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SESSION 1950

HOUSE OF COMMONS

Special

STANDING COMMITTEE

ON

DOMINION ELECTIONS ACT 1938

AND AMENDMENTS THERETO

MINUTES OF PROCEEDINGS

No. 1

FRIDAY, JUNE 2, 1950

WITNESSES:

Honourable F. G. Bradley, P.C., M.P., Secretary of State;
Mr. Nelson Castonguay, Chief Electoral Officer.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
KING'S PRINTER AND CONTROLLER OF STATIONERY
1950

Mr. Sarto Fournier (*Maisonneuve-Rosemont*), *Chairman.*

Mr. George T. Fulford, *Vice-Chairman,* and

Messrs.

Applewhaite
Argue
Balcer
Boisvert
Boucher
Browne *(St. John's West)*
Cameron
Cannon
Carroll
Dewar
Diefenbaker
Fair
Garland
Harris *(Grey-Bruce)*
Hatfield
Hellyer
Herridge
Jeffery
Kent
MacDougall
McWilliam
Pearkes
Valois
Viau
Ward
Welbourn
White *(Middlesex-East)*
Wylie—30.

(Quorum, 10)

ANTOINE CHASSÉ,
Clerk of the Committee.

ORDERS OF REFERENCE

HOUSE OF COMMONS,

Tuesday, 18th April, 1950.

Resolved,—That a Special Committee consisting of Messrs. Applewhaite, Argue, Balcer, Boisvert, Boucher, Brooks, Browne *(St. John's West)*, Cameron, Cannon, Carroll, Dewar, Diefenbaker, Douglas, Fair, Fournier *(Maisonneuve-Rosemont)*, Fulford, Garland, Green, Hellyer, Herridge, Jeffery, Kent, McWilliam, Power, Valois, Viau, Ward, Wellbourn, White *(Middlesex East)*, Wylie, be appointed to study the several amendments to The Dominion Elections Act, 1938, and amendments thereto, suggested by the Chief Electoral Officer, to study the said Act, to suggest to the House such amendments as the Committee may deem advisable, and report from time to time, with power to send for persons, papers and records and to print the proceedings, and that the provisions of Section 1 of Standing Order 65 be waived in respect to this Committee.

Thursday, 4th May, 1950.

Ordered,—That the name of Mr. Pearkes be substituted for that of Mr. Green on the said Committee.

Monday, 8th May, 1950.

Ordered,—That the name of Mr. Hatfield be substituted for that of Mr. Brooks on the said Committee.

Wednesday, 31st May, 1950.

Ordered,—That the name of Mr. Harris *(Grey Bruce)*, be substituted for that of Mr. Power on the said Committee.

Ordered,—That the name of Mr. MacDougall be substituted for that of Mr. Douglas on the said Committee.

Attest.

LEON J. RAYMOND,
Clerk of the House.

63818—1½

MINUTES OF PROCEEDINGS

HOUSE OF COMMONS,

FRIDAY, June 2, 1950.

The Special Committee appointed to study The Dominion Elections Act, 1938, and amendments thereto, met this day at 10.00 o'clock a.m.

Members present: Messrs. Applewhaite, Argue, Boisvert, Boucher, Browne (*St. John's West*), Cameron, Carroll, Dewar, Diefenbaker, Fair, Fournier (*Maisonneuve-Rosemont*), Fulford, Garland, Harris (*Grey-Bruce*), Herridge, Macdougall, McWilliam, Valois, Viau, Welbourn, White (*Middlesex East*), Wylie.

In attendance: Hon. F. G. Bradley, Secretary of State; Mr. Nelson Castonguay, Chief Electoral Officer; Mr. E. A. Anglin, Assistant Chief Electoral Officer.

The Clerk of the Committee invited nominations from the members present for the election of a Chairman.

Mr. MacDougall moved that Mr. Sarto Fournier (*Maisonneuve-Rosemont*), be elected Chairman.

No other nomination having been proposed, Mr. Fournier was declared elected unanimously and he took the Chair.

The Chairman expressed his gratitude to the members for the single honour bestowed upon him and outlined briefly the important work before the Committee.

The Orders of Reference of the House, of 18th April, 4th May, and 31st May, 1950, were read.

At the suggestion of the Chairman, the Committee proceeded to the election of a Vice-Chairman.

On motion of Mr. Boucher. Mr. George T. Fulford, was unanimously elected Vice-Chairman.

The Committee then discussed matters of administration and procedure.

On motion of Mr. McWilliam, it was

Resolved, That the Committee recommend that its quorum be reduced from 16 members to ten.

On motion of Mr. Boisvert, it was

Resolved, That the Committee ask leave to sit while the House is sitting.

After some discussion on the subject, and on motion of Mr. Valois, it was

Resolved, That, acting on the authority conferred upon it by the Order of Reference of 18th April, 1950. the Committee print, from day to day, 500 copies in English and 200 copies in French of its Minutes of Proceedings and Evidence.

The Chairman then invited the Secretary of State. the Honourable F. G. Bradley, to address the Committee.

Mr. Bradley spoke briefly and emphasized the wide scope of the Order of Reference.

The Honourable Walter E. Harris, Minister of Citizenship and Immigration, and a member of the Committee, at the invitation of the Chairman, made a few introductory remarks and retraced some of the work done in former years, by Committees of this sort.

The Chairman thanked both Ministers for their enlightening remarks.

After some debate on the question of future sittings and on motion of Mr. Carroll it was unanimously agreed that the Committee would meet next, at 10.00 o'clock a.m. Thursday, 8th June, 1950.

The question of a Steering Sub-committee was discussed, and

On motion of Mr. Boisvert, it was unanimously

Resolved, That a Steering Sub-committee of seven members be formed and be composed of the Chairman, (Hon.) Mr. Harris (*Grey-Bruce*), and five other members of the Committee to be chosen by the Chairman.

The Chairman then invited Mr. Nelson Castonguay and Mr. Anglin to appear before the Committee.

Mr. Castonguay addressed the Committee briefly and he tabled the following:

1. Report of the Chief Electoral Officer under Section fifty-eight of the Dominion Elections Act, 1938, dated at Ottawa, September 26, 1949, on various matters including that respecting employees of Hydro project. (Appendix "A".)
2. Report of Chief Justice Brown, Commissioner, *re* Inquiry into certain alleged irregularities in connection with the election in the Electoral District of Regina, at the Dominion Election held on 27th June, 1949. (Appendix "B".)
3. Supplementary Report of the Chief Electoral Officer under section fifty-eight of The Dominion Elections Act, 1938, dated November 12th, *re* Regina City Election Enquiry. (Appendix "C".)
4. Judgment in The Supreme Court of Nova Scotia by the Hon. Mr. Justice Doull and Mr. Justice MacQuarrie, also special report by Mr. Justice Doull, appended thereto, in connection with Inquiry on the election held in the Electoral District of Annapolis-Kings, at the Dominion Election held on June 27, 1949. (Appendix "D".)
5. List of communication received by the Chief Electoral Officer since the coming into force of the 1948 amendments to The Dominion Elections Act, 1938, and tabled by him, showing in each case the relative section or sections of the said Act referred to in communication. (Appendix "E".)
6. List of amendments to The Dominion Elections Act, 1938, suggested by the Chief Electoral Officer for the more convenient administration of the said Act.
7. Suggested Draft Amendments *Re* Elimination of the Re-printing of the Printed Urban Preliminary Lists of Electors.
8. List of Amendments to Schedule Three to The Dominion Elections Act, 1938, suggested by the Chief Electoral Officer for the more convenient administration of the Canadian Defence Service Voting Regulations.

Mr. Carroll moved that Items 1, 2, 3 and 4, listed hereinabove, be incorporated as Appendices "A", "B", "C" and "D" respectively to this day's printed report of the Minutes of Proceedings and Evidence.

After debate thereon and the question having been put on the said proposed motion of Mr. Carroll it was resolved in the affirmative.

On motion of Mr. Boucher, it was

Resolved, That the List of the Communications (Item 5 above), also be incorporated as Appendix "E" to this day's printed report of The Minutes of Proceedings and Evidence, and, further, That the correspondence referred to in the said List be referred to the Steering Sub-committee when formed for consideration and report to the Committee as to disposal.

At 11:00 o'clock a.m., the Committee adjourned to meet again at 10:00 o'clock a.m., Thursday, June 8, 1950.

ANTOINE CHASSÉ,
Clerk of the Committee.

REPORT TO THE HOUSE

FRIDAY, June 2, 1950.

The Special Committee on The Dominion Elections Act, 1938, and amendments thereto, begs leave to present the following as a

FIRST REPORT

Your Committee recommends:—

1. That it be empowered to sit while the House is sitting.
2. That the quorum be reduced from 16 members to 10.

All of which is respectfully submitted.

S. FOURNIER,
Chairman.

(NOTE: *The said report was concurred in on the same day.*)

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

Friday, June 2, 1950.

The Special Committee on Dominion Elections Act met this day at 10.00 a.m.

The meeting was called to order by the Committee Clerk who asked for a motion with respect to the chairman.

Mr. MACDOUGALL: I move that Mr. Fournier of Maisonneuve-Rosemont be our chairman.

Agreed.

Mr. Sarto Fournier took the chair.

The CHAIRMAN: Gentlemen, I hope that you will permit me to express my deep gratitude to all of you, and especially to the proposer and seconder of my nomination.

This is my first experience as the chairman of a committee and I am very glad to have the opportunity to act in that capacity with you. This is an important committee and we have important work to perform. This morning we have the privilege of having with us two of the ministers of the cabinet. I hope that during our deliberations this morning we will hear from them.

I shall ask the clerk to read the order of reference.

(The clerk read the order of reference.)

I think we should now proceed with the election of a vice-chairman.

Mr. BOUCHER: I move that Mr. George Fulford be the vice-chairman of our committee.

Agreed.

Mr. MCWILLIAMS: Due to the fact that there are a lot of committee meetings and that we are sitting in the mornings, it seems to me that our quorum is a little large. I would like to move that the quorum be reduced from sixteen to ten.

Mr. MACDOUGALL: I would second that motion.

Carried.

The CHAIRMAN: I think it would be a good thing if we could sit while the House is sitting.

Mr. BOISVERT: I would move that we ask leave to sit while the House is sitting.

Agreed.

The CHAIRMAN: What about copies of our reports?

Mr. CARROLL: What is the usual number?

The CHAIRMAN: 500 English and 200 French.

Mr. VALOIS: I would so move.

Carried.

The CHAIRMAN: As I told you at the beginning we have the privilege of having with us two members of the cabinet and I would ask Mr. Bradley to

say a word. Mr. Bradley, you come from Newfoudland and your province is greatly concerned with this law which we have to study, and the committee would like to hear from you.

Hon. Mr. Bradley: Mr. Chairman, both my honourable friend Mr. Browne and I are newcomers to the Canadian Elections Act. If we had to consider the Elections Act of 1913 and the amendments as they obtained in what was formerly the Dominion of Newfoundland we might perhaps be of greater value to you this morning, but we come to this new scene as newcomers, with very little experience in the operations of this Act. Speaking for myself I have to admit that the probabilities are that I shall not be able to contribute very much to these discussions; certainly nothing that arises out of experience.

We are fortunate in having with us and at our disposal, when we require his assistance, a gentleman who is to my knowledge very, very familiar indeed with the Act and its workings. I have been associated with him for a year and a half or more—since 1948 when we were arranging—and I hope none of our political opponents will conceive we were jerrymandering—the boundaries of the various federal ridings in the province of Newfoundland. I refer, of course, to our Chief Electoral Officer, who took over that office on the retirement of his father.

He has a large number of amendments of a technical nature, and some I think are matters of substance. He will submit them to you of course you are not in any way bound by his recommendations, nor are your activities confined to those points upon which he may have recommendations to make. The whole Act, in every phase, is of course open to your scrutiny, your discussion, and your recommendations.

There is only one point that I would like to stress this morning, and which I think might be considered with a view to something being done in the way of legislation before this session of parliament closes. The physical conditions in Newfoundland are a little bit difficult at times. I think the situation applies to parts of the province of Quebec, Saguenay, for instance, where weather conditions make it difficult to hold an election at certain seasons of the year. The period which under the Act must elapse between nomination day and polling day is not nearly sufficient. It needs to be doubled. I think you might be prepared to consider a recommendation to the House which could be introduced in the form of a bill this year.

There may possibly be,—(at least we do not know that there won't be),—an election there before the next session of parliament. I am approaching what is frequently termed "the sere and yellowed leaf," or not many years away from it. My friend Mr. Browne is a younger man than I am but we both have to face the possibility that we may be in some way physically incapacitated from continuing our activities in the House of Commons. It is true that Mr. Browne takes a more cheerful point of view and suggests that one or both of us might be elevated to the Senate. I suppose that is a dim possibility.

Mr. Browne: Dim for me anyway.

Hon. Mr. Bradley: Well whether he or I takes the more appropriate view of that particular question seems hadly to be germane to the point. We do need to know that in such an eventuality, it will be possible to properly hold an election or a by-election should it become necessary.

I would like to see, if in your wisdom you consider it proper, a recommendation as soon as possible upon that particular point.

As I said before I am afraid there is not much in the way of knowledge or experience of the Elections Act of Canada or its operation that I can contribute to the discussions but, in the meantime, for what my knowledge of it is worth and for what any small abilities I have are worth, I can assure you that I am at your disposal all of the time.

The CHAIRMAN: We thank you, Mr. Bradley, for your kind remarks and you may rest assured your suggestion will receive due consideration.

Now I would ask the other member of the cabinet present, a former member of this committee, to say something to us.

Hon. Mr. HARRIS: The general election last year was held under the auspices of a document which had been the subject of study by committees of this kind in 1947 and 1948. The committee in 1947 really did most of the work—in fact almost all of it, and the chairman of that committee was Mr. Paul Côté. However, the Bill was not passed before that session ended, and in 1948 the committee was reconstituted. In most cases all we did was to go through and approve of the sections over again, as they had been drafted in the previous year. However, we did have rather extensive debates on particular points.

Now, we have had the experience of one election under this and I understand from the Chief Electoral Officer that there certain difficulties have arisen, particularly with respect to interpretations he has had to place on the Act, although we had in many cases debated those points for some time.

In addition, it is always the experience that you can improve an Act once you have tested it out, and, for that reason alone, this committee might have been constituted, even though there had not been the matter of voting in Newfoundland which Mr. Bradley has touched on.

The procedure adopted in this committee in previous years was that the Chief Electoral Officer submitted to us certain matters and then we decided on the procedure as to how we should deal with the problems on which we must report to the House.

I have nothing to add now, except to say that I asked to be put on the committee largely because of my interest in it, and because I thought, from looking over the list, that there did not seem to be another person who had served on the committee of two years ago. So far as I can, I am at your service at any time.

The CHAIRMAN: I thank the minister for those words and I think I may tell you, sir, that we shall hope to see you with us at all our sittings.

Now, I think it would be a proper time to deal with the matter of future sittings. My suggestion, if you permit me to give it, is that it would be proper for us to sit at 10 o'clock before other committees, and in the middle of the week as much as possible, while everyone is here. Perhaps I should suggest Wednesdays or Thursdays at 10 o'clock.

Mr. FULFORD: Is it not customary for all parties to hold a caucus on Wednesday mornings. Would Thursday not be the more suitable?

Mr. CARROLL: I would move that the members of this committee meet on Wednesdays or Thursdays, whichever is satisfactory.

Mr. FAIR: I do not think that we should meet on Wednesday mornings. We have always had caucus at that time, and I think it will be against our interests in the future to have sittings then.

