

Item No. 8

Judge's Chambers

City Hall

Toronto, Ontario

Sept. 1, 1953

N. Castonguay, Esq.,
Chief Electoral Officer,
Ottawa, Ont.

Dear Mr. Castonguay:

I am submitting herewith certain suggestions for amendment to the Canada Elections Act.

Section 45 (3) provides that a ballot paper shall be marked "by making a cross with a black lead pencil." I found on a recent recount that many ballots were marked with a ball-point pen. I think this subsection should be amended to allow ballots to be marked with either pen or pencil.

Section 50 (2) (d)—This subsection gives rise to much dispute. I think it should provide that "any ballot not marked in accordance with the provisions of this Act should be rejected."

Section 54 (1)—I think this subsection should be amended to require more precise evidence as to irregularities before an Order for a recount is made. Under the subsection it would appear that some credible witness need merely depose that one or two ballots have been improperly rejected to secure such an order. The Act should require the witness to furnish particulars of sufficient irregularities that they might, in the opinion of the Judge, influence the result. In the alternative, I think that where a particular irregularity is deposed to, that the Judge should have the power to enquire only as to that particular irregularity, without the necessity of making a complete recount. For instance, if it is alleged that in Polling Division No. 25 two ballots marked for "A" were improperly rejected, then the enquiry should be limited to an examination of these two ballots.

Section 54 (2)—I think this subsection should be amended to include "any Judge of the County whom the Senior Judge may designate." I see no sufficient reason why only the Senior Judge should be empowered to conduct a recount. In the County of York there are eighteen Electoral Districts, and if by chance recounts were ordered in several districts, it would be impossible for the Senior Judge to conduct all of them.

Section 54 (7)—This subsection would appear to require that the Judge should personally count each ballot. I have just completed the recount of votes totalling 27,150 in the York-Humber district. This is too heavy a task for one person. I submit this subsection should provide that a recount be "under the supervision of the Judge".

Re Affidavits of Objection—Paragraph 257 of the Instructions for Returning Officers requires the Revising Officer to be available three afternoons or evenings of the three days prior to the first day of the sittings, and on the third day he must keep himself available in the *afternoon* only.

It has been found both in Federal and Provincial elections that Affidavits of Objections are practically nil, and while it is necessary to make some provision for this, it is suggested that two evenings and one afternoon are