply, notwithstanding the death of one of those candidates after the close of the election.

(5) Where the election for the office of Mayor is interrupted in consequence of the death of a candidate, all voting papers placed in the several ballot boxes shall be taken out by the several Deputy Returning Officers immediately the polling booths are closed and, being made up into secured packages, shall be sent unopened to the Returning Officer,

who shall forthwith destroy them in the presence of a Magistrate or a Justice.

(6) Where under the provisions of this section any election is countermanded or deemed to be void, a new election shall be held as if an extraordinary vacancy had occurred on the date of the publication of the public notice countermanding the election or declaring the election to be void, and, except as provided in subsections (7) and (8) of this section, all proceedings in connection with the new election shall be had and taken anew.

(7) Only persons who were eligible to vote at the countermanded or void election shall be eligible to vote at the new election, and the roll which was to be used at the countermanded or void election shall be used at the new election without any amendment or addition.

(8) The nomination of any candidate accepted for the countermanded or void election shall be deemed to have been made in respect of the new election.

Cf. 1953, No. 16, s. 19A; 1958, No. 48, s. 7

24. Death of candidate (other than for Mayor) after close of nominations—(1) If any candidate, other than a candidate for the office of Mayor, dies after the close of nominations and before polling day, or dies before the close of nominations but advice of his death is received by the Returning Officer after the close of nominations, the provisions of section 22 of this Act, as far as they are applicable and with the necessary modifications, shall apply as if the deceased candidate had retired on the date of his death or, as the case may be, on the date on which advice of his death is received by the Returning Officer.

(2) Where any candidate, other than a candidate for the office of Mayor, dies on polling day before the close of voting and the Returning Officer is satisfied of the fact of the death, the Returning Officer shall, unless the election has become unnecessary through the death of the candidate, as soon as practicable instruct every Deputy Returning Officer to strike out the name of the deceased candidate from every voting paper issued by the Deputy Returning Officer after he receives that instruction, but the fact that any voting paper is issued without the name of the deceased candidate being struck out shall not invalidate the election. Any vote cast for the deceased candidate on any voting paper from which his name has not been struck out shall be void.

(3) Where the Returning Officer becomes aware on polling day that an election has been made unnecessary through the death of a candidate, he shall, upon being satisfied of the fact of the death, immediately instruct every Deputy Returning Officer to cease issuing the voting papers for that election, and shall by public notice declare the remaining candidates to be elected. All voting papers in the ballot boxes for that election shall be taken out by the several Deputy Returning Officers immediately the polling booths are closed and, being made up into secured packages, shall be sent unopened to the Returning Officer, who shall forthwith destroy them in the presence of a Magistrate or a Justice.

25. Booths, ballot boxes, voting papers, etc.—The Returning Officer shall provide the following things for holding the election:

- (a) One or more polling booths at each polling place, and in each booth adequate facilities for each elector to cast his vote in secret:
- (b) In each booth one or more suitable containers having a lock and key and a slit in the upper side by which the voting papers may be put into the container, to be used as ballot boxes:
- (c) Subject to the provisions of section 49 of this Act, in each booth one or more copies of the main roll and supplementary rolls for the district, and a sufficient number of voting papers.

Cf. 1958, No. 16, s. 20

26. Form of voting papers—(1) The voting papers to be used at any election shall be in form 6 in the First Schedule to this Act, and the names thereon shall appear in alphabetical order of surnames, and, where necessary, such additional description as may be necessary to identify the candidates or any of them shall appear on the voting papers.

(2) Every voting paper shall have a counterfoil, on which shall be printed the matter specified in form 7 in the First Schedule to this Act.

(3) If the Returning Officer so decides, there may also be printed on every voting paper and in the space provided in the counterfoil attached thereto a number (called a consecutive number) beginning with the number one in the case of the first voting paper, and on all succeeding voting papers the numbers shall be consecutive, so that no two voting papers for the same election shall bear the same number.

(4) The voting papers to be used at any election shall be printed on paper of uniform colour, and, where two or more elections are held simultaneously, the voting papers in each case shall be different in colour.

(5) Notwithstanding anything in this section, the Returning Officer may combine the voting paper to be used at any election with the voting paper or papers to be used at any other election or elections or poll or polls to be conducted simultaneously with the first-mentioned election. In any such case the combined voting paper may be of the one colour and shall have one counterfoil only, and any part of that voting paper that can be detached from any other part shall bear the consecutive number and the official mark.

Cf. 1953, No. 16, s. 21

27. Scrutineers—(1) Each candidate may, by writing under his hand, appoint one scrutineer for each polling booth at any election, but no person shall be appointed as a scrutineer if he is also a candidate at that election or at any other election conducted by the Returning Officer simultaneously with that election.

(2) Every scrutineer shall, before being allowed to act, make a declaration in form 1 in the First Schedule to this Act before the Returning Officer, or before the Deputy Returning Officer at the polling booth for which he is appointed.

(3) Any scrutineer who, at any time after voting has commenced and before the Deputy Returning Officer has signed the certificate referred to in paragraph (f) of subsection (1) of section 39 of this Act, leaves the polling booth to which he is appointed, without first having obtained the permission of the Returning Officer or of the Deputy Returning Officer at that polling booth, shall not be entitled to re-enter the booth or to resume his scrutiny.

(4) Nothing in this Act shall render it unlawful for a scrutineer to communicate to any person information as to the names of persons who have voted.

Cf. 1953, No. 16, s. 22; 1958, No. 48, s. 8

28. Hours of polling—(1) At every election the polling booths at each polling place shall be open for voting at nine o'clock in the forenoon of polling day, and shall close at seven o'clock in the afternoon of the same day.

(2) Every person who at seven o'clock in the afternoon of polling day is present in a polling place for the purpose of voting at that election 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 voting.

Cf. 1953, No. 16, s. 23

29. Ballot box to be kept locked during voting hours—The Returning Officer or Deputy Returning Officer shall, immediately before the polling booth is opened for voting 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 until after the close of voting:

Provided that, if the ballot box cannot be locked, the Deputy Returning Officer shall effectively secure the box instead of locking it.

Cf. 1953, No. 16, s. 24

30. Persons not to remain in polling places—No person not actually engaged in voting shall be allowed to remain in a polling place except the Returning Officer, Deputy Returning Officers and poll clerks, any of the scrutineers, and as many constables as the Deputy Returning Officer in charge of the polling place thinks necessary to keep the peace.

Cf. 1953, No. 16, s. 25

31. Voters not to be spoken to in booth—(1) Subject to the provisions of section 36 of this Act, no scrutineer or other official or unofficial person shall speak to any voter in a polling booth, either before or after the voter has given his vote, except only the Returning Officer or Deputy Returning Officer and poll clerk (with an interpreter, if necessary).

(2) Every person who commits a breach of this section commits an offence, and is liable to a fine not exceeding twenty pounds, and may be at once removed from the booth by order of the Returning Officer or Deputy Returning Officer.

Cf. 1953, No. 16, s. 26

32. Issue of voting papers—(1) Subject to the provisions of this Act relating to special voters and to subsection (2) of section 49 of this Act, every Deputy Returning Officer shall, in accordance with the provisions of this section, issue voting papers to all electors who apply to vote at the booth in respect of which he is appointed.

(2) Every elector applying for a vote shall state his name to the Deputy Returning Officer, and shall give such particulars as may be necessary to identify the entry in the printed roll relating to the elector.

(3) If the name of the elector appears in the roll, a line shall be drawn through his name and number.

(4) The Deputy Returning Officer shall then issue to the elector the number of voting papers to which he is entitled at the election after the Deputy Returning Officer has prepared each voting paper in the following manner:

- (a) Unless a consecutive number has been printed on the voting paper and on the counterfoil, he shall enter on both the counterfoil and the voting paper in the spaces provided a number (called a consecutive number), beginning with the number one in the case of the first voting paper issued by him, and on all succeeding voting papers issued by him the numbers shall be consecutive, so that no two voting papers issued in the same booth shall bear the same number:
- (b) He shall effectively conceal the consecutive number on the voting paper, either by folding over the corner and securing the corner by gum or some other effective means, or by affixing a piece of gummed paper over the consecutive number on the voting paper:
- (c) On the counterfoil of the voting paper he shall write the number appearing in the roll against the name of the elector, preceded, in any case where the names on the roll are numbered consecutively by pages, by the number of the page on which that name appears:
- (d) He shall place his official mark on both the voting paper and the counterfoil so that the booth in which the voting paper was issued may be identified:
- (e) At an election at which a voter is entitled to exercise more than one vote, a number denoting the number of voting papers given to him shall be written on the roll against the name of the voter.