Mr. CARROLL: I will make my motion for Thursday morning then.

Agreed.

Mr. MACDOUGALL: With the amount of work we have to do will we be able to finish by sitting only on Thursdays?

The CHAIRMAN: Yes; the committee might decide to sit a couple of times if we had to do it, but we will ordinarily sit at least once a week.

Mr. APPLEWHAITE: If you are going to meet once a week may I make a suggestion? We have not yet seen the recommendations to be brought in by the Chief Electoral Officer but they do seem to be rather bulky. I wonder if we might have them before the first meeting in sufficient time to get familiar

with the material so that we will know what we are talking about. We will not have to read things paragraph by paragraph at the meetings.

I also suggest that we may have certain matters in our correspondence or certain suggestions in our heads with regard to the changes, and if we had access to the recommendations before we get down to work it might help us in our meetings.

The CHAIRMAN: Of course it is quite heavy material to digest but we will hear Mr. Castonguay and perhaps we could postpone our first meeting for about ten days.

Mr. BROWNE: Oh, no, let us go ahead with the meeting on Thursday.

The CHAIRMAN: Now, we will proceed with the appointment of a steering sub-committee.

Mr. BOISVERT: I will move the formation of a steering sub-committee composed of the Chairman and the Minister of Citizenship and Immigration, and five other members to be appointed by the Chairman.

The CHAIRMAN: All right, we will have a steering sub-committee and the minister and myself will form part of it. I will appoint the other members, and in doing so, I will do my utmost to choose them from among all the different political parties.

Mr. BROOKS: How many members form the steering committee?

The CHAIRMAN: Seven, five plus the minister and myself.

Now, we have with us this morning the Chief Electoral Officer, Mr. Castonguay. Like myself and so many of us he is entering upon his first experience in committees. I feel that it is certainly the wish of the committee to accord him the most hearty welcome. Some of us had the opportunity of knowing his father very well in the past. We know Mr. Castonguay by his reputation as a naval officer and as a public servant. I would ask Mr. Castonguay to come and sit beside me and give us some explanations about that material he proposes to talk about today. May I add that Mr. Castonguay is accompanied by Mr. Anglin, who is assistant chief electoral officer.

Now, Mr. Castonguay,—

Nelson Castonguay, Chief Electoral Officer, called:—

The WITNESS: Mr. Chairman, as you have stated, I also am a newcomer to committees and I wish to thank you very much for the remarks you have made in regard to my father and on my behalf.

The draft amendments that I am submitting to the committee have been prepared with the very valuable assistance of my predecessor in office. They are of a technical and a procedural nature. The amendments relating to the Canadian Defence Service Voting Regulations have been prepared in consultation with an officer of the Judge Advocate's branch of the Department of National Defence. All of these amendments are a result of the experiences we had during the last election in administering the present Act. In addition to these amendments I have included in this folder the report of the Chief Electoral Officer on the 1949 general election.

I would like to draw to your attention correspondence exchanged between the Departmnet of Justice, my predecessor, and the legal counsel of the Ontario Hydro Commission relating to hydro projects in Ontario, which correspondence is attached to the Chief Electoral Officer's report. I do not propose to discuss in detail this matter now, but in view of this correspondence Rule 8 of Section 16 may require some clarification and it may be the desire of the committee to amend the said rule. On some hydro projects in Ontario ,the persons who come to work on such projects from other electoral districts are

disenfranchised by this rule, and on others the franchise of such persons is not affected. Therefore, an anomaly exists which I wish to draw to the attention of the committee.

There is also the report of Chief Justice Brown, relating to the Inquiry on the election held in the electoral district of Regina City at the 1949 general election. The only suggestion contained in this report is that a change should be made in the form of the ballot paper. A defect in the form of the ballot paper was revealed at this inquiry, and when that report was tabled in the House I also included a report containing a suggestion to remedy this defect.

Finally there is the judgment of Mr. Justice Doull and Mr. Justice MacQuarrie of the Supreme Court of Nova Scotia on the election held in the electoral district of Annapolis-Kings at the 1949 general election, to which is appended a special report signed by Mr. Justice Doull in which he makes recommendations for changes to the Canadian Defence Service Voting Regulations. I have refrained from making any suggestions based on these recommendations because I believe they involve fundamental changes to the Regulations that do not come within the scope of my duties.

Since the 1948 Special Committee on the Dominion Elections Act made its final report to the House of Commons, my predecessor and I have received correspondence dealing with suggested changes to the Act and I wish to submit to you, Mr. Chairman, copies of this correspondence for the consideration of the committee. I have had made a list of the correspondence showing the relative sections of the Act which the suggestions contained in the correspondence would affect.

Now, there is another problem, as Mr. Bradley pointed out, relating to the conduct of elections in the province of Newfoundland. I had a lot to do with the preliminary electoral organization in Newfoundland. I travelled through Newfoundland prior to the union and I have some idea of the difficulties of conducting elections in this province. There are five electoral districts in Newfoundland in which it is impossible to hold a by-election with the fourteen days now provided between nomination day and polling day. In some of those five districts there are no printing establishments and the ballots have to be printed in St. John's. There are limited communication and transportation facilities, especially in the electoral district of Grand Falls-White Bay, in which is situated the Labrador, and even a twenty-eight day period between nomination day and polling day in this district is hardly sufficient, judging from our experience in the last election. Last June an ice breaker delivered ballot boxes and voting supplies to the settlements along the coast and due to ice conditions it was unable to complete its voyage. On Saturday, June 25th, ballot boxes had to be dropped by parachutes from R.C.A.F. aircraft to eleven settlements in the Labrador. All polls in the Labrador, with the exception of three, were held. In one settlement they received the ballot box but they did not know what to do with it. It had been planned that the special representative travelling on the ice-breaker would give the necessary instructions to deputy returning officers to ensure the proper conduct of the poll, but due to the late spring and ice conditions, the ice-breaker was unable to complete its schedule. If there had been normal spring conditions, there would have been no difficulty in giving proper instructions to every deputy returning officer on the Labrador coast. There were seventy-three polls in the Labrador and only three polls were not opened at the general election.

In preparing this amendment for the consideration of the committee I took the liberty of including the names of other electoral districts to which consideration should be given in the draft amendment. The electoral district of Saguenay, for instance, comprises an area of 385,000 square miles and difficulty was experienced there in delivering ballot boxes and voting supplies on time. I have also taken the liberty of including all electoral districts immediately bordering

on the Yukon Territory, the Northwest Territories and Hudson Bay. Some of these districts have an area of 40,000 to 174,000 square miles. Ballots are printed as soon as nomination is held, and in most of these districts it takes four or five days to get the ballots printed. The returning officer then has only six to eight days to deliver the ballot boxes and voting supplies to the various polling stations. In addition to getting this material to polling stations on time, a longer period will effect an economy because with a period of twenty-eight days between nomination day and polling day, I believe that most places will be able to be served without resorting to the services of special messengers or chartered aircraft.

I understand that during the last election in the province of Newfoundland there was some doubt as to whether the penal provisions of the Dominion Elections Act could be enforced. When the Criminal Code is brought into force in Newfoundland I understand that these doubts will be removed. Also, among the other amendments that may be desired would be one to designate judges in the province of Newfoundland on whom specific powers are conferred by this Act. The Newfoundland provincial government has passed legislation providing for the appointment of county court judges. There is a section in the Act now, section 2 (15), in which such judges are specifically designated and it may be the decision of the committee that, since there is already a provision in the Act for county court judges or district court judges, no amendment may be necessary. It would appear that the Elections Act in general applied itself very well to conditions in Newfoundland for the first Dominion election, judging by the information received in our office. Absolutely no complaint of a serious nature on the conduct of the first election in Newfoundland was received. My predecessor was given special powers to amend the Elections Act in the Act to approve the terms of union with Newfoundland and only nine amendments were made to the Elections Act by virtue of these special powers. As I see it now, the only amendments that will be required for future Dominion elections in Newfoundland are to provide a longer period between nomination day and polling day in five electoral districts and to provide advance polls in Newfoundland. Advance polls were established in nine localities at the general election but there was a very small vote polled. In fact, a total of only eighteen votes were cast at such advance polls. Under the present provisions of the Act the right of voting at advance polls is limited to certain persons and this may have contributed to the small vote, or it may have been that the persons entitled to vote at advance polls failed to do so because they did not understand the advance poll provisions of the Act.

According to Section 94 (5) of the Act, I may strike off the names of the places in Schedule Two of the Act where advance polls are established if fewer than fifteen votes were cast at such advance polls at the previous election. I have written to the Newfoundland returning officers on the matter and they have informed me that unless provisions for advance polls are changed they doubt very much if a larger vote would be cast at future elections. In view of this I have not added any of the names of the places to Schedule Two of the Act where advance polls were established in Newfoundland at the 1949 general election by the special powers of adaptation conferred on my predecessor in the Act to approve the terms of union with Newfoundland. I wish to refer this matter to the consideration of the committee.

Mr. CARROLL: I move that the three reports be printed as an appendix to these proceedings; namely, the report of Mr. Justice Brown in Regina; the report in connection with the Hydro Electric Power Commission; the report of Mr. Justice Doull and Mr. Justice MacQuarrie, and the supplementary report of Mr. Justice Doull.

The CHAIRMAN: There is a motion to the effect that these reports be printed as an appendix.

Mr. APPLEWHAITE: Would that result in a material delay in getting out the reports, due to the volume of printing that is involved? Would the adoption of that motion tend to delay these proceedings being printed?

Mr. CARROLL: The reports are short, are they not?

The CHAIRMAN: No, they are rather bulky, except one.

Mr. HERRIDGE: Speaking to Mr. Carroll's motion I think it will be very necessary owing to the time we have at our disposal for these reports to be published as quickly as possible. Will the inclusion of this material delay the publishing of the committee reports?

Mr. HARRIS: There is nothing of material importance in the proceedings of today, and it really does not matter when these reports are printed because you and I will be working from the copies we have here. Still, it is desirable that the reports should be on the records of the committee as anybody in the future might want to refer to them and they will find them best in the committee proceedings.

The CHAIRMAN: I am informed by Mr. Castonguay that the judgment of the Supreme Court of Nova Scotia on the Annapolis-Kings election is already printed in the votes and proceedings No. 13, of March 6th.

Mr. CARROLL: That is the reason I was not so particular about the judge's report. The recommendations, I understand, are made by Mr. Justice Doull. That is perhaps the important one.

The CHAIRMAN: I have another one here, the Regina city election inquiry. That was tabled in the House but there are no specific recommendations, as I am informed by Mr. Castonguay, they are just recommendations.

Mr. Castonguay, will you explain?

The WITNESS: In Chief Justice Brown's report there are no specific recommendations similar to those contained in the report on the Annapolis-Kings election. All that Chief Justice Brown recommends is that there should be a change to the form of ballot paper but he does not indicate what specific change should be made. He left it to my judgment as to what change should be made, and my recommendations regarding this matter were made in a report which was tabled in the House of Commons with Chief Justice Brown's report.

Mr. BOUCHER: I would move that all the correspondence be referred to the steering committee and the steering committee should report back to this committee.

Mr. MACDOUGALL: I second the motion.

The CHAIRMAN: I think it would be proper for somebody to move that the list of that correspondence be printed in a report of the committee.

Mr. BOUCHER: That was my intention in making that motion.

The CHAIRMAN: Coupled with the reference to the steering committee?

Mr. BOUCHER: Yes, and they could report.

Mr. CAMERON: I think Mr. Carroll has made a motion that has been duly seconded as to the printing of these documents. I think that motion should be dealt with and voted on.

Mr. CARROLL: Before the motion is adopted, to whom are the proceedings in this committee sent outside? Are they sent to the returning officers throughout the country? If not, I think they should be.

The WITNESS: A similar suggestion was made to the 1947 Special Committee and my predecessor considered then that it would be inadvisable to send

the Proceedings to returning officers because it might lead to confusing them during an election. They might read the evidence relating to the discussions that took place when a section of the Act was being amended, but fail to take cognizance of the section in its final form. During an election they may carry out the duties prescribed by this section in relation to the discussions that took place on it instead of in relation to the section in its final amended form. My predecessor also considered that this book of Instructions to which is appended an up-to-date consolidation of the Act and an index would be sufficient for the returning officer to perform his duties competently.

Mr. CARROLL: I am not talking about what will be said here, but I think it would be essential at least to let your returning officers or some returning functionaries know what we are doing here. They might be able to give us some valuable advice. That is one of the reasons I made the motion to include in the appendix the resolutions that were passed because I thought we might get some basic information from such people as returning officers. It gives them an opportunity of writing to yourself and letting you know what they think about the various issues.

Mr. HERRIDGE: I do not agree with Mr. Carroll's suggestion. I agree with the suggestion of the Chief Electoral Officer. I understand he asks his returning officers for suggestions.

The WITNESS: They are required to file reports of proceedings after an election and returning officers are invited to forward suggestions with the said report. Suggestions made by returning officers are the basis for the preparations of the draft amendments which are being submitted to this committee.

Mr. MACDOUGALL: Although I have a tremendous regard for the member for Inverness-Richmond, the fact still remains that no one knows who the returning officers are going to be for the next election. I heartily agree with Mr. Castonguay that nothing other than confusion would result if a great number of those people were given evidence taken before this committee. They would not read it, in all probability, and you do not know to whom you are going to send it. Even if you did, I know as far as I am concerned I have recommendations of seven returning officers, not only in my own riding, but in six contiguous ridings, and they have made certain recommendations which I am going to submit for this committee's consideration. I am quite sure we will be able to finalize in book form the amendments to the Election Act in understandable language that will be valuable to all who are going to utilize it to conduct successful and fair elections in the future.

Mr. BROWNE: What is the motion?

Mr. CARROLL: That the reports be printed in the appendix to the reports of the deliberations.

Mr. BROWNE: Might I ask the chief electoral officer if these represent all the inquiries that were made under the Election Act?

The WITNESS: Yes, Mr. Browne.

By Mr. Browne:

Q. There was a case, rather celebrated at its time, in St. John's, Newfoundland, on which Mr. Justice Winter gave a written judgment. It has to do entirely with the enforcement of the Election Act in Newfoundland.—A. These are all the reports that were sent to the Speaker of the House of Commons or to me, but there are some judgments on electoral matters that are not sent to the Speaker or to me.

Q. I mean reports of cases in the courts?—A. I would qualify my previous answer by saying these are the only ones that have been sent to the Speaker of the House of Commons, to my predecessor, or to me.

Mr. MacDougall: In connection with Mr. Browne's question, I think we must keep clearly in mind that we are dealing with the Dominion Election Act and not the provincial Act. If there are any other reports I am quite sure the chief electoral officer would know about them.

Mr. Browne: I was referring to the Dominion Election Act. There was a judgment of the Supreme Court which I am surprised he has not been sent. I wonder if that could be included in the report because there are several points that will be brought up here.

Mr. MacDougall: What is the original motion?

The Chairman: That these reports be printed in the appendix to the reports of the deliberations as an appendice.

Carried.

Mr. Dewar: My understanding is you are going to print this correspondence which we have received?

The Chairman: Just the list.

The committee adjourned.

Appendix "A"

OFFICE OF THE CHIEF ELECTORAL OFFICER FOR CANADA

OTTAWA, September 26, 1949.

REPORT OF THE CHIEF ELECTORAL OFFICER UNDER SECTION FIFTY-EIGHT OF THE DOMINION ELECTIONS ACT 1938

To

The Honourable W. Ross Macdonald,
Speaker of the House of Commons,
Ottawa, Ont.

