

"The deputy returning officer shall make out a statement of the accepted ballot papers, of the number of votes given to each candidate, of the ballot papers counted, which were deposited by persons whose right to be registered on the list of voters and to vote."

That is one class

—"and by persons the exclusion of whose names from the list of voters appeared by the said list to be the subjects of undecided appeal as aforesaid."

Here the enumerations of these two classes of voters are still to be kept distinct by the deputy returning officer. If we read this section with the words that are intended to be supplied, which is the subject of the first predicate, and which also is the implied subject of the second predicate, it would read as follows :

"The deputy returning officer shall make out a statement of the accepted ballot papers, of the number of votes given to each candidate, of the ballot papers counted which were deposited by persons whose right to be registered on the list of voters and to vote, and of the number of votes given to each candidate by persons the exclusion of whose names from the list of voters appeared, &c."

So that there are two distinct enumerations, the enumeration of those whose right to vote is undisputed, and another enumeration of those whose right to vote is a matter of appeal; and these papers are to be kept separately, are to be sealed up in separate packages, the contents of these packages are to be carefully noted upon the back of the envelopes, and they are to be placed in the ballot boxes, and the ballot boxes are to be returned with them to the returning officer. Now, I ask this question at this point, for the purpose of further showing what construction must be put upon those provisions of the law which relate to the discharge of duties by the returning officer himself. If the returning officer was to count those ballots indiscriminately, if he was to confuse the ballots of these two classes, which the deputy returning officer is required to keep separate, and which he is instructed in the clearest possible manner to keep separate, for what purpose would separation be made? If the returning officer was not called upon to keep them separate and to make separate additions of those two different classes of voters, those about whose votes there is no dispute, and those that are the subject of contention, why should the deputy returning officer be required to keep them separate? If they were to be added together, then those provisions pointing out with such minuteness and detail the duties of the deputy returning officer would be altogether without meaning, they would be nugatory, they would have no force, they would be perfectly aimless, accomplishing nothing, simply provisions altogether without object. I do not so understand the statute. I think they are to be kept separate for a specific purpose. They are to be kept separate because there are to be separate additions made by the returning officer as well as by the deputy returning officer. The next provision of the Act to which I wish to call the attention of the House is section 50. This section provides that the returning officer at the close of the polls, after having received all the ballot boxes, shall proceed to open them in the presence of the election clerk, the candidates, or their representatives, if present, or of at least three electors, and so on; and that the candidate who has on counting up the votes a majority of the votes, shall be then declared elected. If you were to read that section by itself you would say that

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the returning officer must add up those votes and must declare the candidate having a majority elected, without reference to the distinction that has been made before. But if you read all the provisions of the Act relating to the duties of the returning officer, it becomes perfectly obvious that the distinction made is intended to be kept strictly in view. Immediately after, in section 62—and I shall endeavour to make this matter clear—you will see that if the ballot box is lost, if any of the ballot boxes are not returned at the appointed time, he may postpone action and wait until a subsequent day. And so in section 63 provision is made for the loss of ballot boxes. But it is important to read in connection with this the provision of the law of last year. It amends section 62, and it provides as follows as regards the returning officer :

"In case any deputy returning officer has not duly enclosed in the ballot box the said statement of the ballot papers counted by him as required by this Act, or if for any other cause the said returning officer cannot at the day and hour appointed by him for that purpose ascertain the exact number of votes given for each candidate, the returning officer may thereupon adjourn to a future day and hour the said summing up the number of votes given for each candidate, and so from time to time, such adjournment or adjournments not in the aggregate to exceed two weeks."

There the duty of the returning officer in regard to counting the votes is set out; and I claim that looking at what the law intends with respect to these votes that are to be subject to appeal, that right to remain on the list must be decided before a proper return can be made; and it is perfectly clear from that provision that the returning officer is not in a position to sum up the votes as required by the law, as amended last session, until the question as to the right of those parties whose votes are in appeal is decided. Let us further look at the provisions of the Act on this subject. By section 35 of the Electoral Franchise Act, it is provided that the judge shall, upon receiving the said notice of appeal, and copy of the decision appealed from, appoint a convenient time and place for the hearing of the appeal. What is meant by his appointing a convenient time and place? Does it mean an indefinite time, a time that you cannot at the moment the appointment takes place ascertain? I do not think so. I hold that it is clear from the provisions of this statute that this cannot be the case. The judge considered these matters in November last. Certain cases were taken before him on appeal. He dealt with those cases. He decided that he would not hear any evidence anew, that he would not make any investigation for himself, that he would take the evidence as it had been taken by the revising officer and the report of that officer, and then decide as to the rights of the parties to go on the list and remain there. That was the course he pursued in dealing with, I think, thirty cases. With respect to those parties who had been put upon the list at the preliminary revision or at a preliminary stage of the proceedings, and about whom notice has been given that those names should be struck out on the ground that the parties were not qualified, the revising officer was inclined to hold, in fact he did hold, that the words "not qualified" were not a sufficient designation of the objection to the names of those parties going on the list. In the meantime an appeal was had to the County Court judge from that decision, and the judge expressed himself as follows :—