(5) Every Returning Officer or Deputy Returning Officer who fails faithfully to perform the duty imposed on him by this section, by reason whereof any of the requirements of this section are not effectively fulfilled, commits an offence, and is liable to a fine not exceeding fifty pounds:

Provided that, in so far as the failure relates to the duty of effectively concealing the consecutive number, it shall be a sufficient defence if he satisfies the Court that he took all reasonable precautions to conceal it.

Cf. 1953, No. 16, ss. 27, 29

33. Procedure when second vote applied for in same name—

If any person applying for a voting paper at any election gives as his name the name of any person who appears to the Deputy Returning Officer in charge of the booth to have already received a voting paper or voting papers at the same election, he shall be dealt with in all respects in like manner as any other voter:

Provided that the voting paper or voting papers issued to the person so applying shall not be deposited in the ballot box or allowed by the Deputy Returning Officer, but shall be placed by the Deputy Returning Officer in a separate envelope provided for the purpose, and that envelope shall be set aside for separate custody.

34. Method of voting—(1) The voter, having received the voting paper or papers, shall, using the facilities provided for the purpose, alone and secretly exercise his vote on each voting paper in accordance with the instructions thereon.

(2) Every voter shall fold each voting paper so that its contents cannot be seen, and shall then deposit it in the ballot box.

Cf. 1953, No. 16, s. 30

35. Spoilt voting papers—(1) Any voter who, not having deposited his voting paper in the ballot box, satisfies the Deputy Returning Officer that he has spoilt it by inadvertence may be supplied with a fresh voting paper, but only after the spoilt one has been returned to the Deputy Returning Officer.

(2) The Deputy Returning Officer shall cancel the spoilt voting paper by writing across the face thereof the words "Spoilt by voter", and shall affix his initials thereto, and shall retain the spoilt voting paper in his possession until the close of voting. The counterfoil of the spoilt voting paper shall be similarly cancelled.

(3) Any voting paper spoilt by the Deputy Returning Officer or any other official shall be cancelled by that official writing the words "Spoilt by official", and also the words "and a fresh voting paper issued" if that is the case, across

the face of the paper, and writing his initials thereon. The counterfoil shall be similarly cancelled.

Cf. 1953, No. 16, s. 31

36. Blind, disabled, or illiterate voter—(1) Any elector who is wholly or partially blind, or is unable to read or write (whether because of physical handicap or otherwise), or is not sufficiently familiar with the English language to vote without assistance, may vote in accordance with the provisions of this section.

(2) At the request of any such voter who has received a voting paper, the Deputy Returning Officer shall assist the voter to mark the voting paper or may mark the voting paper in accordance with the instructions of the voter.

(3) The Deputy Returning Officer shall sign his name on the back of the voting paper and shall add the words "Witness for blind or partially blind person" or "Witness for person unable to read or write" or "Witness for person not familiar with the English language", as the case may be, and shall fold the voting paper so that its face cannot be seen before depositing it in the ballot box.

(4) A poll clerk or some other person nominated by the voter shall also be present when the voting paper is marked and may, if so desired by the voter, inspect the voting paper before it is deposited in the ballot box.

(5) Any elector voting as a special voter may vote in the manner prescribed by this section, with any necessary modifications, or in any manner prescribed by regulations made under this Act.

(6) Every person who is present in accordance with this section or with any regulations when an elector votes and who communicates at any time to any person any information obtained as to the candidate for whom the voter is about to vote or has voted, or as to the number on the voting paper given to the voter, commits an offence, and is liable to imprisonment for a term not exceeding three months.

Cf. 1953, No. 16, s. 32; 1958, No. 48, s. 9

37. Special voters—Any elector may vote at any election as a special voter, if—

- (a) His name does not appear on the copy of the roll used for that election or has been deleted from that copy, and he has reasonable cause to believe that his name was entered on the roll or, as the case may be, should not have been deleted from that copy; or

- (b) He has qualified as an elector not earlier than the day preceding the day on which the roll was closed and before polling day and has applied before polling day to have his name entered on the roll; or
- (c) He will on polling day be outside New Zealand; or
- (d) He will be absent from the district on polling day;
or
- (e) He will not throughout the hours of voting on polling day be within two miles by the nearest practicable route of any polling place appointed for the district;
or
- (f) He will throughout the hours of voting on polling day be travelling under conditions which will preclude him from attending to vote at any polling place appointed for the district; or
- (g) He is ill or infirm, and by reason of that illness or infirmity will be precluded from attending to vote at any polling place appointed for the district; or
- (h) In the case of a woman, she will by reason of approaching or recent maternity be precluded from attending to vote at any polling place appointed for the district; or
- (i) He is a lighthouse keeper or member of a lighthouse keeper's staff, or, in the case of a woman, she is the wife of a lighthouse keeper or the wife of a member of a lighthouse keeper's staff, and will be precluded from attending to vote at any polling place appointed for the district; or
- (j) He has a religious objection to voting at a polling place on the day of the week on which polling day falls; or
- (k) He satisfies the Returning Officer or Deputy Returning Officer that on any other ground it will not be possible for him to vote at a polling place appointed for the district without incurring hardship or undue inconvenience.

Cf. 1953, No. 16, s. 34; 1958, No. 48, s. 10

38. Voting by special voters—(1) Notwithstanding anything to the contrary in this Act, a special voter may vote at such place (whether at a polling place or not), at such time, in such manner, and upon or subject to such conditions as may be prescribed in that behalf by regulations made under this Act, and, subject to the provisions of this Act, the voting papers shall be dealt with in such manner as may be so prescribed.

(2) The voting papers for use by special voters shall be in such form as is prescribed by regulations made under this Act, and the consecutive numbers of the special voting papers may be in a different series from that used for the ordinary voting papers.

(3) Subject to the provisions of this section and of section 37 of this Act, and to the provisions of any regulations made for the purposes of this section, all the provisions of this Act shall, as far as applicable and with the necessary modifications, apply with respect to voting by special voters and to their votes.

Cf. 1953, No. 16, s. 35; 1958, No. 48, s. 11 (1)

39. Procedure after close of voting—(1) At each polling booth the Deputy Returning Officer shall, as soon as practicable after the close of voting, in the presence of such of the scrutineers as are present, and the poll clerks, but of no other person, perform the following duties:

(a) He shall make up into separate parcels—

(i) The copies of the main roll and supplementary rolls on which the fact of any person having received a voting paper has been noted; and

(ii) All the counterfoils of voting papers that have been used at the election; and

(iii) All the spoilt voting papers; and

(iv) All the unused voting papers with their counterfoils attached:

(b) He shall then open the ballot boxes and, taking therefrom all the voting papers therein, proceed to ascertain the number of votes received by each candidate:

(c) He shall set aside as informal all voting papers which do not clearly indicate the candidate or candidates for whom the voter desired to vote:

(d) He shall arrange for the result of the voting to be transmitted as soon as possible to the Returning Officer:

(e) He shall make up into separate parcels the used voting papers, together with (but in separate enclosures) the voting papers set aside as informal and the voting papers set aside under section 33 of this Act:

(f) He shall prepare and sign a certificate, which shall also be signed by such of the scrutineers as are present and consent to sign it, of the number of votes received by each candidate, the number of voting papers set aside as informal, the number of voting

papers set aside under section 33 of this Act, the number of spoilt voting papers, the number of voting papers delivered to special voters, the number of unused voting papers, and the number of voting papers originally delivered to him. The certificate shall be placed in an envelope addressed to the Returning Officer.

(2) Each parcel made up under this section shall be endorsed by the Deputy Returning Officer with a description of its contents, the name of the district, the name of the polling place, the number of the booth, and the date of the voting; and the endorsement shall be signed by the Deputy Returning Officer and by such of the scrutineers as are present and consent to sign it; and the parcel shall be enclosed in paper or similar material and shall be properly secured.

(3) The Deputy Returning Officer shall forthwith forward all the parcels mentioned in this section to the Returning Officer together with the certificate required by paragraph (f) of subsection (1) of this section.

(4) From the results of the voting at the several polling booths transmitted to him pursuant to paragraph (d) of subsection (1) of this section, the Returning Officer shall ascertain and provisionally announce the total number of votes received by each candidate at the election.

Cf. 1953, No. 16, ss. 36, 37; 1958, No. 48, s. 11 (2)

Scrutiny of the Roll and Official Count

40. Arrangements for scrutiny and official count—(1) The Returning Officer shall make arrangements for a scrutiny of the roll and an official count as soon as practicable after the close of voting, and shall give notice in writing to each of the candidates of the time and place at which he will commence the scrutiny and official count.

(2) Every candidate may, by writing under his hand, appoint one scrutineer for the scrutiny of the roll and the official count, and every scrutineer so appointed shall, before being allowed to act, make a declaration before the Returning Officer in form 1 of the First Schedule to this Act, whether or not he has made such a declaration under section 27 of this Act.