Dear Sir:—

As required by section fifty-eight of The Dominion Elections Act, 1938, the following is my report on the general election held in Canada on the 27th day of June last. This election appears to have been conducted according to the procedure laid down in the said Act and according to the procedure set forth in The Canadian Defence Service Voting Regulations.

With the use of the General Election Instructions, the above mentioned Regulations, and the special directions issued from time to time by this office, the election officers who had been designated to conduct the various operations relating to the taking of the votes of civilian electors, Defence Service electors, and Veteran electors, seem to have found their duties reasonably easy to perform. Only a very small number of complaints were received from candidates or their official agents, as indicated in the attached correspondence.

Every amendment made to The Dominion Elections Act, by chapter 46 of the Statutes of Canada, 1948, appears to have worked out in a satisfactory manner. However, a short time after the general election was ordered, the provisions of Rule 8 of Section 16 of the said Act were the subject of a good deal of discussion. With the concurrence of the Department of Justice, I had instructed various election officers that the persons who had come from other electoral districts to be temporarily engaged on the construction of a Hydro project, were not entitled to vote at the general election in the polling division where such persons were residing while so engaged. At a later date, upon reconsideration of the matter by the Department of Justice, it was resolved that the above mentioned disqualification only applied to two Hydro projects, one of which was situated in the electoral district of Algoma East and the other, in the electoral district of Sudbury. Attached is a copy of the correspondence on the subject.

The new province of Newfoundland was divided into seven electoral districts, each returning one member to serve in the House of Commons. Notwithstanding that Newfoundland entered Confederation less than one month before the date of the issue of the Writs ordering the last general election, no serious difficulty was encountered in the conduct of the said general election in any of the above mentioned seven electoral districts. In order to achieve this result, a good deal of preliminary work had to be done by members of my staff, and a contributing factor to such result was the special powers of adaptation to The Dominion Elections Act, 1938, given to me by subsection three of section four of the Act to approve the Terms of Union of Newfoundland with Canada.

These powers of adaptation were applicable only to the first Dominion election held in Newfoundland and, consequently, such powers would not be exercisable at any by-election that might be ordered in the province of Newfoundland during the present Parliament, nor at any future general election.

It is advisable, therefore, that the necessary amendments relating to Newfoundland be made to The Dominion Elections Act, 1938, at as early a date as possible. At the same time, consideration might be given to the several suggestions for amendments to the said Act made during and after the last general election by various political organizations and individual electors. Moreover, when this takes place, I propose to suggest a few amendments for the better administration of The Dominion Elections Act, 1938.

The votes of members of the Canadian Permanent Forces and Veterans receiving treatment or domiciliary care in hospitals or other institutions under the jurisdiction of the Department of Veterans Affairs, were taken under the procedure set forth in The Canadian Defence Service Voting Regulations which were enacted as Schedule Three to Chapter 46 of the Statutes of Canada, 1948. According to the provisions of the said Regulations, the votes of Defence Service electors were cast before commissioned officers specially designated for that purpose by the commanding officer of each unit, and the votes of Veteran electors were cast before a pair of deputy special returning officers appointed by me after they had been nominated by the Leaders of the various political parties or groups.

The distribution of the ballot papers and other voting material to the various units, was made by special returning officers appointed pursuant to the said Regulations.

After the ballot paper of a Defence Service elector or Veteran elector had been marked for the candidate of his choice, it was placed in an inner envelope, which was forthwith enclosed in an outer envelope. This outer envelope was then sent by mail by the elector concerned, to the headquarters of the appropriate special returning officer.

The sorting and counting of the votes cast by Defence Service electors and Veteran electors were done by the scrutineers in the headquarters of special returning officers. Three of such headquarters were established as follows:

At Ottawa, Ont., for the voting territory composed of the Provinces of Ontario and Quebec;

At Halifax, N.S., for the voting territory composed of the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland;

At Edmonton, Alta., for the voting territory composed of the Provinces of Manitoba, Saskatchewan, Alberta, British Columbia, and the electoral district of Yukon-Mackenzie River.

The staff of voting officials in each of the above mentioned Headquarters was as follows:—

Ottawa, Ont.

1 Special Returning Officer
18 Deputy Special Returning Officers
1 Chief Assistant
6 Scrutineers

Halifax, N.S.

1 Special Returning Officer
6 Deputy Special Returning Officers
1 Chief Assistant
6 Scrutineers

Edmonton, Alta.
1 Special Returning Officer
12 Deputy Special Returning Officers
1 Chief Assistant
6 Scrutineers

In addition, each special returning officer was authorized to appoint the number of clerical assistants required for the proper performance of his duties.

The number of votes cast by Defence Service electors and Veteran electors which were sorted and counted in the headquarters of the special returning officers for the various voting territories is as follows:

Voting territory	*Valid votes*	*Rejected ballot papers*
Ontario and Quebec	10,826	344
Maritimes	3,584	35
Western Provinces	7,561	344
	21,971	743

From the figures given above, it will be observed that a total of 22,714 ballot papers were sorted and counted under The Canadian Defence Service Voting Regulations, at the general election held on June 27th last. It was possible in certain cases for persons on Defence Service to vote as civilian electors if they happened to be in their home polling division on polling day, but the number of persons who availed themselves of this privilege is not ascertainable.

There was a decrease in the number of ballot papers marked by Defence Service electors and Veteran electors which were rejected during the counting of the votes as compared with the number of similar ballot papers rejected at the 1945 general election. The percentage of these rejected ballot papers was 4·5 in 1945, and 3·3 at the general election of June 27th last.

No difficulty was encountered by any of the special returning officers and their staffs in the sorting and counting of the votes cast by Defence Service electors and Veteran electors within the time allowed for that purpose in the Regulations. The voting by Defence Service electors commenced on the 20th day of June, and ended on Saturday the 25th day of June last. The sorting was proceeded with during the whole of the voting period and was completed at 9 A.M. on June 28th. The counting of the votes cast by Defence Service electors and Veteran electors began at that hour and continued until July 2nd, on which day it was completed in the headquarters of each special returning officer.

The results obtained in each voting territory were communicated to me by telegraph, or otherwise, on or before July 2nd last. The number of votes cast for each candidate was then computed in my office, as required by the Regulations, and, during the evening of July 2nd last, each returning officer in Canada was advised of the total number of votes obtained for each candidate in the field in his electoral district, thus making it possible for any returning officer to complete his final addition of the votes on July 4th, if so desired.

As at the general election of 1945, a copy of the printed preliminary list of electors for the appropriate polling division was sent to each urban elector or householder. This was the third time that electors were supplied with a copy of the list for the polling division in which they were entitled to vote. The furnishing of these lists is most advantageous, since the electors were advised on such lists of the location of the polling station at which they should present themselves to cast their votes on polling day, and of the location of the revisal office and of the days and hours upon which the sittings of the revising officer would be held in such revisal office.

I should like, on behalf of a large number of election officers, to acknowledge the sympathetic co-operation of all branches of the Government service to which requests for co-operation were made through this office. The Department of National Defence and the Department of Veterans Affairs rendered every

possible assistance in the taking of the votes of members of the Permanent Service and of Veteran electors. The Surveyor General was very helpful in furnishing this office with a large number of maps based on The Redistribution Act, 1947. The Royal Canadian Navy and the Royal Canadian Mounted Police Force put ships at the disposal of the returning officer for the conduct of every election operation in the coastal polling divisions of the electoral district of Burin-Burgeo. An aircraft of the Royal Canadian Air Force and the icebreaker C.G.S. *"SAUREL"* of the Department of Transport were placed at the disposal of the election officer in charge of the conduct of the election in the Labrador portion of the electoral district of Grand Falls-White Bay. The Department of Public Works arranged office accommodation for various election officers in several public buildings. The Department of Public Printing and Stationery provided a very efficient service in the printing of all the necessary material. The Post Office Department rendered invaluable services in the transmission of the outer envelopes containing ballot papers marked by Defence Service and Veteran electors, and addressed to the various special returning officers, in the delivery of more than 3,500,000 envelopes containing printed lists addressed to urban electors, and in the transmission, by registered mail, of some 20,000 bags and parcels of election forms and supplies, weighing about 500 tons, from this office to the various election officers. Moreover, the election returns from every electoral district, which were despatched to this office in about 15,000 mail bags or parcels, were also very satisfactorily handled by the Post Office Department. Furthermore, after the close of the poll on polling day, nearly all the ballot boxes from outlying polling divisions were transmitted by mail to the appropriate returning officer. The action of the department in all cases in which mail bags or parcels were reported as having gone astray was most prompt and efficient.

The statutory report giving by polling divisions the number of votes cast for each candidate in every electoral district, which, by virtue of subsection six of section 56 of the Act, I am directed to publish immediately after each general election, is in course of preparation, but as such report will consist of more than seven hundred printed pages, it will not be ready for distribution before the beginning of next year. In the meantime, I have published and distributed Part IV of that report, which contains a summary of the result of the voting in each electoral district, and which may be found useful for the purpose of reference pending the publication of the main report.

CHIEF ELECTORAL OFFICER.

COPY OF CORRESPONDENCE HEREINBEFORE REFERRED TO RELATING TO THE QUALIFICATIONS AND DISQUALIFICATIONS OF ELECTORS WHO HAVE COME FROM OTHER ELECTORAL DISTRICTS TO BE TEMPORARILY ENGAGED ON HYDRO PROJECTS.

OTTAWA, March 14, 1949.

The Deputy Minister of Justice,
Ottawa.

Re: Section 16 (8) of the Dominion Elections Act, 1938.

Dear Sir:

There are at present several Hydro projects in construction in various provinces of Canada. In most of these projects there is a large number of workers who came from electoral districts other than that in which such projects are situated.

Some returning officers have requested to be informed whether or not the persons who have come to their electoral districts to work on Hydro projects will be entitled to vote at the forthcoming general election in the place of their

temporary residence while so employed. In nearly every case the projects are not constructed by the Provincial Governments themselves, but by construction firms on contracts with Hydro Commissions.

I should be pleased, therefore, if you would inform me if such Hydro projects are to be considered as federal or provincial public works, as referred to in rule eight of section sixteen of The Dominion Elections Act, 1938, as amended by section 7 (6) of Chapter 46, 11-12 Geo. V.

The term "public works" is clearly defined in Chapter 54 of the Revised Statutes of Ontario, 1937, but I am unable to find similar definitions in the cases of the other provinces.

Yours very truly,

(Sgd.) JULES CASTONGUAY,
Chief Electoral Officer.

DEPARTMENT OF JUSTICE
CANADA

OTTAWA, April 7, 1949.

Re: Section 16 (8) of the Dominion Elections Act, 1938.

Dear Sir:

With reference to your letter of March 14th, I am of opinion that, on your description of the nature of the Hydro projects in question, they are "provincial public works" within the meaning of Rule (8) of Section 16 of The Dominion Elections Act, 1938, as amended.

Yours truly,

(Sgd.) F. P. VARCOE,
Deputy Minister.

Chief Electoral Officer,
Royal Bank Chambers,
Ottawa.

OTTAWA, May 7, 1949.

The Deputy Minister of Justice,
Ottawa, Ontario.

Re: Section 16 (8) of the Dominion Elections Act, 1938.

Dear Sir:

I am being requested by the Returning Officers for several electoral districts to advise them as to the right of voting at the pending general election by the wives of persons who have come to an electoral district to be employed on a federal or provincial public work.

The application of your interpretation with regard to the men employed on such projects, as set out in your letter of April 7th last, is easily understood but I find it very difficult to advise Election Officers as to the right of voting of the wives who are residing with their husbands in the vicinity of such construction projects.

I should be pleased, therefore, if you would advise me whether or not these women are entitled to vote at the pending general election in the polling division where such place of residence is situated.

As the days fixed for the enumeration of electors for the pending general election are from the 9th to the 14th instant, an early reply would be appreciated.

Yours very truly,

(Sgd.) JULES CASTONGUAY,
Chief Electoral Officer.

DEPARTMENT OF JUSTICE

CANADA

OTTAWA, May 11, 1949.

The Chief Electoral Officer,
Royal Bank Chambers,
Ottawa.

Re: Section 16 (8) of the Dominion Elections Act, 1938.

I acknowledge your letter herein of May 7, 1949 in which, as I understand it, you ask whether the wives of men who are employer on provincial public works within the meaning of Rule 8 of Section 16 of the Dominion Elections Act and who are residing with their husbands in the vicinity of such public works are "ordinarily resident" in the electoral district where they reside with their husbands within the meaning of the Dominion Elections Act.

In my opinion, Rule 8 of Section 16 of the Act does not operate to disfranchise the wives in question inasmuch as it does not appear that the wives are engaging temporarily in the execution of any federal "or provincial public work" within the meaning of Rule 8. On the other hand, it does not appear that Rule 7A operates to enfranchise the wives in question inasmuch as it does not appear that a wife can be said, merely by virtue of being a wife, to be "employed in the pursuit of her ordinary gainful occupation", within the meaning of Rule 7A.

Under the circumstances, it appears to me that each case must be decided on its own facts, in accordance with the general rules of interpretation and particularly Rules 1, 2 and 3 of section 16, and it is not possible for me to express a general opinion in the matter.

(Sgd.) F. P. VARCOE,
Deputy Minister.

THE HYDRO ELECTRIC POWER COMMISSION OF ONTARIO

620 University Avenue, Toronto 2.

MAY 11, 1949.

Jules CASTONGUAY, Esq., K.C.,
Chief Electoral Officer,
Ottawa, Ontario.

Re: Hydro Project Employees—
Dominion Elections Act.

Dear Mr. Castonguay,

The Engineer in charge of the Commission's Des Joachims project has reported that no enumerators have appeared at the camp to enumerate voters for the pending Dominion election. Enquiry has made it apparent that Rule 8 of section 16 of The Dominion Elections Act, 1938, as re-enacted by Section 7 of the Dominion Elections Act, 1938, chapter 46, has been interpreted as applicable to the Commission's employees on this and other projects. As you know, Rule 8 provides that no person shall for the purpose of the Act be deemed to be ordinarily resident in an electoral district to which such persons came for the purpose of engaging temporarily in the execution of any Federal or Provincial public works. The Commission's works on the Upper Ottawa River are not Provincial public works.

This Commission is not a department of the Government. It is not even of the same nature as the Niagara Parks Commission, the Workmen's Compensation Board, or the Liquor Control Board. Its funds are not voted in the Legislature and it is not obliged to account for them before the Public Accounts Committee. It is quite different from the Quebec Hydro to which a municipality is only a

customer, and also different from other examples of Hydro-Electric commissions in other provinces. It is essentially a co-operative municipal enterprise.

"Public works" as defined by the Public Works Act R.S.O. 1937 Chapter 54, while including dams and hydraulic works, confine it to those for the acquisition, construction, repairing... of which any public money is appropriated by this Legislature and every work required for any such purpose, but not any work for which money is appropriated as a subsidy only."

All the Commission's property is held under three respective trusts. The main enterprise is represented by a trust in favour of Hydro municipal customers. This trust is not to be found in the Power Commission Act nor the Public Utilities Act. It is established by being provided for independently in each separate power contract under which the Commission supplies power to a municipality. For certain municipal customers the trust is expressly set up by legislation in the Ontario-Niagara Development Act 1917, 7 George V chapter 21, section 6. For this trust no moneys are provided by the Legislature of Ontario. In years gone by the Government of Ontario lent money to establish the municipal co-operative enterprise but this is no longer done. The projects are financed by the issue of Hydro Bonds. The reference in section 61—the cost of power section—to repayment of advances made by the Province of Ontario, relates to former advances. No moneys going into the Ottawa River projects have been advanced by the Province of Ontario.

In addition to the trust mentioned above, there is another trust set up in Section 47 of The Power Commission Act to take care of the construction of works in the territorial districts of the Province. These works are held in trust for the Crown and I think that the employees who are engaged in constructing such works are not eligible to vote under Rule 8. They are as follows:

The Tunnel Camp on the Mississagi River;
Rocky Island Lake Storage Works;
Sudbury Frequency Station Works;
Upper Notch Camp;
Wawaitin Camp;
The transmission line from Sudbury to the Tunnel Development.

There is a third trust set up under section 71 of The Power Commission Act whereby the Commission contracts with rural townships for a supply of power to the township and also engages in the business of distributing this power to the townships' customers. The townships make their own agreements with their inhabitants and the Commission distributes to its customers the power which it sells wholesale to the townships. The distribution systems are held in trust for the townships but this includes no part of the generating plants which have been constructed or are now in the course of construction. For the distribution systems which are held under this third trust for the rural townships the Provincial Government pays to any municipality or commission distributing power in a rural power district 50 per cent of the capital cost of constructing certain transmission lines and other equipment. This is by way of a subsidy or bonus.

From the foregoing you will see that the men who are working at Des Joachims, LaCave, Chenaux and any other camps except those which were undertaken for the second mentioned trust are not engaged in Provincial public work or working under Provincial Government control.

I am sending you an extra copy of this letter in order that you may, if desired, send it to the Department of Justice. I think it is very likely that the Department is not familiar with all the foregoing because the first and third trusts are not to be found in The Power Commission Act where one would naturally look, but are set up in power contracts which no one is likely to see unless attention is especially called to them.

I would call attention to the judgment of the Privy Council in St. Catharines vs. The Hydro-Electric Power Commission of Ontario 1930 1 D.L.R. at page 418,

wherein their Lordships agree with the Trial Judge that the Commission cannot be regarded as a Government department. The late Mr. Justice Logie was the Trial Judge and his finding in that respect is reported in 1938 1 D.L.R. 598.

Yours very truly,

(Sgd.) CECIL CARRICK
Solicitor.

OTTAWA, May 16, 1949.

The Deputy Minister of Justice,
Ottawa, Ontario.

Re: Section 16(8) of the Dominion Elections Act, 1938.

Dear Sir:

I am sending you herewith a letter dated the 11th instant, but which was not received in this office until the 14th instant, from Mr. Cecil Carrick, Solicitor for the Hydro-Electric Power Commission of Ontario.

You will note that this letter deals with the right of voting at the pending general election of persons employed on hydro-projects, about which an interpretation was given in your letter of April 7th last.

I should be pleased if you would advise me what reply I should make to Mr. Carrick.

Yours very truly,

(Sgd.) JULES CASTONGUAY,
Chief Electoral Officer.

DEPARTMENT OF JUSTICE

CANADA

OTTAWA, May 23, 1949.

DEAR SIR:

Section 16 (8) of The Dominion Elections Act, 1938

I enclose copy of a letter which I have today written to Mr. Cecil Carrick of the Hydro-Electric Power Commission of Ontario in connection with the above matter.

Yours truly,

(Sgd.) F. P. VARCOE,
Deputy Minister.

The Chief Electoral Officer,
Royal Bank Chambers, Ottawa.

For Chief Electoral Officer

May 23, 1949.

Dear Mr. CARRICK:

The Chief Electoral Officer has forwarded to me, as you intended, a copy of your letter of May 11 with reference to employees engaged upon the power development works on the Upper Ottawa River. You argue that these are not provincial public works within the meaning of Rule 8 of section 16 of The Dominion Elections Act, since none of the projects are financed by monies appropriated by the Legislature of Ontario.

My difficulty is, however, that the Ottawa River Water Powers Act, 1943, confirms an agreement relating to water powers in the Ottawa River entered into between the provinces of Ontario and Quebec, the Quebec Streams Commission and the Ontario Hydro Electric Power Commission. In the agreement, among other things, Quebec undertakes to lease certain provincial lands to Ontario. Section 3 provides that the Ontario Commission shall and may exercise in its own name for and on behalf of His Majesty the King in right of the Province of Ontario all the powers conferred upon it under the Power Commission Act. Land or rights expropriated by the Ontario Commission for and on behalf of His Majesty in right of Ontario are to be vested in His Majesty. By section 4, the Ontario Commission is authorized to expend its funds for the purpose of paying compensation for lands or rights however acquired under the Act and any lands or rights so acquired shall be conveyed to His Majesty in right of Ontario. My understanding is that the projects in question are being constructed by the Commission upon lands wholly or largely owned or leased by the Government of Ontario or by the Commission acting for or on behalf of His Majesty.

I must admit that I have not made a careful or complete study of the structure and legal status of the Commission generally throughout the Province and I should hesitate to disagree with you on a matter in which you must be very well versed indeed. My difficulty, however, arises in connection with the Ottawa River Water Power Act of 1943, as I have indicated. From this it would appear that so far as the Ottawa River works are concerned the Commission is an agency of the provincial government.

I shall, of course, be glad to consider any further representations which you care to make before finally advising the Chief Electoral Officer.

Yours very truly,

(Sgd.) F. P. VARCOE,
Deputy Minister.

CECIL CARRICK, Esq.,
The Hydro-Electric Power
Commission of Ontario,
620 University Ave.,
Toronto, Ontario.

DEPARTMENT OF JUSTICE

CANADA

OTTAWA, June 1, 1949.

DEAR SIR:

With reference to the question whether persons engaged on the construction of Hydro power development works at Des Joachims, Chenaux and La Cave on the Upper Ottawa River fall within my opinion respecting Hydro projects generally throughout Canada given to you on April 7 and are therefore disqualified from voting by Rule 8 of section 16 of the Dominion Elections Act, 1938, I beg to advise you as follows:

The solicitor for the Hydro Electric Power Commission of Ontario informs me that no monies for the construction of these works are provided by the provincial government. Furthermore, he has furnished me with copies of the Orders in Council authorizing these works, which Orders were made under the Power Commission Act. My opinion is that the Commission is not an agent

of the provincial government in the construction of these works. It would probably have been otherwise had they proceeded with the Ottawa River Water Powers Act, 1943.

In view of the above, I beg to advise you that these works should be treated as exceptions to the general opinion furnished you on April 7th and the persons engaged on the construction of the works referred to regarded as not being engaged temporarily in the execution of any provincial public work within the meaning of Rule 8.

I return herewith the letter of May 11th addressed to you by the solicitor for the Hydro-Electric Power Commission.

Yours truly,

(Sgd.) F. P. VARCOE,
Deputy Minister.

Chief Electoral Officer,
Royal Bank Chambers, Ottawa.

OTTAWA, June 2, 1949.

The Deputy Minister of Justice,
Ottawa, Ontario.

DEAR SIR:

With reference to your letter of the 1st instant, I wish to state that, since I received your letter of April 7th last, I have instructed the returning officers for the following electoral districts in the province of Ontario that the persons who have come from other electoral districts to be employed on Hydro projects are not entitled to vote at the pending general election in the polling divisions in which they are residing while so employed, namely:

Electoral District	*Hydro Project*
Renfrew North	Des Joachims, Chenaux
Renfrew South	La Cave
Algoma East	Townships of Wells and Gould and Four C (where the returning officer reports that 2,000 men are employed).
Port Arthur	The Pine Portage Development (where the returning officer reports that 1,500 men are employed).

In your letter of the 1st instant, it is stated that in your opinion the Hydro project at Des Joachims, Chenaux and La Cave are not provincial works within the meaning of Rule 8 of Section 16 of The Dominion Elections Act, 1938.

Before replying to the solicitor for the Hydro Electric Power Commission, it will be appreciated if you advise me whether or not the above mentioned Hydro projects in the electoral districts of Algoma East and Port Arthur "are provincial public works" within the meaning of Rule 8 of Section 16 of The Dominion Elections Act, 1938.

Yours very truly,

(Sgd.) JULES CASTONGUAY,
Chief Electoral Officer.

OTTAWA, June 3rd, 1949.

CECIL CARRICK, Esq.,
The Hydro-Electric Power Commission of Ontario,
620 University Avenue,
Toronto, Ontario.

Dear Mr. CARRICK:

Your letter of the 11th ultimo was referred to the Deputy Minister of Justice, immediately upon its receipt, with a request to advise this office as to what reply should be made to the representations therein contained with regard to the men who are employed on Hydro projects in construction on the Upper Ottawa River.

I am sending you herewith copy of a letter dated the 1st instant, received from the Deputy Minister of Justice, in which he states that the Hydro Power Development works at Des Joachims, Chenaux and La Cave, should be treated as exceptions to the general opinion given by him to this office on April 7th last, and that the persons engaged in the construction of the above mentioned works should be regarded as not being engaged temporarily in the execution of any provincial public works within the meaning of Rule 8 of section 16 of The Dominion Elections Act, 1938.

With regard to the conduct of the pending general election, the election officers concerned have been advised accordingly by this office.

Your very truly,

(Sgd.) JULES CASTONGUAY,
Chief Electoral Officer.

DEPARTMENT OF JUSTICE

CANADA

OTTAWA, June 8, 1949.

Dear SIR:

With reference to the question whether persons engaged on the construction of Hydro power development works at Pine Portage on the Nipigon River fall within my opinion respecting Hydro projects generally throughout Canada given to you on April 7 and are therefore disqualified from voting by Rule 8 of section 16 of the Dominion Elections Act, 1938, I beg to advise you as follows:

The solicitor for the Hydro Electric Power Commission of Ontario informs me that the work is being constructed under a contract between the Commission and certain Thunder Bay municipalities in trust for whom the works will be held and that no moneys for the construction are provided by the Provincial Government. He has furnished me with a copy of an Order in Council authorizing the work made under section 21 of the Power Commission Act.

My opinion is that the Commission is not an agent of the Provincial Government in connection with the construction of these works and this is not a provincial public work.

Yours truly,

(Sgd.) F. P. VARCOE,
Deputy Minister.

Chief Electoral Officer,
Royal Bank Chambers,
100 Sparks Street,
Ottawa.

DEPARTMENT OF JUSTICE

CANADA

OTTAWA, June 8, 1949.

Dear SIR:

With reference to the question whether persons engaged in the construction of Hydro power development works as follows:

The Tunnel Camp on the Mississagi River,
Rocky Island Lake Storage Works
Sudbury Frequency Station Works
Upper Notch Camp
Wawaitin Camp
The Transmission line from Sudbury to the Tunnel Development

fall within my opinion respecting Hydro projects given to you on April 7 and are therefore disqualified from voting by Rule 8 of section 16 of the Dominion Elections Act, 1938, I beg to advise you as follows:

The solicitor for the Hydro Electric Power Commission of Ontario informs me that these works are being constructed under an agreement made between the Commission and the Provincial Government pursuant to section 47 of the Power Commission Act. The works are held in trust for the Provincial Government and in the opinion of the solicitor for the Commission are provincial public works.

I concur in the opinion of the solicitor for the Commission and beg to advise that the employees temporarily engaged in construction thereon are not eligible to vote under Rule 8 of Section 16 of the Dominion Elections Act, 1938.

Yours truly,

(Sgd.) F. P. VARCOE,
Deputy Minister.

Chief Electoral Officer,
Royal Bank Chambers,
Ottawa.

COPY OF CORRESPONDENCE HEREINBEFORE REFERRED TO RELATING TO COMPLAINTS MADE BY CANDIDATES OR OFFICIAL AGENTS

2043 Argyle Street,
Regina, Sask.,
July 26, 1949.

Mr. JULES CASTONGUAY,
Chief Electoral Officer,
Ottawa, Ontario.

Dear Mr. CASTONGUAY:—

As provided for by the Dominion Elections Act, Sec. 58 (2), I desire to refer to certain happenings in the recent election for a member to represent the constituency of Regina City in the House of Commons. I also urge that these become the subject of a full investigation by the Chief Electoral Officer or by a Parliamentary Committee to be followed by such further action as the findings may warrant.

On July 4th last, the returning officer for Regina City officially opened the ballot boxes containing the poll documents for the purpose of adding the votes for the various candidates. Various official poll envelopes were found open or

unsealed or mutilated as per Appendix A attached. There was no evidence to indicate whether the poll officials had acted contrary to the Dominion Elections Act, Sec. 50 (5) or whether there had been subsequent tampering with the documents.

On July 12th a recount of ballots was begun by Judge B. D. Hogarth, Regina District Court. In the course of this recount, His Honour rejected some 460 ballots otherwise properly cast and previously accepted by the deputy returning officers of the polls in which the ballots were first counted (see Appendix B). The Judge rejected these ballots on the grounds that on each of them was a clearly discernible number, which had the effect of making possible the identification of the voter and of destroying the secrecy of the ballot. By rejecting these 460 marked ballots, the judge in effect ruled that the marks on the ballots so rejected were not placed thereon by the deputy returning officers in the course of their duty at the polls as provided for by the Dominion Elections Act, Sec. 50 (2) (*c*).

How these numbers were put on the ballots and who may have been responsible for robbing 460 electors of their franchise in this manner is at present a mystery, and I feel that it is a duty of your office to track down the culprits. It must be noted that these mysterious numbers appeared on ballots from no less than 23 polls; in one poll, No. 57, a total of 180 ballots were disallowed for number markings; in another poll, No. 108, the judge rejected 57 ballots every one of which was a Probe ballot. Such one-sided appearance of numbers precludes the likelihood of accidental marking according to any theory of mathematical probability. If the exercise of the franchise is to be held inviolable, responsibility for the condition of these 460 ballots must be clearly determined.

In addition to what I have charged with respect to the condition of the election envelopes and the ballots, I have reliable information that certain electors voted more than once; that others were improperly allowed to vote by being sworn in at the polling booths contrary to the Dominion Elections Act, Sec. 38; that certain polling places were not open to receive voters within the hours specified by the Act; that the location of certain polling places was changed on election day with insufficient notice to the voters in the polls affected. Possible dereliction of duty by election officials in these particulars should be investigated and suitably punished, while the possible effect on the unrestricted exercise of the franchise by Regina citizens should be considered.

Undoubtedly, the closeness of the result of the voting in Regina City must suggest to you that, if evidence is brought out that the will of the electorate was frustrated by any considerable illegal practices, then consideration should be given to reopening the seat.

I wish too, at this time, to suggest that the Dominion Elections Act be amended in the following particulars, viz:

1. Have the deputy returning officer and the poll clerk of each polling place represent two opposing political parties (as is now the case with urban enumerators).

2. Make provision for signature of official poll statements by all political parties represented at the poll.

5. In all cases where the number of ballot papers rejected by deputy returning officers in a constituency exceed in the aggregate the difference in votes of the two leading candidates, rejected ballots would be recounted at government expense rather than at the expense of some applicant for recount.

Yours sincerely,

(Sgd.) JOHN O. PROBE.

APPENDIX A

List of Polls in Regina City with ballot envelopes or DRO returns envelopes unsealed or broken.

Poll No. 5
" " 11
" " 12a
" " 20
" " 28
" " 53a
" " 57
" " 77
" " 97
" " 104
" " 106
" " 114
" " 127
" " 140a

APPENDIX B

List of Polls having ballots rejected by Judge B. D. Hogarth in recount of votes, Regina City, for numerals on ballots.