(3) No person who was a candidate at any election for which the roll was used shall act as scrutineer under this section.

(4) 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 and official count.

(5) Only one scrutiny of the roll shall be made pursuant to this section in respect of all elections and polls for which that roll was used.

Cf. 1953, No. 16, s. 38

41. Scrutiny of the roll—(1) The Returning Officer, with such assistants as he considers necessary and in such manner as he considers desirable and in the presence of such scrutineers as are present, shall, on an unmarked copy of the roll (called the master roll), draw a line in pencil or ink through the number and name of every elector on the roll who is shown on any of the copies of the roll used at the election or in any record of special votes exercised in respect of the district as having received a voting paper:

Provided that the comparison of the marked copies of the rolls may be carried out by mechanical means if the Returning Officer so determines, and in such a case the master roll may be prepared as soon as practicable after the completion of the official count.

(2) If on that comparison or from the checking of declarations in respect of special votes or from the report of a Deputy Returning Officer on the voting papers set aside under section 33 of this Act, and after such inquiry as the Returning Officer considers necessary, it appears that the same person has received a voting paper or voting papers at two or more polling booths, the Returning Officer shall, in the presence of such scrutineers as are present, open the parcels of voting papers used at the several polling booths at which that person appears to have received a voting paper or voting papers, and shall select therefrom the voting papers which appear to have been issued to that person, and shall disallow every vote appearing to have been given by means of the voting papers so selected:

Provided that, if the Returning Officer is satisfied that the voter lawfully received a voting paper or voting papers at only one polling booth and that he was not in any way concerned in the issue of the voting paper or voting papers at any other polling booth, the Returning Officer shall allow the valid vote or votes given by means of the voting paper or voting papers received at the first-mentioned polling booth and shall disallow the other vote or votes.

(3) For the purposes of subsection (2) of this section, every voting paper issued to a special voter shall be deemed to have been issued at a polling booth.

(4) Where—

- (a) Pursuant to paragraph (e) of subsection (4) of section 32 of this Act there has been written on the roll against the name of any voter a number denoting the number of voting papers given to him; and
- (b) After such inquiry as the Returning Officer considers necessary, he is satisfied that the number of voting papers given to the voter exceeded the number of votes that he was entitled to exercise,—

the Returning Officer shall, in the presence of such scrutineers as are present, open the parcel containing the voting papers issued to that voter and, if all those voting papers have been marked in the same manner, disallow such of the votes exercised by the voter as are in excess of the number of votes that he was entitled to exercise. If any of those voting papers has been marked in a manner differing from any of the other voting papers marked by the voter, the Returning Officer shall disallow every vote given by the voter.

(5) Except in the case of the voting papers so selected therefrom, the Returning Officer shall inspect only the consecutive numbers on the voting papers in the several parcels so opened, and shall so cover the voting papers that no person present shall have the opportunity of determining the candidate for whom any particular elector has voted.

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

(7) The Returning Officer shall set aside all voting papers selected by him from any parcel, as herein provided, and shall, in the presence of such scrutineers as are present, make up those voting papers in a separate parcel, and shall endorse the parcel with a description of the contents thereof, and shall sign the endorsement with his name.

Cf. 1953, No. 16, ss. 39, 40; 1958, No. 48, s. 12

42. Official count and declaration of election—(1) On completion of the scrutiny hereinbefore directed, the Returning Officer, with such assistants as he considers necessary, and in the presence of such scrutineers as are present and of any Justice whom he requests to attend, shall select

and open one of the parcels of used voting papers referred to in subsection (1) of section 39 of this Act.

(2) The Returning Officer shall then deal with those voting papers as follows:

(a) He shall reject as informal any voting paper—

(i) If, by reason of the absence of the official mark or otherwise, there is reasonable cause to believe that it was not issued to a voter by the Returning Officer or any Deputy Returning Officer; or

(ii) If the number of candidates for whom the elector has voted exceeds the number of candidates to be elected; or

(iii) If it does not clearly indicate the candidate or candidates for whom the elector desired to vote:

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 it clearly indicates the candidate or candidates for whom the voter intended to vote, whether that indication is made in accordance with the instructions on the voting paper or otherwise:

Provided also that no voting paper shall be rejected as informal by reason only of some error or omission on the part of an official, if the Returning Officer is satisfied that the voter was qualified to vote at the election:

(b) The Returning Officer shall then count the number of votes received by each candidate from the voting papers contained in that parcel and the number of voting papers rejected as informal, and shall make up the parcel anew and endorse thereon a memorandum specifying the number of voting papers contained in the parcel, the number of votes received by each candidate, the number of informal voting papers, and the number of the booth at which they were recorded; and the endorsement shall be signed by the Returning Officer.

(3) The Returning Officer shall deal in like manner with the voting papers contained in the other parcels of used voting papers.

(4) The voting papers of special voters shall be dealt with in like manner, after which they shall be made up together

into a parcel, which shall be properly secured and shall be endorsed in the manner hereinbefore described.

(5) When all the voting papers have been dealt with in the manner prescribed in the foregoing provisions of this section, the Returning Officer shall—

(a) Prepare and sign a certificate stating the total number of voting papers (other than spoilt voting papers and voting papers disallowed under subsection (2) or subsection (4) of section 41 of this Act) used at the election, the number of votes received by each candidate, and the number of voting papers rejected as informal, and shall retain that certificate for production when required; and

(b) Declare the result of the election by giving public notice thereof in form 8 in the First Schedule to this Act.

(6) 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.

Cf. 1953, No. 16, s. 41; 1958, No. 48, s. 13

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

(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 notice in writing to the Returning Officer and to each of the candidates and to each scrutineer appointed under subsection (2) of section 40 of this Act of the time and place at which the recount will be made.

(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 (5) of section 41 of this Act (relating to the

secrecy of the ballot) shall, with any necessary modifications, apply to the recount.

(6) If on the recount the Magistrate finds that the public declaration was incorrect, he shall order the Returning Officer to give an amended declaration under section 42 of this Act of the result of the poll.

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

Cf. 1953, No. 16, s. 42; 1958, No. 48, s. 14

44. Death of elected candidate before declaration of result of election—Where any candidate, not being a candidate for the office of Mayor, dies after the close of the voting and—

- (a) Before the declaration of the result of the election in accordance with subsection (5) of section 42 of this Act; or
- (b) Where a recount is applied for and an amended declaration of the result of the election is ordered pursuant to subsection (6) of section 43 of this Act, before that amended declaration has been given,—and that candidate would, but for his death, have been declared to be elected, the Returning Officer shall declare the other successful candidates to be elected, and the vacancy resulting from the death of the candidate shall be deemed to be an extraordinary vacancy occurring on the date of the declaration or of the amended declaration, as the case may be.

45. Disposal of voting papers, rolls, etc.—(1) As soon as practicable after the completion of the official count, the Returning Officer shall enclose in separate packets in the following manner all the parcels transmitted to him by the several Deputy Returning Officers or made up and secured by himself, namely:

- (a) He shall enclose in one or more separate packets all the parcels of used voting papers, including the special voters' voting papers, and all counterfoils corresponding to those voting papers; in one or more other separate packets all parcels of spoilt voting papers; in another all parcels of voting papers set aside under section 33 or section 41 of this Act; and in one or more other separate packets all parcels containing voting-paper accounts,

copies of rolls (except the master roll), books, or other papers used in connection with the election, and all telegrams, letters, and other papers received from any Deputy Returning Officer in respect of the votes of special voters:

- (b) He shall properly secure the several packets, and endorse them with a description of the contents thereof respectively and the name of the district and the date of the polling, and shall sign the endorsement; and shall forthwith forward the packets to the Registrar of the nearest Magistrate's Court.

(2) The Registrar of the Magistrate's Court shall forthwith give or send to the Returning Officer a receipt under his hand for the said packets, and shall keep them for six months thereafter, and shall not open them or permit them to be opened except on the order of some Court of competent jurisdiction. At the end of that period the Registrar shall effectively destroy the packets.

(3) The Returning Officer shall send the master roll to the Clerk or proper officer of the local authority, who shall keep it until the close of the next general election of members of the local authority. Any elector of the district may inspect the master roll at the office of the local authority without payment of any fee at any time during ordinary office hours.

Cf. 1953, No. 16, s. 43

46. Safe custody of voting papers—(1) Every Deputy Returning Officer shall give to the Returning Officer a receipt specifying the total number of voting papers received by him, and shall be personally responsible for the safe custody of all such voting papers from the time they are received by him until they are issued or otherwise disposed of by him in accordance with this Act.

(2) 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 voting papers has been delivered to the Returning Officer as provided in this Act and the Deputy Returning Officer has obtained from the Returning Officer a receipt in writing for the parcel, which receipt the Returning Officer is in all cases required to give on that delivery.