Poll No.	*Votes disallowed*
28	1
46	2
47	7
51	7
52	10
57	180
72	1
73	27
77	4
86	1
87	70
97	8
100	3
101	9
105	22
108	57
111	29
123	4
127	4
128	5
132	4
139	1

Re swearing in of voters at urban polls.

At poll 45 one voter sworn without name being on list.
At poll 103b six voters sworn as above.

Re late opening of poll.

Poll 9 was not prepared for voting until CCF scrutineers complained to the Returning Officer. Sixteen voters presented themselves for voting and left without marking ballots between opening time and the time one hour and some minutes later when the poll was at last ready to receive voters. It is not know whether some or all of these were thereby deprived of their votes.

Re Change of Location of Polling Stations without Notice.

The location of polling stations was changed on polling day without ensuring that voters knew of the change in Polls 42, 69 and 111.

Re Voting More than Once in the same election.

A voter purporting to be Sgt. A. Lefrançois (SL-41789) voted at the poll for Service personnel, and also at poll 26.

Other Reported Incidents.

At poll 76 there was no oath of secrecy taken.

At poll 85, there were no counterfoils on the ballots that were presented by voters to the DRO for insertion in the ballot box.

OTTAWA, August 18 1949.

JOHN O. PROBE, Esq.,
2043 Argyle Street,
Regina, Sask.

Dear Mr. PROBE:

I duly received your letter of the 26th ultimo with its enclosures.

A copy of the above mentioned will be attached to the report on the last General Election that I propose to make to the Speaker of the House of Commons, pursuant to section 58 of The Dominion Elections Act, 1938.

After giving careful consideration to the representations that you make, especially to those referring to the rejected ballot papers during the recount of the votes polled in the electoral district of Regina City at the last General Election, I have come to the conclusion that the situation calls for the institution of an inquiry under the provisions of section 70 of The Dominion Election Act, 1938.

I am now making arrangements for the holding of such inquiry and will advise you in due course of the details of these arrangements.

Your very truly,

(Sgd.) JULES CASTONGUAY,
Chief Electoral Officer.

2043 Argyle Street,
Regina, Sask.,
September 12, 1949.

Mr. JULES CASTONGUAY,
Chief Electoral Officer,
Ottawa, Ontario.

Dear Mr. CASTONGUAY:—

I have been expecting to receive further details subsequent to your letter of August 18, on the subject of your promised enquiry into suspected irregularities in the conduct of the Federal election on June 27, for a member to represent Regina City in the House of Commons.

I trust that you will not confine your enquiry solely to the matters specifically detailed in my first letter of July 18, but rather that all aspects of the conduct of the election at Regina be examined, so that if the enquiry disclose additional infringements of the Dominion Elections Act, these may also be acted upon. In this connection, I feel that some careful perusal ought to be made of the declared domiciles of those persons voting by authority of the Canadian Defence Service Voting Regulations. As you doubtless are aware, political parties generally had no chance to check this phase of the election detail, which has therefore been the subject of considerable public criticism.

Trusting that I shall soon be favoured with information as to the steps already taken under sec. 70, Dominion Elections Act, 1938, with respect to the Regina Enquiry and those steps still to be taken, I am,

Yours sincerely,

(Sgd.) JOHN O. PROBE.

OTTAWA, September 15, 1949.

JOHN O. PROBE, Esq.,
2043 Argyle Street,
Regina, Sask.

Dear Sir:—

Replying to your letter of the 12th instant, I wish to state that the Honourable James Thomas Brown, Chief Justice of His Majesty's Court of King's Bench for Saskatchewan, has been nominated as a commissioner to conduct an inquiry into the allegations set out in your letter of July 26 last. Chief Justice Brown has been advised of his appointment in a letter from this office dated the 14th instant.

I understand that Chief Justice Brown will communicate with you as soon as the date for the commencement of the inquiry has been fixed.

I might add that the above mentioned inquiry will be held on the specific alleged irregularities contained in your letter of July 26 last, with the exception of what pertains to polling station No. 26 of the said electoral district of Regina City. In that connection, I wish to state that I am of the opinion that I have no authority to institute an inquiry or proceedings whenever a person is alleged to have voted more than once at a Dominion election.

With reference to your request to broaden out the scope of the proposed inquiry, I might point out that the only authority for the institution of inquiries or proceedings by me is set out in subsections 4 and 5 of section 70 of The Dominion Elections Act, 1938, which read as follows:—

Inquiries into offences and power to take proceedings.

"(4) When it is made to appear to the Chief Electoral Officer that any election officer has been guilty of any offence against this Act, it shall be his duty to make such inquiry as appears to be called for in the circumstances, and if it appears to him that proceedings for the punishment of the offence have been properly taken or should be taken and that his intervention would be in the public interest, it shall be his duty to assist in carrying on such proceedings or to cause them to be taken and carried on and to incur such expense as it may be necessary to incur for such purposes.

Further powers.

(5) The Chief Electoral Officer shall have the powers set out in the last preceding subsection in the case of any offence which is made to appear to him to have been committed by any person under section seventeen, section twenty-two, section twenty-nine, subsections two and six of section forty-nine, subsection twelve of section fifty, subsection seven of section fifty-two or section seventy-two of the said Act."

I am therefore of the opinion that I have no authority to institute inquiries or proceedings under the above mentioned subsections or representations such as those outlined in your letter of the 12th instant.

Yours very truly,

(Sgd.) JULES CASTONGUAY,
Chief Electoral Officer.

BENCE & BENCE
Barristers, Solicitors,
Notaries Public.

HUMBOLDT, Saskatchewan,
July 6, 1949.

Chief Electoral Officer,
Ottawa, Canada.
Dear SIR:—

Re: Electoral District of Humboldt

I have been and am official agent for Mr. Joseph W. Burton, a candidate in the recent Federal election and as such I wish to bring to your attention two matters which are considered to be of importance which occurred in this electoral district.

The first is a confusion in times arising because of the fact that the eastern portion of this electoral district observes Central Standard Time while the larger Western portion observes Mountain Standard Time. When the proclamation first was put out by the Returning Officer, it was noted that the time described therein was "Standard Time". He was asked what time was to be used and his attention was drawn to the fact that the Eastern portion used Central Standard Time and it was suggested that he should take the matter up with you under Section 102A of the Elections Act and make the time uniform over the district for the purpose of the election. There may be some doubt as to the applicability of that section but in any event confusion did arise because of the question of time and the two affidavits enclosed herewith made by Edward Byman and L. R. Smith set out one instance where it put one of our scrutineers at a disadvantage. It is possible that we will have further evidence to submit to you on this point. The Grant of Poll, a copy of which is also enclosed with a copy of the Proclamation, also described the time as "Standard Time" and the matter was again taken up with the Returning Officer who assured us that the time would be uniform throughout the district indicating that it would be Mountain Standard Time. It is suggested that "Standard Time" is ambiguous and was bound to cause confusion.

The second matter concerns Morwick Poll No. 102 of this Electoral District and in this connection I enclose two affidavits which I believe set out fairly clearly what transpired so that it should not be necessary for me to outline the

facts in this letter. These two affidavits disclose a flagrant violation or violations of the Elections Act and both these matters are drawn to your attention under the provisions of Section 70 (4) of the Elections Act for such action as you deem advisable of which I shall appreciate your advising me.

Yours truly,

Official Agent for Joseph W. Burton.
(Sgd.) L. F. BENCE,

CANADA Province of Saskatchewan To Wit:	*In the matter of the Dominion Elections Act and in the Matter of Morwick Poll No. 102 of the Electoral District of Humboldt in the Province of Saskatchewan.*

I, HENRY L. HALL of the Postal District of Pleasantdale in the Province of Saskatchewan, Farmer, MAKE OATH AND SAY:

1. That I have personal knowledge of the matters hereinafter deposed to except where otherwise stated.

2. That on June 27th, A.D. 1949 at 8.15 a.m. I went to the school where the polling station for Morwick Poll No. 102 of the Electoral District of Humboldt in the Province of Saskatchewan was situated to act as scrutineer for Joseph W. Burton, a candidate in the general election held on that date for the said Electoral District, and I remained in the said poll until it closed.

3. The poll had opened when I arrived and the Deputy Returning Officer Arthur W. McDonald, his Clerk Peter Gaetz and Mrs. Mae C. Prete were present.

4. Before 12.00 noon the Deputy Returning Officer, Arthur W. McDonald, in the presence of the said Clerk and in the presence of the said Mae C. Prete and myself produced an envelope informing us that there were 2 ballots in the envelope and he wanted to know if it would be allright to put them in the ballot box. Mrs. Prete said that that was not done and the said Deputy Returning Officer then said "Well I just thought I would ask you. My sister and the hired girl are very busy and on account of the rain it isn't easy for them to get out to vote." Mrs. Prete then stated that there were other people in the same position and turned and asked me for my opinion. I remarked that we had already let one person vote whom we should have challenged and I objected to the said ballots being placed in the ballot box. The said Deputy Returning Officer then said he would send for his sister and the hired girl. He also said "Here are the two ballots and a sample ballot. They are marked but I have never seen them—I don't know how they voted." The ballots were folded up.

5. About 5.00 p.m. the sister of the said Deputy Returning Officer, Doctor Alice Reid and the hired girl of the said Deputy Returning Officer, Laura Fidyk, came into the polling station together and walked up to the desk. There were present at the time only the said Deputy Returning Officer, his Clerk and Mrs. Prete and myself. The Deputy Returning Officer said to them "The scrutineers are not trying to be mean but decided that you should come over here to vote." He then commenced to tear off a new ballot paper from the book of ballots but the Clerk Peter Gaetz stopped him saying "Don't do that. We have to account for those ballots" and the said Deputy Returning Officer then handed to the said Doctor Alice Reid a folded ballot out of the envelope which he had produced in the morning remarking "This is only a matter of form." He then directed her to go into the booth where she did go returning quickly and handed the ballot back to the Deputy Returning Officer who put it in the box.

6. The said Laura Fidyk was not on the voters list so she was called up to the desk and sworn in by the said Deputy Returning Officer following which she was handed the other ballot paper out of the envelope which he had produced in the morning and she was directed to go into the booth. From there she called out "What shall I do now?" To which the said Deputy Returning Officer replied: "Bring the ballot back the way it is." The said Doctor Reid who was still at the desk said "Don't do anything with it. Just leave it as it is." The said Laura Fidyk then returned the ballot to the Deputy Returning Officer and it was placed by him in the ballot box.

SWORN before me at the Town of Humboldt in the Province of Saskatchewan this 2nd day of July, A.D. 1949. } (Sgd.) HARRY L. HALL

(Sgd.) N. AUDRY

A Commissioner for Oaths in and for the Province of Saskatchewan. My Appointment expires Dec. 31st, 1953.

CANADA
Province of Saskatchewan
To WIT: }

In the matter of the Federal Election held on the 27th day of June, A.D. 1949 and of the Humboldt Electoral District in the Province of Saskatchewan.

I, Louis Reginald Smith, of the Town of Wadena, in the Province of Saskatchewan, Retired Farmer, make oath and say as follows:

1. I am a resident of the Town of Wadena, in the Electoral Division of Humboldt, in the Province of Saskatchewan, I am the full age of twenty-one years and a British Subject: thereby qualifying as a Voter in the Election of the 27th day of June, A.D. 1949.

2. My name was on the Voters' List for Poll No. 22.

3. I was appointed agent for Candidate J. W. Burton and acted in his behalf in the Town of Wadena.

4. I checked my clock with the radio programs and found the same to be correct.

5. I arrived at the said Polls before Eight o'clock in the forenoon Mountain Standard Time and found that the Polls were already officially opened. I did not view the ballot boxes before being closed prior to opening the Polls. The Polls were held in the United Church Hall. The said Polls were open from Eight o'clock in the forenoon until Six o'clock in the afternoon, Mountain Daylight Time.

6. That the facts as stated in this affidavit are true in substance and in fact.

SWORN before me at the Town of Wadena, in the Province of Saskatchewan, this Second day of July, A.D. 1949. } (Sgd.) L. R. SMITH

(Sgd.) W. C. HIBBERT,
Notary Public, etc.

CANADA
Province of Saskatchewan
To Wit:

In the matter of the Federal Election held on the 27th day of June A.D. 1949, and of the Humboldt Electoral Division, in the Province of Saskatchewan.

I, Edward Byman, of the Postal District of Wadena, in the Province of Saskatchewan, Farmer, make oath and say as follows:

1. I reside on the North-east quarter of Section Five, Township Thirty-five, Range Thirteen West of the Second Meridian, Postal District of Wadena, in the Province of Saskatchewan. I am the full age of Twenty-one years; a British subject by birth, thereby qualifying as a voter in Poll No. 21 Electoral Division of Humboldt.

2. My name was on the Voters' List for the said Poll.

3. I was appointed as agent for Candidate J. W. Burton for Poll 21 in the said Humboldt Electoral Division for the said Federal Election.

4. The Poll was closed at Six o'clock in the afternoon Mountain Daylight Time. The time was obtained by the comparison of the watches of the Deputy Returning Officer, Clerk and Candidates' agents, present. The said Poll was held in the United Church Hall.

5. That the facts as stated in this affidavit are true in substance and in fact.

SWORN before me at the Town of Wadena, in the Province of Saskatchewan, this second day of July, A.D. 1949.

(Sgd.) EDWARD BYMAN

(Sgd.) W. C. HIBBERT,

Notary Public, etc.

CANADA
Province of Saskatchewan
TO WIT:

IN THE MATTER OF THE DOMINION ELECTIONS ACT and in the matter of Morwick Poll No. 102 of the Electoral District of Humboldt, in the Province of Saskatchewan.

I, Mae Cornelia Prete of the Postal District of St. Brieux in the Province of Saskatchewan, Married Woman, MAKE OATH AND SAY:

1. That I have personal knowledge of the matters hereinafter deposed to except where otherwise stated.

2. That on June 27, A.D. 1949 at 7.30 a.m., I went to the school where the polling station for Morwick Poll No. 102 of the Electoral District of Humboldt in the Province of Saskatchewan was situated to act as a scrutineer for Joseph W. Burton, a candidate in the general election held on that date for the Humboldt Electoral District.

3. The Deputy Returning Officer for the said poll, Arthur W. McDonald was not present at the time but arrived shortly afterward and the poll opened at 8.00 a.m. The ballot box had previously been opened and proved to be empty but the ballots were not counted.

4. Mr. Henry Hall, also a scrutineer for Mr. Joseph W. Burton, arrived shortly after the poll opened.

5. Before 12.00 noon the Deputy Returning Officer, Arthur W. McDonald, in the presence of his Clerk Peter Gaetz and in the presence of the said Henry Hall and myself produced an envelope and he informed us that there were 2 ballots in the envelope and he wanted to know if it would be all right to put them in the ballot box. I said that that was not done as far as I knew and he stated "Well I just thought I would ask you. My sister and the hired girl are very busy and on account of the rain it isn't easy for them to get out to vote." I told him there were quite a few voters who couldn't get there on account of the rain; that it was too bad we could not get hold of some ballots and send them out to these people who couldn't get out. He said "Of course you wouldn't be able to get hold of the ballots." I said: "That's the only difference." I then turned to the said Henry Hall, asked him for his opinion and he objected to the procedure. The said Deputy Returning Officer then said he would send for his sister and the hired girl. He also said "Here are the two ballots and a sample ballot. They are marked but I have never seen them—I don't know how they voted." The ballots were folded up. I don't know what he did with them but they may have been put in the drawer in the desk at which he sat.