(3) In like manner the Returning Officer shall be personally responsible for the safe custody of all voting papers used at

the polling booth at which he presides until they have been sent to the Registrar of the nearest Magistrate's Court as required by subsection (1) of section 45 of this Act, and also for the safe custody of all parcels of used voting papers for which he has given a receipt to a Deputy Returning Officer, until they have been sent by him to the Registrar of the nearest Magistrate's Court as aforesaid.

(4) Every Returning Officer or Deputy Returning Officer who fails to take reasonable steps to secure the safe custody of all voting papers for which he is responsible, with the result that any such voting paper is removed from his custody, commits an offence, and is liable to imprisonment for a term not exceeding one year or a fine not exceeding one hundred pounds, or to both.

Cf. 1953, No. 16, s. 44

Maintenance of Order and Adjournment of Election

47. Returning Officer and Deputy Returning Officers to maintain order—(1) Every Returning Officer or Deputy Returning Officer shall maintain order and keep the peace at the polling place where he is conducting the election, and may, without any other warrant than this Act,—

(a) Cause to be arrested and taken before a Justice any person reasonably suspected of committing or attempting to commit at the polling place any of the offences mentioned in subsection (2) or subsection (4) of section 56 of this Act; or

(b) Cause to be removed any person who obstructs the approaches to a polling place, or wilfully and unnecessarily obstructs the proceedings at the election, or conducts himself in a disorderly manner, or causes a disturbance, or wilfully acts in any manner in defiance of the lawful directions of the Returning Officer or Deputy Returning Officer.

(2) All constables shall aid and assist the Returning Officer or Deputy Returning Officer in the performance of his duty.

Cf. 1953, No. 16, s. 45

48. Adjournment of election—Where the election at any polling place cannot start or has to be suspended, whether by reason of riot or open violence, natural disaster, or any other cause, the Returning Officer or Deputy Returning Officer shall adjourn the taking of the election at that polling place to the next day that is not a Sunday or a public holiday

in the district, and if necessary from day to day until the election can be taken, and shall forthwith give public notice of the adjournment in such manner as he thinks fit:

Provided that the election shall not be kept open for more than ten hours in all at any polling place.

Cf. 1953, No. 16, s. 46

Elections in Combined Districts

49. Conduct of elections in combined districts—(1) Notwithstanding anything in this Act or in any other Act, where an election is required to be held in a combined district which comprises the whole or parts of several constituent districts, the Returning Officer for the combined district may, forthwith after the close of nominations, appoint the Returning Officer for any constituent district to conduct the election in that constituent district, and thereupon the provisions of this Act shall apply as if the election was to be held in the constituent district only:

Provided that the Returning Officer for the constituent district shall not provisionally announce under the provisions of section 39 of this Act the total number of votes received by each candidate at the election or declare under section 42 of this Act the result of the election, but shall, after ascertaining the number of votes recorded in the constituent district for each candidate on the preliminary count and on the official count respectively, forthwith send a certificate signed by him giving particulars of the numbers to the Returning Officer for the combined district, who shall make up the total number of votes received for each candidate and provisionally announce under section 39 of this Act the total number of votes received by each candidate at the election or, as the case may be, declare under section 42 of this Act the result of the election.

(2) Where the Returning Officer for a combined district appoints the Returning Officer for any constituent district to conduct the election in that constituent district under subsection (1) of this section,—

- (a) An elector having a qualification in only one constituent district may not vote at that election in a polling booth in another constituent district, either as an ordinary voter or as a special voter:
- (b) An elector having a qualification in two or more constituent districts may vote at that election, either as an ordinary voter or as a special voter, at a polling

booth in only one of those constituent districts, and shall not be entitled to vote at that election at a polling booth in a constituent district in which he does not have a qualification.

(3) Where the Returning Officer for a combined district which comprises the whole or parts of several constituent districts himself conducts an election over the whole combined district, he may, instead of providing in any booth a copy of the roll for the whole combined district, provide in any booth under the control of the Returning Officer for any such constituent district a copy of that portion of the roll of the combined district which contains the names of the persons who are electors of that constituent district.

Cf. 1953, No. 16, ss. 20 (d), 48A; 1958, No. 48, s. 16

Extraordinary Vacancies

50. Election to extraordinary vacancy—(1) Except as otherwise provided in this Act or any other Act, 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 the vacancy to the Returning Officer, and the Returning Officer shall forthwith, by public notice in form 2 in the First Schedule to this Act, appoint a day, being not less than thirty-five nor more than forty-two clear days after the receipt by him of notice of the vacancy, for the election to fill the vacancy; and shall in that notice appoint a place for receipt of nomination of candidates and a closing day for receipt of such nominations, being the twenty-ninth day before the election:

Provided that, where notice of an extraordinary vacancy in any elective office is received by the Returning Officer on any day after the eighth day of November and before the twenty-seventh day of December in any year, the day to be so appointed for the election to fill the vacancy shall be a day not less than thirty-five nor more than forty-two clear days after the twenty-seventh day of December:

Provided also that where, before the day appointed under this subsection for an election to fill one or more extraordinary vacancies, the Returning Officer receives notice of a further extraordinary vacancy in an elective office, he may countermand the notice previously given in respect of the first-mentioned vacancy or vacancies and give a fresh public notice under this subsection appointing a day for holding an election to fill all the vacancies, and the provisions of this

subsection shall thereupon apply as if notice of all the vacancies had been received by the Returning Officer on the date on which he received notice of the further vacancy.

(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 a general election.

Cf. 1953, No. 16, s. 48; 1958, No. 48, s. 15; 1961, No. 22, s. 3 (3), (4)

51. Where election to fill extraordinary vacancy not necessary—(1) Except where otherwise provided in any other Act, in the event of an extraordinary vacancy in the office of an elected member of a local authority, other than a Borough Council or Town Council, occurring within twelve months before the date fixed for the next triennial general election, the local authority may by resolution determine—

(a) That the vacancy shall be filled in the manner prescribed by the provisions in that behalf of this Act;

or

(b) That the vacancy shall be filled by appointment by the local authority of a person qualified to be elected a member thereof, and any person so appointed shall for all purposes be deemed to have been elected to fill the vacancy:

Provided that, where any such vacancy occurs within six months before the date fixed for the next triennial general election, the local authority may by resolution determine that the vacancy shall not be filled.

(2) Nothing in subsection (1) of this section shall apply in any case where an election of Councillors is required to be held under section 43 of the Counties Act 1956.

Cf. 1953, No. 16, s. 6; 1956, No. 64, s. 452; 1961, No. 22, s. 3 (2)

52. Election to fill extraordinary vacancy in Borough Council or Town Council—(1) Except where otherwise provided in any other Act or where the vacancy occurs pursuant to section 20 or section 44 of this Act, where an extraordinary vacancy occurs in the office of a member of a Borough Council or Town Council (not being the office of Mayor) it shall not be necessary to hold an election to fill that vacancy, unless—

(a) Where the vacancy occurs in the office of a member representing a ward of a borough divided into wards for the purposes of representation,—

(i) The total number of members of the Council representing the ward is less than five; or

(ii) The total number of members of the Council representing the ward is five or more but does not exceed twelve, and another extraordinary vacancy in the members representing the ward then remains unfilled; or

(iii) The total number of members of the Council representing the ward exceeds twelve and at least two other extraordinary vacancies in the members representing the ward then remain unfilled:

(b) Where the vacancy occurs in the office of a member of a Borough Council not divided into wards for the purposes of representation or of a member of a Town Council,—

(i) The total number of members of the Council does not exceed twelve, and another extraordinary vacancy then remains unfilled; or

(ii) The total number of members of the Council exceeds twelve, and at least two other extraordinary vacancies then remain unfilled.

(2) For the purposes of subsection (1) of this section, in determining the total number of members of a Borough Council, the Mayor shall be deemed not to be such a member.

(3) Notwithstanding anything in subsection (1) of this section,—

(a) An election shall be held to fill an extraordinary vacancy occurring in the office of a member of a Borough Council or Town Council (not being the office of Mayor) where—

(i) The Council, by resolution passed within thirty days after the date of the occurrence of the vacancy, so decides; or

(ii) Not less than the specified number of the electors for the time being on the roll for the borough or town district or ward, as the case may be, by notice in writing under their hand delivered at the office of the Council not later than the date specified in subsection (4) of this section, demand that an election be held to fill the vacancy. For the purposes of this subparagraph the term “specified number” means a number equal to five percent of the number of electors who were on the roll for the immediately preceding general election of members of the Council or five hundred, whichever is the less:

(b) Where an election is required to be held to fill any extraordinary vacancy pursuant to subsection (1) of this section or to paragraph (a) of this subsection,

an election shall be held at the same time to fill every other vacancy then existing in the office of a member of the Council or representing the ward, as the case may be:

(c) Where an election is held to fill an extraordinary vacancy in the office of Mayor of a borough, an election shall be held at the same time to fill every extraordinary vacancy then existing in the office of a member of the Council:

(d) Where any extraordinary vacancy occurs within six months before the date fixed for the next triennial general election, the Council may, by resolution, decide that the vacancy shall not be filled, and in that case no election shall be held to fill that vacancy or any other existing extraordinary vacancy.