6. About 5.00 p.m. the sister of the said Deputy Returning Officer, Doctor Alice Reid, and his hired girl, Laura Fidyk, came into the polling station together and walked up to the desk. The said Deputy Returning Officer said to them: "The scrutineers are not trying to be mean but decided that you should come over here to vote." He then commenced to tear off a new ballot paper from the book of ballots when the said Clerk Peter Gaetz stopped him saying "Don't do that we have to account for those ballots" and thereupon the said Deputy Returning Officer handed the said Doctor Alice Reid a folded ballot out of the envelope which he had produced in the morning and remarked "This is only a matter of form." He then directed her to go into the booth where I could see her. She did not mark the ballot but returned it to the said Deputy Returning Officer and the latter placed the said ballot in the ballot box.

7. The said Laura Fidyk was not on the voters list so she was called up to the desk and sworn in by the said Deputy Returning Officer following which she was handed the other ballot paper out of the envelope from which he took the ballot paper for Doctor Alice Reid and Laura Fidyk was directed to go into the booth. From there she called out "What shall I do now?" To this the said Deputy Returning Officer replied "Bring the ballot back the way it is." Doctor Reid who was still at the desk said "Don't do anything with it. Just leave it as it is." The said Laura Fidyk did not unfold the ballot but returned it to the said Deputy Returning Officer and it was placed by him in the ballot box.

SWORN before me at the Town of Humboldt in the Province of Saskatchewan this 2nd day of July, A.D. 1949. } (Sgd.) MAE CORNELIA PRETE

(Sgd.) N. AUDRY,

A Commissioner for Oaths in and for the Province of Saskatchewan.
My Appointment expires Dec. 31, 1953.

OTTAWA, July 27, 1949.

SPENCER M. SUTHERLAND, Esq.,
Returning Officer for Humboldt,
Humboldt, Sask.

DEAR SIR:—

I am sending you herewith copies of complaints received from Mr. L. F. Bence, Official Agent for Mr. Joseph W. Burton, who was a candidate at the last general election in your electoral district.

I should be pleased if you would send me a report on the complaints made by Mr. Bence.

Yours very truly,

(Sgd.) JULES CASTONGUAY,
Chief Electoral Officer.

OTTAWA, August 9, 1949.

L. F. BENCE, Esq.,
Official Agent for Mr. Joseph W. Burton,
Humboldt, Sask.

Re: Electoral District of Humboldt

Dear Sir:

Your letter of the 6th ultimo enclosing four affidavits was duly received, but, owing to my absence from the office on account of illness, I did not have an opportunity to acknowledge the same until today.

The complaints that you make have been carefully noted and I propose to have the matter looked into at a later date. However, upon examining these complaints it has occurred to me that they do not appear to be of such character that would warrant the holding of an inquiry under subsection four of section seventy of The Dominion Elections Act, 1938.

Yours very truly,

(Sgd.) JULES CASTONGUAY,
Chief Electoral Officer.

HUMBOLDT, Sask., August 20, 1949.

Mr. JULES CASTONGUAY,
Chief Electoral Officer,
Ottawa, Ont.

Dear Sir:

I have given consideration to the two complaints referred to in your letter of the 27th ultimo.

The matter of time in use for the purposes of the election was in both the Proclamation and the Notice of Grant of a Poll simply described as "Standard Time," which I considered was in strict compliance with my instructions, although I think that the addition of the word "Mountain" so as to then show it as "Mountain Standard Time" would have been a good idea. Nevertheless, I was satisfied that all my election officials would be properly governed by "Standard Time."

It is quite true that a small portion of the Eastern part of the electoral district of Humboldt as now constituted has for many years observed Central Standard Time the whole year around, principally the Town of Wadena and neighbourhood, and the 2 Affidavits submitted on behalf of Mr. Burton are from electors in such Town and district. This community definitely consider themselves to be on "Central" Standard Time, as do those living East of Wadena. This is borne out by the enclosed time-table taken from the August edition of "Waghorn's Guide," which I am forwarding for your information only as it is of course not proof in itself. The fact is that Wadena is actually on "Mountain Daylight Saving Time," and my officials there simply erred in adopting the prevailing Central Time, which is most regrettable. However, I am fully satisfied that none of the electors were actually misled in this, and there is no suggestion that any single elector was for such reason deprived of the opportunity of voting.

Regarding Morwich Polling Division No. 102, I am at a loss to understand the action of the Deputy Returning Officer, Mr. Arthur Wellesley McDonald, as set out in the two Affidavits, and have no explanation to offer. I can say from my own personal knowledge of Mr. McDonald that he is a man of high integrity, and that he would not knowingly do anything prejudicial to any elector or any candidate. In fact, his actions as described in the affidavits would in my opinion bear out this view, but as stated I am at a loss to see why he acted in the manner set forth in the affidavits.

It might be pointed out that the Morwich Polling Division is very thinly populated in an outlying rural district, and also that the total number who voted on 27th June was only 40, being 18 votes for the candidate Joseph William Burton, who has complained; 18 votes for the candidate Hetland, who was elected, and 6 for the third candidate Bendas, who lost his deposit.

I can assure you that in both matters there was no lack of good faith on the part of the election officials concerned, and in fact the Affidavits submitted do not disclose any evidence of bad faith by such officials. I consequently do not consider that there would be justification for any proceedings being taken within the meaning of the Act, although I do regret most exceedingly that such incident occurred.

I wish to explain that this reply has been delayed owing to my vacation, and on my return to Humboldt shortly if you so desire I will endeavour to go further into these matters, although I do not see that anything more can be said on the subject.

Yours faithfully,

(Sgd.) SPENCER M. SUTHERLAND
Returning Officer for Humboldt.

OTTAWA, August 31st, 1949.

Spencer M. Sutherland, Esq.,
Returning Officer for Humboldt,
Humboldt, Sask.

Dear Sir:—

I am in receipt of your letter of the 20th instant with regard to the complaints that have been made to this office by Mr. L. F. Bence of Humboldt, about which I wrote you on the 27th ultimo.

The explanations that you give on the subject appear to be satisfactory, and I agree with you that these complaints are not of such a character as to warrant the institution of an enquiry under Section seventy of the Act.

In view of the fact that in a certain portion of your electoral district, Central Standard Time is observed by custom, it may be advisable that, at future Dominion elections, all references to Standard Time in the Proclamation, the Notice of Grant of a Poll and any other documents, should be termed Mountain Standard Time.

Yours very truly,

(Sgd.) JULES CASTONGUAY,
Chief Electoral Officer.

(Translation)

SPECIAL REPORT TO THE CHIEF ELECTORAL OFFICER

LONGUEUIL, June 29, 1949.

Mr. Jules Castonguay,
Chief Electoral Officer,
Ottawa.

Dear Sir:

I received your telegram dated 10.18 a.m. June 27th instant respecting the very serious complaints that I communicated to you at 4.30 p.m. June 26th instant in my capacity of candidate at the federal general election of June 27 last, after consultation with my official agent, Mr. K. E. H. Forget.

You will see by your files that my telegram read as follows:

June 26, 1949—Longueuil
Mr. Jules Castonguay
Chief Electoral Officer

Wish to advise you that the Returning Officer in Charge (for Chambly-Rouville) has not yet supplied us with a Revised Voters' List—(2) the list of poll locations and of Deputy Returning Officers—though we made request therefor on June 23. Please take immediate action. Urgent.

Your telegram read as follows:

C.N.R. /10 36 PD DL Ottawa-Ont. June 27/49. 10.18 a.m.

Mr. Jean Marie Fleury,
Progressive Conservative Candidate,
Chambly-Rouville,
15 St. Laurent,
Longueuil, P.Q.

On receipt of your message of yesterday I telegraphed your complaints to the Returning Officer who informed me that there had been some delay in the printing of the final revised lists and of the notice of granting of poll.

JULES CASTONGUAY,
Chief Electoral Officer.

SIR:

I wish to register a strong protest against the dishonest and false statement which the Returning Officer of Chambly-Rouville made to you in answer to the categorical charges which I brought against him in my telegram to you of

June 26th instant. We have several witnesses to prove that not only was the printing of the said revised voters' lists delayed (If the returning officer is to be believed) but the said lists were never delivered to us, and neither was the notice of granting of a poll. In any event, the delay in the publication of the revised lists cannot be excused, even if such a delay really occurred, as the printing of voters' lists is given exclusive priority by the Act.

The returning officer for Chambly-Rouville totally failed in his duty, thereby causing incalculable harm to my candidature, and he bears a great responsibility in my defeat. Our lawyers are at present looking into this very serious matter and they will institute whatever proceedings are necessary. Meanwhile, Sir, we believe that the Returning Officer for Chambly-Rouville should be severely reasons indicated above to concede the election in the constituency of Chambly-censured by you. Please be advised, Sir, that I categorically refuse for the Rouville, and I know of at least one other defeated candidate in this constituency who likewise refuses to concede the election.

In conclusion, Sir, as a candidate at the federal general election held on June 27 in the county of Chambly-Rouville, I deem it my conscientious duty to advise you that I request the immediate removal of the Returning Officer for Chambly-Rouville on grounds of inefficiency and bad faith, and I ask you, in your capacity of Chief Electoral Officer, to transmit my report to the Speaker of the House of Commons to be read at the next session of Parliament (Election Act, 1938).

Yours very truly,

JEAN MARIE FLEURY,
15 St. Laurent Street,
Longueuil, P.Q.
(Progressive Conservative candidate)

Witness: J. E. H. Forget, Official agent of J. M. Fleury, 1560 Chemin Chambly, Ville Jacques-Cartier, P.Q.

Addendum to the report of June 29, 1949

Longueuil, July 4, 1949.

Mr. Jules Castonguay,
Chief Electoral Officer,
Ottawa.

(1a) SPECIAL REPORT TO THE CHIEF ELECTORAL OFFICER

(To be attached to the report of J. M. Fleury, candidate, dated June 29, 1949)

Sir:

Please take notice that for all purposes when I mention the "Returning Officer for the County of Chambly-Rouville" in my Special Report (intended to be submitted to the Speaker of the House of Commons at the first sitting of the next Parliament), addressed to you in your capacity of Chief Electoral Officer, I mean Mr. Amédée Lemieux, Notary, 31 Guilbault Avenue, Longueuil, P.Q.

Yours very truly,

JEAN MARIE FLEURY.

(Translation)

Ottawa, July 11, 1949.

Mr. Jean Marie Fleury,
15 St. Laurent Street West,
Longueuil, P.Q.

Dear Sir:

I have received your letters of June 29 and July 4 in which you complain of the conduct of the returning officer for the electoral district of Chambly-Rouville, Mr. Amédée Lemieux, of Longueuil.

In reply, I must advise you that the two above-mentioned letters will be attached to the report I am required to make to the Speaker of the House of Commons by virtue of Section 58 of the Dominion Elections Act, 1938.

With reference to your request for the rebuke and removal from office of the returning officer of the said electoral district of Chambly-Rouville, I must advise you that as the selection, appointment and term of office of the returning officers rest entirely with the Governor in Council, by virtue of Section 8 of The Dominion Elections Act, I would suggest to you that you forward any representations you desire to make in this respect to the Governor in Council.

Yours very truly,

(Sgd.) JULES CASTONGUAY,
Chief Electoral Officer.

(*Translation*)

OTTAWA, July 11, 1949.

Mr. AMÉDÉE LEMIEUX,
Returning Officer for Chambly-Rouville,
Longueuil, P.Q.

DEAR SIR:

I send you herewith copies of letters dated June 29 and July 4 last which I received from Mr. Jean-Marie Fleury, one of the candidates in the general election of June 27 last in your electoral district.

You are requested to please send me a report on the complaints made in the aforementioned letters.

Yours very truly,

(Sgd.) JULES CASTONGUAY,
Chief Electoral Officer.

(Translation)

31 Guilbault Street, Longueuil,
August 3, 1949.

Mr. JULES CASTONGUAY,
Chief Electoral Officer,
Ottawa, Ontario.

DEAR SIR:

In further reference to our telephone conversation at noon this day, I must tell you that I note with deep regret that Mr. Jean Marie Fleury, candidate at the last Dominion election in the electoral district of Chambly-Rouville, for

the election of a member from this district to the House of Commons went so far as to level such charges against me; he does so certainly without a knowledge of the facts, without taking into account the number of electors in this district, the vast area of its territory and the difficulty I experienced during the holding of this election to recruit the needed personnel, and without also taking into account the fact that this office compelled me to neglect my clients for a period of at least three months.

In the first place, I experienced great difficulty in carrying out the enumeration in certain places; I was unable to have the enumeration completed; the enumeration was already three weeks under way, and I had to busy myself getting lists of electors returned which had not been sent in. And these lists had to be printed, the proofs had to be compared and the printing done.

Then, as for the list of the polling stations, it was only completed on the Monday proceding the elections; then it was necessary to have the notice of the granting of a poll printed, and it was not till Thursday that I was able to secure that, and I only obtained my final revised lists Saturday morning, and I had 198 ballot boxes to prepare. All these things that thus happened were beyond my control, and I worked night and day during the whole election so that the election could be carried out as it should be, sacrificing the patronage of my clients. And if I deserve to be accused as Mr. Fleury intends to accuse me, I must tell you that I will not wait until I am removed. As you know, all that is necessary is to ask for my resignation, and I will hand it in immediately, because I do not intend to work beyond my strength as I did during the last election, and be paid in that kind of coin, when I know I did everything possible to accommodate everybody, at any hour of the day or night.

Yours very truly,

(Sgd.) AMEDEE LEMIEUX,
Notaru.

(Translation)

SPECIAL REPORT TO THE CHIEF ELECTORAL OFFICER,

MR. JULES CASTONGUAY, IN ACCORDANCE WITH SECTIONS 364 AND 58 OF *THE DOMINION ELECTIONS ACT. COMPLAINTS AND SUGGESTIONS.* AS WELL AS SECTION 317—ARTICLE 4 —POWERS OF THE CHIEF ELECTORAL OFFICER

LONGUEUIL, August 6, 1949.

Mr. JULES CASTONGUAY,
Chief Electoral Officer,
Parliament Buildings,
Ottawa, Ontario.

Dear Sir:

I deem it expedient to make the following special Report to you, with the special request that it be transmitted to the Speaker of the House of Commons, in accordance with Section 58 of the Elections Act.

"Thursday morning at 11 o'clock a.m., August 4, 1949, I declare I received form 141 "Copy of the Return of the Writ of Election" in the County of Chambly-Rouville, Dated the 6th day of July, 1949, signed by Amédée Lemieux, Returning Officer. The envelope (on Notary Lemieux's private stationery) bore the stamp of the Longueuil post office, Dated August 3, 1949, and this

letter was not registered, as provided by Section 362 (General Instructions on Elections). Firstly, according to the Act (Section 362) this copy of the Writ should have been dated "July 13 and not the 6th", for though the Undersigned himself never received any copy of any official election return in the County of Chambly-Rouville, before August 4 (as we advised you in our communications of last July 17 and 20) basing myself on the report of the newspaper *La Presse*, of Montreal, dated July 7, 1949, "the official count (in the text) of the vote made yesterday (July 6), by the returning officer of Chambly-Rouville, gives Mr. Pinard a majority of 9,544 votes over his closest opponent, Mr. Jean-Charles LeFrançois, Progressive Conservative candidate. The vote in Chambly-Rouville was divided as follows: Mr. Pinard, 20,906; Mr. LeFrançois, 11,362; Mr. J. M. Fleury, (P.C.), 449; and Mr. J. C. Patenaude (C.C.F.), 733". In consequence, Mr. Chief Electoral Officer, please be advised that I dispute the validity of this copy of the Writ of Election, and of the Writ itself in question. There is no doubt that this Return of the Writ of Election, prepared by Mr. Amédée Lemieux, Returning Officer for the County of Chambly-Rouville, is totally illegal and should be declared such, by the appropriate authorities in election matters, without delay, for the following reasons:—

1. The undersigned, candidate at the last Federal election in the County of Chambly-Rouville, never received any report of the Declaration of the elected candidate, which must precede by seven days, the forwarding of the copy of the Writ to all the candidates (Article 362, General Instructions).
2. When he finally received his copy of the Return of the Writ (Form 141) the undersigned received it twenty-seven days late.
3. The date of the copy of the Return of the Writ should have been dated July 13, 1949, and not July 6, 1949.
4. This copy of the Return of the Writ in question should have been forwarded by the mail, as registered matter and not as ordinary mail, the manner in which we received it.