(4) The last date on which any notice may be delivered under subparagraph (ii) of paragraph (a) of subsection (3) of this section shall be thirty days after the date on which the Council first gives public notice that it has decided that an election shall not be held to fill the extraordinary vacancy or (where no such public notice is given) not later than sixty days after the date of the occurrence of the vacancy.

(5) The Town Clerk shall forthwith—

(a) Give notice to the Returning Officer of every decision of the Council under paragraph (a) or paragraph (d) of subsection (3) of this section and of every demand received by the Council under paragraph (a) of that subsection:

(b) Give public notice of every decision of the Council determining whether or not an election shall be held to fill an extraordinary vacancy occurring in the office of a member of the Council.

(6) For the purposes of subsection (1) of section 50 of this Act,—

(a) Where under this section an election is to be held to fill two or more extraordinary vacancies, all those vacancies shall be deemed to have occurred on the date on which the last of those vacancies occurred, or, in any case to which paragraph (c) of subsection (3) of this section applies, on the date on which the vacancy in the office of Mayor occurred:

(b) Where under paragraph (a) of subsection (3) of this section an election to fill an extraordinary vacancy is required to be held, the vacancy shall be deemed to have occurred—

(i) In the case of an election pursuant to a resolution of the Council, on the date on which the resolution is made:

(ii) In the case of an election pursuant to a demand of the electors, on the last date on which the notice in respect of the demand may be delivered in accordance with subparagraph (ii) of paragraph (a) of subsection (3) and subsection (4) of this section.

Cf. 1953, No. 16, s. 6A; 1961, No. 22, s. 3 (1)

Offences at Elections

53. Illegal nomination, etc.—Every person commits an offence, and is liable to a fine not exceeding fifty pounds, who—

- (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 that office; or
- (b) Signs any nomination paper purporting to nominate to any elective office a person who is, to the knowledge of the person so signing, incapable under any Act of holding that office; or
- (c) Signs any nomination paper knowing himself not to be qualified to vote at the election of the candidate so nominated.

Cf. 1953, No. 16, s. 49

54. Interfering with or influencing voters—(1) Every person commits an offence, and is liable to a fine not exceeding fifty pounds, who at an election commits any of the following offences:

- (a) In any way interferes with any person, either in a polling place or while on his way thereto, with the intention of influencing him or advising him as to his vote:
- (b) At any time on polling day before the close of voting, in or in view or hearing of any public place holds or takes part in any demonstration or procession having direct or indirect reference to the election by any means whatsoever:
- (c) At any time on polling day before the close of voting, makes any statement having direct or indirect

reference to the election by means of any loud-speaker or public-address apparatus or voice-amplifying apparatus or cinematograph or television apparatus:

- (d) At any time on polling day before the close of voting, or at any time on any of the three days immediately preceding polling day, prints or publishes or distributes or delivers to any person any document, paper, or notice being or purporting to be in imitation of any voting paper to be used at the election and having thereon the names of the candidates or any of them, together with any direction or indication as to the candidate for whom any person should vote, or in any way containing any such direction or indication, or having thereon any matter likely to influence any vote:
- (e) At any time on polling day before the close of voting, exhibits in or in view of any public place or polling place or publishes or distributes or broadcasts on radio or television or by any other means any statement, or makes any public statement in any public place, advising or intended or likely to influence any person as to the candidate or party for whom he should vote:

Provided that this paragraph shall not apply to any statement in a newspaper published before six o'clock in the afternoon of the day before polling day:

Provided also that where any statement is so exhibited before polling day in a fixed position not in view of a polling place it shall not be an offence to leave it so exhibited on polling day:

Provided further that the Returning Officer may at any time on polling day cause to be removed or obliterated any statement to which this paragraph applies which is exhibited within a radius of half a mile of a polling place, and may recover all expenses incurred in so doing from the persons by whom or by whose direction the statement was exhibited, as a debt due by them, jointly and severally, to the local authority:

- (f) Exhibits or leaves in any polling place any card or paper having thereon any direction or indication as to how any person should vote or as to the method of voting:

(g) At any time on polling day before the close of voting, within, or at the entrance to, or in the vicinity of any polling place,—

(i) Gives or offers to give to any person any written or oral information as to any name or number on the roll being used at the election:

(ii) Permits or offers to permit any person to examine any copy of the roll being used at the election.

(2) It shall not be an offence against this section for any person—

(a) To wear or display (whether on his person or not) any party emblem:

(b) To print or distribute or deliver to any person any card or ticket (not being an imitation voting paper) having thereon the names of the candidates or any of them and the elective office for which they or any of them are candidates, with or without the name of the party to which each candidate belongs or a statement that he is an independent, and nothing else.

(3) Nothing in this section shall apply to any official statement or announcement made or exhibited under the authority of this Act.

Cf. 1953, No. 16, s. 50; 1958, No. 48, s. 17

55. Publishing defamatory matter at election time—Every person commits an offence, and is liable to imprisonment for a term not exceeding three months or a fine not exceeding fifty pounds, or to both, who, at any time after public notice has been given pursuant to section 12 of this Act of any election and before the close of voting, publishes or exposes, or causes to be published or exposed, to public view any document, or writing, or printed matter, containing any untrue statement defamatory of any candidate and calculated to influence the vote of any elector.

Cf. 1953, No. 16, s. 51

56. Offences in respect of voting, voting papers, and ballot boxes—(1) Every person commits an offence, and is liable to a fine not exceeding fifty pounds, who erases, obliterates, or alters any official mark, stamp, or writing on any voting paper, or places thereon any writing, print, or other matter which might lead persons to believe that the same was put thereon by any officer or person duly authorised in that behalf.

- (2) Every person commits an offence who—
- (a) Forges, or counterfeits, or fraudulently marks or defaces, or fraudulently destroys, any voting paper, or the official mark on any voting paper; or
 - (b) Without due authority supplies any voting paper to any person; or
 - (c) Fraudulently puts into any ballot box any paper other than the voting paper or voting papers that he is authorised by law to put therein; or
 - (d) Obtains possession of or has in his possession any voting paper other than one given him by the the Returning Officer or Deputy 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 parcel 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 the election.

(3) Every person who commits an offence against subsection (2) of this section is liable on conviction on indictment—

- (a) If a Returning Officer or Deputy Returning Officer, or an officer or clerk in attendance at a polling booth, to imprisonment for a term not exceeding two years:
- (b) If any other person, to imprisonment for a term not exceeding six months.

(4) Every person commits an offence, and is liable on conviction on indictment to imprisonment for a term not exceeding two years, who—

- (a) Votes or offers to vote more than once at the same election; or
- (b) Fraudulently abstracts any voting paper that has been put into the ballot box; or
- (c) Is guilty of bribery, treating, undue influence, or personation at any election.

Cf. 1953, No. 16, ss. 52, 55

57. Bribery defined—Every person commits the offence of bribery who—

- (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 any elector having voted or refrained from voting at any election; or
- (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 the 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
 - (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 that person to procure or endeavour to procure the return of any person or the vote of any elector at any election; or
 - (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
 - (e) Advances or pays, or causes to be paid, any money to or to the use of any other person with the intent that that 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
 - (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.

Cf. 1953, No. 16, s. 54

58. Treating defined—(1) Every person commits the offence of treating who corruptly, by himself or by any other person on his behalf, either before, during, or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any food, drink, entertainment, or provision to or for any person—

- (a) For the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or
- (b) For the purpose of procuring himself to be elected; or
- (c) On account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

(2) Every person commits the offence of treating who, being the holder of a licence for the sale by retail of intoxicating liquor, knowingly supplies any food, drink, entertainment, or provision—

- (a) To any person where the supply thereof is demanded for the purpose of treating, or for any corrupt or illegal practice; or
- (b) To any person, whether an elector or not, for the purpose of procuring the return of a candidate at an election, and without receiving payment for it at the time when it is supplied.

(3) Every elector who corruptly accepts or takes any such food, drink, entertainment, or provision also commits the offence of treating.

Cf. 1953, No. 16, s. 55; 1958, No. 48, s. 18

59. Undue influence defined—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 that person to vote or refrain from voting, or on account of that 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.

Cf. 1953, No. 16, s. 56

60. Personation defined—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 voted once at any election, applies again at the same election for a voting paper in his own name.

Cf. 1953, No. 16, s. 57

61. Property may be stated as being in Returning Officer—In any indictment or other prosecution of an offence in relation to any ballot box, voting papers, or marking instruments at an election, the property in the box or those papers and instruments may be stated to be in the Returning Officer at that election.

Cf. 1953, No. 16, s. 58

62. Infringement of secrecy—(1) Every officer, clerk, scrutineer, and constable in attendance at a polling booth shall maintain and aid in maintaining the secrecy of the voting in that booth, and shall not communicate to any person, except for some purpose authorised by law, any information likely to defeat the secrecy of the ballot.

(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 the 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 the booth is about to vote, or has voted, or as to the number on the voting paper given to any voter at that booth.

(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 that counting as to the candidate for whom any vote is given in any particular voting paper.

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

(5) Every person who does any act in contravention of or fails to comply with any provision of this section commits an offence, and is liable to imprisonment for a term not exceeding six months.

Cf. 1953, No. 16, s. 59; 1958, No. 48, s. 19

63. Disclosing voting or state of election—Every person commits an offence, and is liable to a fine not exceeding fifty pounds, who—

(a) Makes known for what candidate any voter has voted;
or

(b) Before the close of voting makes known the state of the election or gives or pretends to give any information by which the state of the election may be known.

Cf. 1953, No. 16, s. 60; 1958, No. 48, s. 20

64. Penalty on Returning Officers—Every Returning Officer or Deputy Returning Officer commits an offence, and 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.

Cf. 1953, No. 16, s. 61

PART III

REGULATION OF POLLS OTHER THAN ELECTIONS

65. Notice of poll to be given—Except where otherwise specially provided in any other Act, not less than thirty-five clear days before any poll the Returning Officer shall give public notice thereof.

Cf. 1953, No. 16, s. 62

66. Form of voting papers—(1) Except as provided in subsections (2) and (3) of this section, the voting papers to be used at any poll shall be in form 9 in the First Schedule to this Act.

(2) The voting papers to be used at any poll upon a proposal to raise a special loan under the Local Authorities Loans Act 1956 shall be in form 10 in the First Schedule to

this Act, and shall contain full particulars of the information specified in paragraphs (b) to (e) of section 35 of the first-mentioned Act and any other information required by the Local Authorities Loans Board.

(3) The voting papers for the purposes of a poll on a proposal under the Rating Act 1925 to change a system of rating shall be in form 11 in the First Schedule to this Act.

(4) The provisions of subsections (2) and (3) of section 26 of this Act shall apply with respect to every poll as if the references in those subsections to voting papers to be used at an election were references to voting papers to be used at a poll.

(5) The voting papers to be used at any poll shall be printed on paper of uniform colour, and, where an election and a poll or two or more polls are held simultaneously, the voting papers in each case shall be different in colour:

Provided that—

(a) Where an election and one or more polls are held simultaneously, this subsection shall be read subject to the provisions of subsection (5) of section 26 of this Act:

(b) Where two or more polls are held simultaneously, the provisions of the said subsection (5) shall be read as if the references therein to an election were references to a poll.

Cf. 1953, No. 16, s. 63

67. Appointment of scrutineers—(1) Scrutineers for the taking of a poll may be appointed in the following manner:

(a) Any twenty of the electors who are in favour of the proposal may, by writing under their hands addressed to the Returning Officer and delivered to him not less than seven clear days before the poll, nominate a scrutineer for each or any polling booth:

(b) Any twenty of the electors who are opposed to the proposal may in like manner nominate a scrutineer for each or any polling booth:

(c) Where not more than one person is nominated under either paragraph (a) or paragraph (b) of this subsection 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:

(d) 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.

(2) A scrutineer representing those in favour of the proposal and a scrutineer representing those opposed to the proposal may be nominated and selected in the aforesaid manner to attend the official count of the poll, and the Returning Officer shall advise any scrutineer so nominated and selected of the time and place of the official count.

Cf. 1953, No. 16, s. 64; 1958, No. 48, s. 21

68. Provisions as to elections to apply to polls—Except where otherwise specially provided, the provisions of this Act as to elections, as far as they are applicable and with the necessary modifications, shall extend and apply to polls.

Cf. 1953, No. 16, s. 65

PART IV

DISPUTED ELECTIONS AND POLLS

69. Petition for inquiry—(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 giving of public notice under section 42 of this Act declaring the result or, as the case may be, the amended 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.

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

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

Cf. 1953, No. 16, s. 66; 1958, No. 48, s. 22

70. Specified grounds only to be investigated—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 thinks just:

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.

Cf. 1953, No. 16, s. 67

71. Who may be respondent—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 the notice shall be deemed to be the respondent or respondents to the petition.

Cf. 1953, No. 16, s. 68

72. Time for holding inquiry—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.

Cf. 1953, No. 16, s. 69

73. Powers of Magistrate—For the purposes of the inquiry the Magistrate shall have and may exercise all the powers of citing parties, compelling evidence, and maintaining order that 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.

Cf. 1953, No. 16, s. 70

74. Result of inquiry—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.

Cf. 1953, No. 16, s. 71

75. Persons committing irregularities to be prosecuted— 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 that 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 the 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 the irregularity did not in the opinion of the adjudicating Court either materially affect the result or defeat the fairness of the election or poll.

Cf. 1953, No. 16, s. 72

76. Costs of inquiry—(1) The Magistrate may order that the expenses of and incidental 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 those expenses or any part thereof shall be borne by that Returning Officer or other person; and the 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 1947 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 69 of this Act shall be returned to the person who paid the deposit, 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 the order shall be forfeited to the Crown.

Cf. 1953, No. 16, s. 73

77. New election or poll when election or poll declared void—Where an election or poll is declared void, a new election or poll shall, on a day to be fixed by the Returning Officer, being not later than thirty-five days after the date of that declaration, be held or taken under the same provisions, as far as practicable, as those applicable to the void election or poll:

Provided that only persons who were eligible to vote at the void election or poll shall be eligible to vote at the new election or poll, and the roll which was used at the void election or poll shall be used at the new election or poll without any amendment or addition.

Cf. 1953, No. 16, s. 74; 1958, No. 48, s. 23 (1)

78. Order to be final—Every determination or order under this Part of 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 proceedings be taken in the Supreme Court for trying therein the validity of any election or poll.

Cf. 1953, No. 16, s. 75

PART V

MISCELLANEOUS PROVISIONS

79. Compulsory enrolment of residential electors in boroughs, counties, town districts, and road district—

(1) Every person who—

(a) Is entitled by virtue of a residential qualification to be enrolled on any roll of electors of any borough, county, or town district, or the Waiheke Road District; and

(b) Is not possessed of any other qualification for enrolment thereon; and

(c) Is not enrolled thereon—

shall, forthwith after the date on which he becomes so entitled, make a claim in the prescribed form to be enrolled on that roll of electors.

(2) Every such person commits an offence if, for twenty-one days after the date on which he becomes so entitled, he fails to become enrolled on the roll of electors, unless he proves that he duly made a claim for enrolment thereon or that his failure to make a claim for enrolment was not due to wilful default.

(3) Every such offence shall be a continuing offence until a claim for enrolment has been duly made.

(4) Every person who commits an offence against this section is liable to a fine not exceeding two pounds on a first conviction and to a fine not exceeding five pounds on any subsequent conviction.

Cf. 1953, No. 16, s. 88; 1958, No. 48, s. 24; 1963, No. 99, s. 2

80. Closing of rolls of electors—(1) Subject to the provisions of sections 23 and 77 of this Act, every roll containing the names of the persons entitled to vote at any election or poll shall be deemed to be closed at five o'clock in the afternoon of the twenty-second day preceding polling day, and shall continue closed until the election is completed or the poll is taken.

(2) Except pursuant to appeal under any provisions applying in that behalf, in cases where the appeal was pending at the time when the roll was closed, or for the purpose of complying with a claim for enrolment or of an application for the alteration of an entry in the roll, delivered to the Clerk or proper officer of the local authority before the closing of the roll, no alteration or addition shall be made in or to any roll while it is closed as aforesaid:

Provided that nothing in this section shall preclude any person to whom paragraph (b) of section 37 of this Act applies from voting as a special voter.

Cf. 1953, No. 16, s. 89; 1958, No. 48, s. 23 (2)

81. Electoral rights of aliens—(1) For the purposes of this section—

“Alien enemy” means an alien who is a subject of any State with which Her Majesty is for the time being at war:

“Local authority” includes an Education Board, a Fire Board, and such other public bodies as are from time to time declared by the Governor-General by Order in Council to be local authorities for the purposes of this section.