I add, Mr. Chief Electoral Officer, that I preciously preserve my Copy of the Return of the Writ and I hold same available for the investigators of your department at any time. In the meantime, I send you a certified copy of same.

Detailed accusations

Consequently, Mr. Chief Electoral Officer, in my capacity of Candidate, I demand that the Act be enforced, and that after causing the matter to be verified, by yourself, Mr. Amédée Lemieux, Returning Officer of the County of Chambly-Rouville, be charged with negligence for having violated article 362 (General Instructions) of the Dominion Elections Act, 1938, also with having delivered by mail to the undersigned a copy of the Return of the Writ, twenty-seven days late. That he also be charged with causing to be prepared a copy of the Return of the Writ bearing an inaccurate date. All of which in accordance with section 70 (4) "Powers of the Chief Electoral Officer", "Inquiry into offences and power to take proceedings", at page 317, General Instructions on Elections. That the above-named Returning Officer, Mr. Amédée Lemieux, be also charged with negligence for not having sent me by mail a Copy of the Report on the Declaration of the Elected Candidate, according to article 362 (General Instructions).

Whereas in our telegram dated June 26, 1949, forwarded to you, we advised you that the Returning Officer in question had not transmitted to us the final revised lists, as required by article 62 (page 56) of General Instructions; whereas this same telegram was confirmed by our subsequent messages of

July 15, 17 and 20, 1949; whereas the above-mentioned Returning Officer in question, Mr. Amédée Lemieux, still had a few hours of grace, the night of June 26 to the morning of June 27 (Voting Day), even though late, and that he did not do so, tangible evidence of his bad faith, I demand in my capacity of Candidate that you institute judicial proceedings against the aforesaid Returning Officer, for his violation of article 62 (General Instructions).

Whereas the same aforesaid Returning Officer wittingly neglected to send us the ten regulation copies of the Notice of the granting of a poll, though he still had a few hours of grace, between June 26 and 27 (see Telegram in this connection) thereby violating article 86 (25) General Instructions on Elections. Therefore, I demand that aforesaid Returning Officer be charged, in consequence, with this further infraction of the Act.

That he also be charged with violating article 95 (and articles 26 (2) and 26 (5)) by having neglected to have sent us the List of Deputy Returning Officers.

That he be accused of having neglected to forward to us the List of the names of the Candidates (Articles 85 and 341). For all the foregoing enumerated reasons, as well as those we have already set out, in our written communications, forwarded to you and to the Governor in Council, dated June 29, 1949, July 7, 1949, July 15, 1949, and July 20, 1949, the undersigned wishes to renew his special petition requesting the disqualification of the Returning Officer for the County of Chambly-Rouville, Mr. Amédée Lemieux, effective as from June 29, 1949, and also his request for the setting aside of the election, in the electoral division of the County of Chambly-Rouville. Trusting that the said measures will be taken as soon as possible.

Yours very truly,

(Sgd.) Jean-Marie Fleury,
(P.C. Candidate),
Chambly-Rouville,
15 St. Laurent Street,
Longueuil, P.Q.

APPENDIX "B"

REGINA CITY ELECTION INQUIRY

Report of Chief Justice Brown, Commissioner

IN THE MATTER OF THE DOMINION ELECTIONS ACT AND IN THE MATTER OF AN INQUIRY INTO CERTAIN IRREGULARITIES ALLEGED TO HAVE OCCURRED IN THE ELECTORAL DISTRICT OF REGINA CITY IN THE PROVINCE OF SASKATCHEWAN, IN THE DOMINION ELECTION OF JUNE 27th, 1949.

Nelson Jules Castonguay, Esq.,
Chief Electoral Officer for the Dominion of Canada,
OTTAWA, Canada.

Sir:

I, James Thomas Brown, Chief Justice of the Court of King's Bench for the Province of Saskatchewan, having been duly nominated by Mr. Jules Castonguay, your predecessor in office, to make inquiry into certain alleged irregularities in connection with the election in the Electoral District of the City of Regina, at the Dominion Election held on June 27th, 1949, beg leave to report as follows:

The Inquiry was called for as the result of a letter of complaint dated July 26th, 1949, and made by Mr. John O. Probe, one of the candidates, which letter is as follows:

"John O. Probe
Regina, Sask.

2043 Argyle Street,
Regina, Sask
July 26, 1949.

Mr. Jules Castonguay,
Chief Electoral Officer,
OTTAWA, Canada.

Dear Mr. Castonguay,

As provided for by the Dominion Elections Act Sec. 58 (2), I desire to refer to certain happenings in the recent election for a member to represent the constituency of Regina City in the House of Commons. I also urge that these become the subject of a full investigation by the Chief Electoral Officer or by a Parliamentary Committee to be followed by such further action as the findings may warrant.

On July 4th, last, the returning officer for Regina City officially opened the ballot boxes containing the poll documents for the purpose of adding the votes for the various candidates. Various official poll envelopes were found open or unsealed or mutilated as per Appendix A attached. There was no evidence to indicate whether the poll officials had acted contrary to the Dominion Elections Act Sec. 50 (5) or whether there had been subsequent tampering with the documents.

On July 12th, a recount of ballots was begun by Judge B. D. Hogarth, Regina District Court. In the course of this recount, His Honour rejected some 460 ballots otherwise properly cast and previously accepted by the deputy returning officers of the polls in which the ballots were first counted, (see Appendix B) The Judge rejected these ballots on the grounds that on each of them was a clearly discernible number, which had the effect of making possible

the identification of the voter and of destroying the secrecy of the ballot. By rejecting these 460 marked ballots, the judge in effect ruled that the marks on the ballots so rejected were not placed thereon by the deputy returning officers in the course of their duty at the polls as provided for by the Dominion Elections Act Sec. 50 (2) (*c*).

How these numbers were put on the ballots and who may have been responsible for robbing 460 electors of their franchise in this manner is at present a mystery, and I feel that it is a duty of your office to track down the culprits. It must be noted that these mysterious numbers appeared on ballots from no less than 23 polls; in one poll, No. 57, a total of 180 ballots were disallowed for number markings; in another poll, No. 108, the Judge rejected 57 ballots every one of which was a Probe ballot. Such one-sided appearence of numbers precludes the likelihood of accidental marking according to any theory of mathematical probability. If the exercise of the franchise is to be held inviolable, responsibility for the condition of these 460 ballots must be clearly determined.

In addition to what I have charged with respect to the condition of the election envelopes and the ballots, I have reliable information that certain electors voted more than once; that others were improperly allowed to vote by being sworn in at the polling booths contrary to the Dominion Elections Act, Sect. 38; that certain polling places were not open to receive voters within the hours specified by the Act; that the location of certain polling places was changed on election day with insufficient notice to the voters in the polls affected. Possible dereliction of duty by election officials in these particulars should be investigated and suitably punished, while the possible effect on the unrestricted exercise of the franchise by Regina citizens should be considered.

Undoubtedly, the closeness of the result of the voting in Regina City must suggest to you that, if evidence is brought out that the will of the electorate was frustrated by any considerable illegal practices, then consideration should be given to reopening the seat.

I wish too, at this time, to suggest that the Dominion Elections Act be amended in the following particulars, viz:

1. Have the deputy returning officer and the poll clerk of each polling place represent two opposing political parties (as is now the case with urban enumerators).
2. Make provision for signature of official poll statements by all political parties represented at the poll.
3. In all cases where the number of ballot papers rejected by deputy returning officers in a constituency exceed in the aggregate the difference in votes of the two leading candidates, rejected ballots would be recounted at government expense rather than at the expense of some applicant for recount.

Yours sincerely,

(sgd) J. O. PROBE,
JOHN O. PROBE.

JOHN O. PROBE,
REGINA, SASK.

APPENDIX A. Letter to Chief Electoral Officer

List of Polls in Regina City with Ballot envelopes or DRO returns envelopes unsealed or broken.

Poll No. 5
" " 11
" " 12a
" " 20
" " 28
" " 53a
" " 57
" " 77
" " 97
" " 104
" " 106
" " 114
" " 127
" " 140a

APPENDIX B.

List of Polls having Ballots rejected by Judge B. D. Hogarth in recount of votes, Regina City, for numerals on ballots.

Poll No.	*Votes disallowed*
28	1
46	2
47	7
51	7
52	10
57	180
72	1
73	27
77	4
86	1
87	70
97	8
100	3
101	9
105	22
108	57
111	29
123	4
127	4
128	5
132	4
139	1

APPENDIX C.

Re swearing in of voters at urban polls.

At poll 45, one voter sworn without name being on list.
At poll 103b, six voters sworn as above.

Re late opening of poll.

Poll 9 was not prepared for voting until CCF scrutineers complained to the Returning Officer. Sixteen voters presented themselves for voting and left without marking ballots between opening time and the time one hour and some minutes later when the poll was at last ready to receive voters. It is not known whether some or all of these were thereby deprived of their votes.

Re change of location of polling stations without notice.

The location of polling stations was changed on polling day without ensuring that voters knew of the change in Polls 42, 69 and 111.

Re voting more than once in the same election.

A voter purporting to be Sgt. A. Lefrançois (SL-41789) voted at the poll for Service Personnel, and also at poll 26.

Other reported incidents.

At poll 76 there was no oath of secrecy taken.

At poll 85 there were no counterfoils on the ballots that were presented by voters to the DRO for insertion in the ballot box."

The Commission under which I received my authority and conducted the Inquiry is in the following words:

"Office of the Chief Electoral Officer

The Dominion Elections Act, 1938.

Whereas subsection (4) of section 70 of The Dominion Elections Act, 1938, chapter 46 of the Statutes of Canada, 1938, as amended by chapter 46 of the Statutes of Canada, 1948, provides that when it is made to appear to the Chief Electoral Officer that any election officer has been guilty of an offence against the said Act, it shall be his duty to make such inquiry as appears to be called for in the circumstances.

Whereas subsection (5) of the said section 70 provides that the Chief Electoral Officer shall have the like powers in the case of any offence which it is made to appear to him to have been committed by any person under sections 17, 22, 49 (2), 49 (6), 50 (12), 52 (7), or 72 of the said Act.

Whereas, under subsection (6) of the said section 70, the person nominated by the Chief Electoral Officer for the purpose of conducting such inquiry shall have the powers of a commissioner under Part II of the Inquiries Act.

Whereas it has been made to appear to the undersigned that certain irregularities occurred with respect to the conduct of the Dominion election held in the electoral district of Regina City in the Province of Saskatchewan, on the twenty-seventh day of June, 1949.

And whereas it is deemed advisable that an inquiry be held as provided in the said section 70 of the said Act, with regard to the allegations set out in a letter dated July 26th, 1949, received from one of the candidates at the said election, Mr. John O. Probe of Regina, Sask., which letter is attached hereto.

Now, Therefore, by virtue of the authority vested in me by the said Dominion Elections Act, 1938, and pursuant thereto, I do hereby nominate the Honourable James Thomas Brown, Chief Justice of His Majesty's Court of King's Bench for Saskatchewan, to inquire into the allegations set out in the above-mentioned attached letter and the appendices A, B and C attached thereto, with the exception of what pertains to polling station No. 26 of the said electoral district of Regina City, and to make such report in connection therewith as the findings may warrant.

Given under my hand and seal at Ottawa this 14th day of September, 1949.

(Sgd.) JULES CASTONGUAY,
Chief Electoral Officer.

Organization and Preliminaries

Acting under the aforesaid authority, which I received on September 15th, 1949, I appointed Mr. H. E. Sampson, K.C., as Counsel to the Commissioner. Mr. Sampson was for many years Agent of the various Attorneys General of Saskatchewan in the prosecution of criminal cases in the Judicial District of Regina. He has had a long experience at the bar of the Province and is held in high esteem by the public generally. I considered Mr. Sampson specially well qualified to assist in the conduct of the Inquiry.

I appointed two shorthand Court Reporters so that I might have an accurate and complete report of all evidence given during the Inquiry. I also appointed a Registrar to assist me throughout the Inquiry and during its preliminary and final stages in swearing witnesses and in keeping proper records and in keeping custody of the ballots and other documents committed to my care pertaining to the Election.

After giving due notice and a copy of the letter of complaint and a copy of my Commission to each of the Candidates at said Election or his counsel or both, I held a preliminary meeting at the Court House in the City of Regina on September 23rd, 1949. This meeting was called for the purpose of arranging a date for the Inquiry proper that would be agreeable to all parties concerned and for making certain other necessary preliminary arrangements. A copy of the notice calling such meeting is listed as Exhibit No. 20 to this report.

At the said meeting on September 23rd, there were present:

Mr. H. E. Sampson, K.C., Counsel to the Commission.
Mr. J. L. McDougall, K.C., Counsel for Dr. E. A. McCusker.
Mr. J. O. Probe in person and with him his Agents.
Mr. F. N. Atkinson and Mr. G. R. Bothwell.

The other candidates did not attend in person or by counsel or Agent and have not at any time since.

The earliest date at which I was free to conduct the Inquiry was October 12th and that date proved satisfactory to all parties concerned. The Inquiry proper was, therefore, called for October 12th at 10.00 o'clock in the forenoon, in the Court House, Regina.

At my request Staff-Sgt. H. H. Radcliffe, a handwriting expert in the Crime Detection Laboratory of the Royal Canadian Mounted Police at Regina, attended throughout the Inquiry and gave very valuable evidence thereat and at all times during the sessions from day to day and between sessions gave Counsel and your Commissioner the utmost co-operation. I shall refer to him hereafter in this report as the Expert.

At the preliminary session and again at the opening of the session on October 12th I publicly extended an invitation to anyone who could in any way render any assistance in the way of giving information or evidence, to report to Mr. Sampson.

It was also agreed at the preliminary meeting that two sample outstanding Polls, namely Nos. 57 and 87 should be dealt with first, and that the Expert should have an opportunity of examining all the ballots relating to these two Polls pending the opening of the Inquiry proper. It was reported that one of these Polls, namely 57, had the numbers complained of on the back of the ballots and that Poll 87 had the numbers complained of on the face of the ballots and it was thought that if the numbers appearing on the ballots at these two Polls could be satisfactorily explained we would thus find the key for the solution of the numbers on the ballots at all the Polls complained of.

INQUIRY PROPER

General Statement:

At the opening of the Inquiry on October 12th, Mr. Sampson appeared as Counsel to the Commissioner, Mr. McDougall as Counsel for Dr. E. A. McCusker and Mr. Atkinson as Agent for Mr. Probe. Mr. Atkinson is not a lawyer but he proved himself to be a discerning and capable representative and was co-operative and helpful throughout in our joint effort to seek and find the truth.