(2) Notwithstanding anything to the contrary in any Act relating to the constitution of any local authority, or to the conduct of elections and polls by or in connection with any such local authority, the following provisions shall apply with respect to aliens in relation to the constitution of local authorities and the conduct of local elections and polls.

(3) No person who is an alien enemy within the meaning of this section shall be qualified to vote at any election of a member of a local authority, or at any election or poll conducted by any local authority, or shall be capable of being elected or appointed as a member of any local authority.

(4) An alien, not being an alien enemy as hereinbefore defined, shall not be capable of being elected or appointed as a member of any local authority, but shall not be disqualified by reason merely of his alien nationality from voting at any election of a member or members of any local authority, or at any election or poll conducted by any local authority, unless aliens are specifically disqualified by statute from voting at that election or poll.

(5) Every person who by this section is disqualified from being elected or appointed as a member of a local authority commits an offence if he consents to be nominated for election or appointment, or to be appointed, as a member of any such local authority.

(6) Every person who by this section is disqualified from voting at any election or poll commits an offence if he attempts to vote or votes at any such election or poll, or applies for enrolment on the roll of electors for any such election or poll.

(7) Every person who commits an offence against this section is liable to imprisonment for a term not exceeding three months or a fine not exceeding one hundred pounds, or to both.

Cf. 1953, No. 16, s. 90

82. Employees to have time off to vote—(1) Subject to the provisions of this section, on the polling day at every general election of members of a local authority that is required to be held on the day specified in section 4 of this Act, every employer shall allow every worker in his employment who is an elector of a district in which such a general election is being held, and who has not had a reasonable opportunity of recording his vote before commencing work, to leave his work, for the purpose of recording his vote, not later than three o'clock in the afternoon for the remainder of the day, and it shall not be lawful for any employer to make any deduction from any remuneration payable to any such worker in respect of any time after the time of his leaving his work as aforesaid.

(2) Where any worker to whom subsection (1) of this section applies is required to work after three o'clock in the

afternoon on the polling day for the purpose of carrying on any essential work or service, his employer shall on that day allow the worker to leave his work for a reasonable time for the purpose of recording his vote, and no deduction shall be made from any remuneration payable to the worker in respect of any time, not exceeding two hours, occupied in recording such vote as aforesaid.

(3) Every employer commits an offence, and is liable to a fine not exceeding five pounds, who contravenes or fails to comply in any respect with any provision of this section.

(4) For the purposes of this section—

“Employer” means any person employing any worker or workers:

“Worker” means any person of any age of either sex employed to do any work for hire or reward; and includes an apprentice and any other person whose contract of employment requires him to learn or to be taught any occupation.

(5) This section shall bind the Crown.

Cf. 1953, No. 16, s. 92; 1962, No. 7, s. 2

83. Employees of local authorities to be qualified for membership thereof—Notwithstanding anything to the contrary in any Act or rule of law, no person shall be incapable of being at the same time a member of any local authority and in the employment of that local authority.

Cf. 1953, No. 16, s. 93

84. Polling booth not to be on licensed premises—(1) No polling booth shall be in any licensed premises or in any building belonging to any licensed premises.

(2) In this section the term “licensed premises” has the same meaning as in the Sale of Liquor Act 1962; and includes any premises that are deemed by the Licensing Trusts Act 1949 or the Masterton Licensing Trust Act 1947 or the Invercargill Licensing Trust Act 1950 to be licensed premises for the purposes of the application of any of the provisions of the Sale of Liquor Act 1962.

Cf. 1953, No. 16, s. 94

85. State primary schools to be available for polling places—(1) Any State primary school may be appointed to be a polling place under section 21 of this Act, and in every such case it shall be the duty of the controlling authority having jurisdiction over the school, and of the School Committee

of the school, to place it at the free disposal of the Returning Officer from four o'clock in the afternoon of the day preceding polling day and for the whole of polling day.

(2) The cost of cleaning the school after use as a polling place, and of repairing any damage occasioned by that use, shall be deemed for the purposes of section 87 of this Act to be part of the costs and expenses incident to the election or poll.

Cf. 1953, No. 16, s. 95

86. Alteration of procedure by Order in Council—(1) The Governor-General may at any time, by Order in Council made at the request of a local authority received by the Minister not later than six months before the date of the election or poll, authorise the Returning Officer at any specified election or poll to be held in the district of that local authority under this Act, by way of experiment, to—

- (a) Hold that election or poll over such consecutive days (excluding Sundays and days that are public holidays in the district) and between such hours on those days as are set out in the order; or
- (b) Use mobile polling booths at that election or poll in addition to the polling places required by this Act; or
- (c) Take that election or poll by postal vote; or
- (d) Use voting machines of the kind specified in the order for the purpose of taking that election or poll.

(2) Any Order in Council made under this section may make such additional provision as the Governor-General considers necessary to enable the election or poll to be conducted in accordance with the procedure authorised in the order.

(3) Every Order in Council under this section shall have effect according to its tenor notwithstanding anything in this Act, and the election or poll shall be conducted by the Returning Officer accordingly:

Provided that no such Order in Council shall have effect so as to infringe the secrecy of the ballot.

(4) Any Order in Council made under this section shall apply to all other elections and polls held in that district simultaneously with the election or poll specified in the order.

(5) The validity of any election or poll conducted in accordance with the provisions of this section shall not be questioned on the ground that the procedure adopted at that election or poll has been adopted by way of experiment.

(6) As soon as practicable after the election or poll, the Returning Officer shall forward to the Minister a full report as to the conduct of that election or poll.

Cf. 1953, No. 16, ss. 96, 96A; 1961, No. 22, s. 4

87. Cost of elections and polls—All reasonable costs and expenses incident to any election or poll, 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.

Cf. 1953, No. 16, s. 97

88. Punishment of offences—Except where this Act otherwise provides, all offences under this Act or against any regulations under this Act shall be punishable on summary conviction before a Magistrate.

Cf. 1953, No. 16, s. 98

89. Election or poll not invalid by reason of certain irregularities—(1) An election or poll shall not be disputed by reason only of any defect in the title or any want of title of the person conducting the election or poll, if that person was actually appointed or was acting in the office giving a right to conduct that election or poll.

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

Cf. 1953, No. 16, s. 99

90. Validation of certain irregularities—Where anything is omitted to be done or cannot be done at the time required by or under this Act, or is done before or after that 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 the thing is required to be done, extend that time, or validate anything so done before or after the time required or so irregularly done in matter of form, or make other provision for the case as he thinks fit.

Cf. 1953, No. 16, s. 100

91. Regulations—The Governor-General may from time to time, by Order in Council, make regulations—

- (a) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof:
- (b) Prescribing penalties for the breach of any regulations under this Act, not exceeding a fine of fifty pounds.

Cf. 1953, No. 16, s. 101

92. Repeals, savings, and consequential amendment—

(1) The enactments specified in the Third Schedule to this Act are hereby repealed.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that—

- (a) The repeal of the Local Elections and Polls Act 1953 shall not affect the amendments made by section 102 of that Act:
- (b) The repeal of the Local Elections and Polls Amendment Act 1960 shall not affect the amendments made by subsections (2) and (3) of section 2 thereof:
- (c) The repeal of the Local Elections and Polls Amendment Act 1961 shall not affect the amendments made by subsection (3) of section 2 thereof to the Auckland Electric Power Board Amendment Act 1937.

(3) Section 39 of the Local Authorities Loans Act 1956 is hereby amended by omitting from subsection (2) the words “fourteen days” wherever they occur, and substituting in each case the words “thirty-five days”.

SCHEDULES

FIRST SCHEDULE

FORMS

Form 1

Sections 11, 27 (2)

DECLARATION BY RETURNING OFFICER, DEPUTY RETURNING OFFICER,
POLL CLERK, OR SCRUTINEER

I, A. B., [*Insert address and occupation*], solemnly and sincerely declare that I will well and truly serve in the office of—

- *Returning Officer
- *Deputy Returning Officer
- *Poll Clerk
- *Scrutineer

- (1) at any election or poll held in the [*Name of district*],
- (2) at any election or poll held in the [*Name of district*] on [*Date*],
- (3) at the [*Name of election or poll*] on [*Date*],

and 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 Local Elections and Polls Act 1966 not to disclose.

Declared at this
day of 19..... before me—

A. B.

C. D.

- *Justice of the Peace
- *Chairman (Mayor) of the [*Local authority*]
- *Returning Officer
- *Deputy Returning Officer
- *Postmaster

[NOTE—Declarations by Returning Officers must be made before a Justice of the Peace or the Chairman (Mayor) of the local authority.]

- *Delete whichever do not apply.
- (1) Applies only to Returning Officers.
- (2) Applies only to Deputy Returning Officers and Poll Clerks.
- (3) Applies only to Scrutineers.

Form 2

Sections 12, 50 (1)

NOTICE OF NOMINATION DAY AND POLLING DAY

[*Name of local authority district*]

I HEREBY give notice that on the day of 19....., the following election(s) will be held:

[*Insert type of election(s) and name of district*]

Nominations of candidates must be in my hands at the address shown below not later than noon on the day of 19.....

FIRST SCHEDULE—*continued*

Each candidate must be nominated on the prescribed nomination paper, which must be accompanied by the prescribed deposit.

Dated at this day of 19.....

A. B., Returning Officer.
[Address]

[NOTE*—Where an election is to be held over a combined district which includes the district in respect of which the above notice is given, notice of that election in the combined district may be included in the above notice.]

*Not to be printed as part of the form.

Section 13.

Form 3

NOMINATION PAPER

To the Returning Officer for the [Name of district.]

WE, the undersigned electors of the [Name of district] hereby nominate A. B., of [Address and occupation], with his (her) consent, as a candidate for the office of [Name of office], the election for which is appointed for day, the day of 19.....

Dated at this day of 19.....

C. D. } [Signatures and full names, addresses, and occupations of not less
E. F. } than two electors nominating.]

I, A. B., hereby consent to the above nomination.

A. B.,
[Address and occupation.]

Received at the hour of on the day of 19.....

M. N., Returning Officer.

[NOTE—If the election is in respect of a subdivision of a district, the nominators must be electors of that subdivision; and, if by any enactment a candidate is not qualified for election unless he is an elector of the subdivision, the nominee must also be an elector of that subdivision.]

Sections 16, 22

Form 4

NOTICE OF WITHDRAWAL OR RETIREMENT OF A CANDIDATE

To the Returning Officer of [Name of district].

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

X. Y., Candidate.

Witness:

Occupation:

Address:

Received at the hour of on the day of.....

19.....

M. N., Returning Officer.

FIRST SCHEDULE—*continued*

Form 5

Section 21

NOTICE OF DAY OF ELECTION

PURSUANT to section 21 of the Local Elections and Polls Act 1966, I hereby give notice that the following persons have been duly nominated as candidates for the office(s) of [*Insert office(s) and name(s) of district(s) or, as the case may require, of subdivision(s)*]:

[*Set out full name of each candidate specifying, in the case of a joint notice, the office for which he is a candidate and the district or subdivision.*]

And there being (in each case) more candidates than there are vacancies to be filled, an election will be held as between the said candidates on [*Date*] at the following polling places:

Polling hours, 9 a.m. to 7 p.m.

Dated this day of 19.....

M. N., Returning Officer for the

[*Name of District*]

[NOTE*—Pursuant to section 21 (1) of the Act, notice of the polling places or any of them may be given subsequently, but not later than two clear days before polling day.]

Where an election is to be held over a combined district which includes the district in respect of which the above notice is given, notice of that election in the combined district may be included in the above notice.]

*Not to be printed as part of the form.

Form 6

Section 26 (1)

VOTING PAPER AT AN ELECTION

Directions to Voter

(Read carefully before voting)

1. Write "X" in the square immediately after the name of the candidate(s) for whom you wish to vote.
 2. You must not vote for more than [*Insert number*] candidate(s).
 3. After voting, fold the voting paper so that its contents cannot be seen and place it in the ballot box.
 4. If you spoil this voting paper, you may return it to the officer who issued it and apply for a fresh one.
 5. This voting paper must not be taken out of the polling booth.
-

FIRST SCHEDULE—*continued*

VOTING PAPER

[Name of district]

Election of Mayor (or of [Insert number] Councillors, or as the case may be)

ARMSTRONG, Thomas	
BURTON, Gerald	
HORNSBY, William	
McKENZIE, Donald (<i>Grocer</i>)	
McKENZIE, Donald (<i>Ironmonger</i>)	
SHAW, Thomas	

[NOTE*—If the number of candidates is such that in the opinion of the Returning Officer their names should be set out in more than one column, each column must be separated from every other column in such a way that the voter is not likely to be misled.]

*Not to be printed as part of the form.

Section 26 (2)

Form 7

MATTER TO BE PRINTED ON COUNTERFOIL OF VOTING PAPER

Consecutive No.:

To be entered here and also on voting paper.

.....

No. on Roll:

To be entered here only.

.....

Official

Stamp across the perforations so that the number of the polling booth shall appear on both the counterfoil and the voting paper

Mark.

FIRST SCHEDULE—continued

Form 8

Section 42 (5) (b)

DECLARATION OF RESULT OF ELECTION

[Name of district]

I HEREBY declare the result of the election taken on the day of 19..... for the election of [State number] member(s) [or as the case may require] of the [Name of district] to be as follows:

Candidates			Votes received
C. D.
E. F.
G. H.
I. J.
K. L.

I therefore declare the said to be elected.

Dated at this day of 19.....

A. B., Returning Officer.

Form 9

Section 66 (1)

VOTING PAPER AT A POLL ON A PROPOSAL (OTHER THAN A LOAN PROPOSAL OR A PROPOSAL TO CHANGE THE SYSTEM OF RATING)

Directions to Voter

(Read carefully before voting)

1. If you support the proposal, write "X" in the square at the end of the line "For the Proposal". If you oppose the proposal, write "X" in the square at the end of the line "Against the Proposal".
2. After voting, fold the voting paper so that its contents cannot be seen and place it in the ballot box.
3. If you spoil this voting paper, you may return it to the officer who issued it and apply for a fresh one.
4. This voting paper must not be taken out of the polling booth.

VOTING PAPER

[Name of district]

Proposal to [State full particulars of the proposal]

For the Proposal	
Against the Proposal	

FIRST SCHEDULE—*continued*

Section 66 (2)

Form 10

VOTING PAPER AT A POLL ON A LOAN PROPOSAL

Directions to Voter

(Read carefully before voting)

1. If you support the proposal, write "X" in the square at the end of the line "For the Proposal". If you oppose the proposal, write "X" in the square at the end of the line "Against the Proposal".

2. After voting, fold the voting paper so that its contents cannot be seen and place it in the ballot box.

3. If you spoil this voting paper, you may return it to the officer who issued it and apply for a fresh one.

4. This voting paper must not be taken out of the polling booth.

VOTING PAPER

[*Name of district*]

Proposal to Raise a Special Loan Under the Local Authorities Loans Act 1956

[*Insert the information specified in paragraphs (b) to (e) of section 35 of that Act, and any other information required by the Local Authorities Loans Board.*]

For the Proposal	
Against the Proposal	

Section 66 (3)

Form 11

VOTING PAPER AT A POLL UNDER SECTION 40 OR SECTION 44 OF THE RATING ACT 1925

[*Consecutive number*]*Directions to Voter*

(Read carefully before voting)

1. If you wish to vote *for* rating on unimproved value, write "X" in the square at the end of the line "I Vote for Unimproved Value". If you wish to vote *against* rating on the unimproved value, write "X" in the square at the end of the line "I Vote Against Unimproved Value".

2. After voting, fold the voting paper so that its contents cannot be seen and place it in the ballot box.

3. If you spoil this voting paper, you may return it to the officer who issued it and apply for a fresh one.

4. This voting paper must not be taken out of the polling booth.

FIRST SCHEDULE—continued

VOTING PAPER

[Name of district]

Proposal to [State whether proposal is to adopt or to abandon system of rating on unimproved value]

I Vote for Unimproved Value	
I Vote Against Unimproved Value	

SECOND SCHEDULE

Section 69

PETITION FOR INQUIRY

(1) On an Election

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, etc..

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.,
etc.

SECOND SCHEDULE—*continued*(2) *On a Poll, Not being an Election*

In the matter of a poll under the [State Act under which the proposal was submitted], 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 [State district], namely, A. B., of, C. D., of, etc.

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.,
etc.

Section 92 (1)

THIRD SCHEDULE

ENACTMENTS REPEALED

- 1953, No. 16—The Local Elections and Polls Act 1953. (1957 Reprint, Vol. 8, p. 541.)
 1956, No. 83—The Local Elections and Polls Amendment Act 1956. (1957 Reprint, Vol. 8, p. 603.)
 1956, No. 64—The Counties Act 1956: So much of the Sixth Schedule as relates to the Local Elections and Polls Act 1953. (1957 Reprint, Vol. 3, p. 222.)
 1958, No. 48—The Local Elections and Polls Amendment Act 1958.
 1960, No. 70—The Local Elections and Polls Amendment Act 1960.
 1961, No. 22—The Local Elections and Polls Amendment Act 1961.
 1962, No. 7—The Local Elections and Polls Amendment Act 1962.
 1963, No. 99—The Local Elections and Polls Amendment Act 1963.

This Act is administered in the Department of Internal Affairs.