At this time and in view of certain of the complaints in Appendix C of Mr. Probe's letter of complaint, I publicly called upon any elector who, for any reason, was denied the privilege of exercising his franchise to report and notice of this statement was published in a prominent place in the local daily newspaper the following day.

The Inquiry proper lasted four days, from October 12th to October 15th inclusive and I feel that I can say without hesitation that it has been conducted throughout with fairness to all parties concerned and has been as thorough as it was possible or necessary to make it for a satisfactory solution of the problems involved.

In this connection Mr. Atkinson, as Agent for Mr. Probe, was good enough, at the close of the Inquiry, to express his satisfaction in the following terms:

"*Mr. Atkinson*:—I think this has been conducted very well, with every consideration of myself not being experienced.

Mr. Commissioner:—You have done very well.

Mr. Atkinson:—I must commend Sgt. Radcliffe on the fine work that he did.

Mr. Commissioner:—Yes, he did a fine job.

Mr. Atkinson:—The whole thing was conducted very fine as far as I could see. Your Lordship treated us with courtesy, I will say that.

Mr. Commissioner:—Well, thank you very much, Mr. Atkinson."

Your Commissioner, of course, confined the Inquiry to the matters complained of in the letter of complaint referred to aforesaid. This complaint divided itself into three parts, each represented in a separate Appendix.

For the purpose of the Inquiry all witnesses who could throw light on the matter and who were available were called and gave evidence under oath. The Returning Officer, Mr. H. D. Macpherson, was in hospital and not available as a witness but the investigation did not seriously suffer on that account as his Election Clerk, at some inconvenience to himself, became available and covered reasonably well all the material ground concerning which the Returning Officer could have been expected to testify.

On the whole there were available enough witnesses to satisfactorily enlighten your Commissioner and I think all others as well as to the essential details of all matters covered by the Commission of Inquiry.

A complete list of the witnesses, alphabetically arranged, is given in Schedule A appended hereto with information as to the official position filled by the witness at the Election and the page in the record where his or her evidence is found. I note here that the 26 witnesses who gave evidence were all, with one exception, called by Mr. Sampson, Counsel to the Commissioner. The one exception was Mr. George Noonan who, on the final day of the Inquiry, was called by Mr. Probe and supplemented the evidence of the Deputy Returning Officer as to Poll No. 9.

As Mr. Probe apparently had two Agents at each Polling Division on the day of the Election and as none of these were called to contradict or implement the evidence given by the officials, it is, I think, fair to assume that the evidence given by the officials was accepted by all parties as reasonably correct.

Referring to the witnesses as a whole I might say at this stage, and I am glad to report, that while they varied to some extent in intelligence and impressiveness, as one would expect, each and all, in my opinion, were men and women of integrity, who gave their evidence with the utmost sincerity with no attempt or thought of evasion but in a serious effort to relate the facts as they honestly believed them to be.

There is thus no serious conflict of evidence and I am not called upon to weigh the evidence of one witness as against another, a task which sometimes is difficult and not always a pleasant one to perform.

I am glad, at this stage, to also report that there is not a scintilla of evidence to indicate or suggest any wrong doing on the part of any of the officials at the Polls or having anything to do with the conduct of the election. On the contrary, they all, without exception, at all times and at all Polls acted in an impartial and creditable manner and with the utmost fairness to all the candidates seeking electoral support.

I am not suggesting there were no mistakes and no irregularities and that there was no departure from the definite and detailed regulations governing such Elections but nothing was done or overlooked, which was intended to prejudice or affect the rights of any voter or any candidate at the Election.

There were 168 Polls in this Electoral District and with many of the officials called upon to function at the Polls, it was their first experience of acting in that capacity. Under such circumstances one is not disposed to demand or expect perfection in carrying out all the many details required by the regulations. What is demanded and expected of all officials is that they carry out their duties with integrity and impartiality and with a reasonable degree of intelligence and a reasonable compliance with the regulations, and I am satisfied that in this respect all the officials fully met the demands. The mistakes and irregularities disclosed are of such a character that while those responsible for them cannot altogether be excused they do not call for severe censure or penalties. They are such as one might reasonably expect under all the circumstances.

The list of witnesses indicates that many, if not most of the officials, were women of mature years and I make haste to state that the standard of qualifications of the officials generally did not suffier any on that account.

There is annexed as Schedule B to this report, a complete list of the Exhibits filed during the Inquiry with references to the page of the record where same were referred to and entered.

EVIDENCE AND FINDINGS

Appendix A of the Letter of Complaint:

The matters complained of in Appendix A were dealt with in a very summary way. It was stated by the representatives of the candidates that at the time of the official count by the Returning Officer some of the large envelopes were either not sealed at all or the paper seals or stickers, as they are sometimes called, were broken or cracked; also that the small envelope containing the special report of the D.R.O., giving the result of the Poll for the information of the Returning Officer, was wrongly enclosed in the large envelope and that, therefore, the seal of the large envelope had to be broken by the Returning Officer in order to get this special report and also that this had been done in some instances before the official count took place. There may have also been other slight irregularities. It was, however, conceded that no papers of importance were missing from the ballot boxes and that no ballots had been tampered or interfered with and that no damage was done to any of the candidates. Under the circumstances it was agreed that it was not necessary to call any

witnesses relating to the complaints contained in Appendix A. The discussion relating to this Appendix is reported in the Record beginning at p. 207 thereof.

These mistakes and irregularities are understandable in the haste that some officials adopt and think necessary in making as early a report as possible to the Returning Officer of the result of the Poll, especially where an election is keenly contested as this one was between the candidates, J. O. Probe and Dr. E. A. McCusker; and also of sometimes thinking that once the ballots are counted and all parties officiating at the Poll agreeing as to the result that nothing else matters except to get the ballot boxes with the contents safely in the hands of the Returning Officer. In any event, your Commissioner agreed with the interested parties that no further inquiry was necessary so far as Appendix A was concerned.

Appendix C of Mr. Probe's Letter of Complaint

Re Poll No. 45 where it was alleged that one voter was sworn without his name being on the list

Mrs. R. McLeod, the Poll Clerk officiating at this Poll, stated on oath that no one was sworn in at this Poll whose name was not on the electoral list and the poll book supports her evidence in that respect. There was no evidence offered to the contrary.

Re Poll No. 103B:

The D.R.O. at this Poll, Mr. D. O. Dickert, states that only three persons were sworn in at this Poll whose names were not on the electoral list and the poll book supports his evidence in that respect. There is no evidence to the contrary. The explanation given by Mr. Dickert for this irregularity is that he thought an elector, if otherwise qualified to vote, could vote upon being sworn even though his name was not on the electoral list. Acting on this assumption he allowed, without protest, three persons ot be sworn and to vote and their names appear in the poll book as voting under such circumstances. It was then that someone questioned his right to allow such persons to vote and immediately Mr. Dickert phoned the Returning Officer and found he had erred in this respect and he refused to allow any further votes of this character, although, there were further applicants.

Assuming that these three voters voted for Dr. E. A. McCusker, it is not contended that it would materially alter the result of the election.

Re Poll No. 9 Not Prepared for voting on time

The D.R.O. at this Poll was Mrs. Margaret Crawford, who impressed me as an intelligent and conscientious official. She states that this Polling Station was held in an Army Hut; that she visited the hut on the Sunday preceding election day and found it was locked and she was, therefore, unable to inspect the contents; she expected that the Polling Station would be fully equipped and when she, with her daughter, attended on polling day in ample time before the hour for opening the poll, she found that the room was wholly devoid of equipment; she immediately had her daughter secure tables and chairs and other equipment from neighbors but as a result the station was not ready to accommodate any elector until about one hour after the announced and legal time for opening the poll. She further stated that during this time only two persons appeared seeking the right to vote and that in both cases they said they would return later and did return later in the day and did vote.

Mr. George Noonan, the only witness called by Mr. Probe, gave evidence bearing on this Poll. He stated that on visiting this station early in the morning he noticed that it was not ready to accommodate voters and further stated that while he was there ten or twelve persons were standing around, who he assumed were electors wanting to vote and that some of them went away and may not have come back.

There is no evidence supporting the assumption that any voter was turned away who did not come back and exercise his right of franchise at this Poll and no voter in this Polling Division or any other Polling Division has come forward or been brought forward to testify or complain that he had been denied, in any way, the privilege of voting.

Re Change of Location of Polling Stations Without Notice:

Under this heading we heard the evidence of the Election Clerk, Mr. Gordon Krisko. This officer impressed me as an exceptionally intelligent and capable young man, who was well qualified to effectively perform the duties of his important office. He relates that the Returning Officer found it necessary to change 9 polling stations for one reason or another but that in each instance notice of the change was duly given. I will now proceed to deal with each of the three Polls complained of in this respect, namely Poll Nos. 42, 69 and 111.

Re Poll No. 42:

This Poll was originally billed for the 1300 block Broder Street and changed to the 1200 block Wallace Street, a distance of between one and two blocks away. The evidence is not very clear as to the reason for the change. The D.R.O., Mrs. Annie Butt, says she understood, and it was rumored, that the change was made because the house originally advertised was in a block where the C.C.F. support was very strong and that some of the Liberals in the Division did not like having it there. The Election Clerk, Mr. Krisko, was of the opinion that the change was made because the owner of the house, originally selected, became afraid that if the weather on polling day was bad the house would be badly messed up. The Returning Officer would probably know the real reason for the change but as already stated, he was not available for the Inquiry. In any event, a printed notice of the change was tacked on the door of the house originally selected by Mr. Krisko himself and he says the sign could be seen from the street by anyone driving up in a car. A heavy vote was polled at this station and no one made any complaint about having difficulty in finding the changed station. Mrs. Butt also states that she sent out post-cards through the mail several days before the election advising nearly all the electors of the change. Regardless of the reason for the change the result would seem to indicate that if anyone got lost in this polling division in his effort to find the polling station, he was not a C.C.F. supporter. The vote at the Poll was very much in favour of Mr. Probe.

Re Poll No. 69:

This Poll had been advertised in St. Chads College on College Avenue and it was held in that College although not in that part of it originally planned. The change was made, apparently, at the request of the officials of the College. Two notices were put up in conspicuous places, clearly indicating where the polling station was located. It would appear that no elector complained of or was misled by the slight alteration.

Re Poll No. 111:

Mrs. Era Eddy was Poll Clerk at this Poll and gave us a detailed explanation for the change and she was supported by the evidence of Mr. Krisko, the Election Clerk. The polling station was originally planned for the 2200 block Lorne St., at the home of one, Maurice Case. Mr. Case, however, was planning to leave and did leave the City before election day and gave notice that his home would not be available. The polling station was, therefore, changed to the 2300 block Lorne Street, just a few doors away. Notice of the change was duly posted on the originally selected station and post-cards were sent out by Mrs. Eddy advising the electors of the change. It does not appear that anyone was misled or inconvenienced by this change.

Re Poll No. 76—No Oath of Secrecy Taken:

Neither the D.R.O. nor the Poll Clerk, who functioned at this Poll, was available to give evidence but one of the Agents acting at the Poll was Mrs. Nell Slack and she states very positively that she and all the other Agents, who were present at the opening of the Poll, were required to take and did take the oath of office. The poll book shows that the D.R.O. and the Poll Clerk were each duly sworn. Mrs. Slack states that one of Mr. Probe's Agents, who came in later in the day as a substitute, may not have been sworn; she is not sure about her. This particular Agent, who acted as a substitute, did not attend at the hearing to give evidence that she was not sworn.

Re Poll No. 85—No Counterfoils on Ballots Presented by Voters to the D.R.O.

The D.R.O. at this Poll was Mrs. Stalla Tache. She was called as a witness and gave her evidence impressibly. I judge she would be a very intelligent and conscientious official. She states that her practice at the Poll was to hand the folded ballot to the voter with the counterfoil attached and to tear it off when the voter returned with the ballot from the booth. She was not prepared to swear that she did not, in some instances during a rush period, tear off some of the counterfoils before handing the ballot to the voter but says if she did do so no one objected to it. She simply could not be sure about it herself, under the circumstances, and her Poll Clerk, Mrs. Mary Folk, who also gave evidence, could not enlighten us on the matter as she was busy attending to her own duties. No witness was called to support this charge.

Appendix B:

The complaint made by Mr. Probe under Appendix B is, on its face, a disturbing one and one which caused Mr. Probe, in his letter of complaint, to suggest that there must have been "culprits" involved in an attempt to destroy the secrecy of the ballot and interfere with the free will choice of the electorate. It was, therefore, necessary that the investigation should be intensely thorough so that, if possible, a solution would be found that was acceptable and convincing to all concerned. I am glad to report that such a result was obtained and that the unquestioned explanation is one which shows a complete innocence of wrong doing or evil design or any design on the part of any official or anyone else.

As already stated, it was decided to thoroughly investigate two sample Polls, namely Nos. 57 and 87, in the first instance in the expectation that a solution for these two Polls would mean a solution to the whole problem. The result of this procedure proved its justification.

During the interval between September 23rd, when the preliminary hearing was held, and October 12th, when the Inquiry proper began, the Expert made a careful examination of the ballots connected with these two Polls and was in a position to give the results when the Inquiry proper opened on October 12th.

Re Poll No. 57:

Dealing with Poll No. 57 first, the D.R.O. and Poll Clerk, functioning at this Poll, were examined under oath and from their evidence and that of the Expert and from an examination of the Poll documents, including the ballots, we got the following result:

As the elector entered the station his name was located on the election list and the Poll Clark then made the entry in the poll book in accordance with the regulations, giving the voter a number depending in harmony with the order in which he presented himself to the Poll and placing such number to the left of the name in the poll book, and also placing the number, which such voter had on the election list, to the right of the name in the poll book.

The number which the poll clerk gave to the D.R.O. was taken from the right of the name in the poll book instead of the left as should have been done. The D.R.O., using an ordinary lead pencil for the purpose, wrote this number on the counterfoil of the ballot. The D.R.O. sometimes put the number on the counterfoil before folding the ballot and at other times after folding the ballot. When the D.R.O. folded the ballot before putting the number on the counterfoil he folded it in accordance with the regulations and then turned back or folded the counterfoil over the ballot. After doing this he wrote the number on the counterfoil. It was thus seen that the face of the counterfoil or the inked or black side of the counterfoil came into contact with and rested upon the back of the ballot proper. Under such circumstances it was clearly demonstrated that the figures so written on the counterfoil would make a clear impression or off-set on the back of the ballot. These impressions or off-sets—or carbon copies as they were sometimes called because they were similar to carbon copies—were more or less distinct depending on the force applied by the D.R.O. to the pencil.

In this poll the D.R.O., instead of destroying the counterfoils as called for by the regulations, retained them in an envelope. For the purpose of this Inquiry the fact that the counterfoils were available proved fortunate as it made it possible to compare the original markings on the counterfoil with the markings on the back of the ballot.

One does not need to be an expert to see that the off-sets on the back of the ballots are not original markings but are exact copies in all details of the original figures placed on the counterfoils. The expert evidence with the aid of the experiment made by the Expert, put in as Exhibits Nos. 6 and 7, settled this matter beyond all question.

It was in this way proved that all the markings on the ballots at this Poll are off-sets; none of them are originals and all were inadvertently placed there by the D.R.O. in the manner aforesaid and without his knowledge or the knowledge of anyone else that such was being done.

Neither at this Poll nor that of any other complained of, were the numbers on the ballots noticed by anyone until the recount, before His Honour Judge Hogarth, was well on its way.

Re Poll No. 87:

The numbers on the ballots in Poll No. 87 appear on the face of the ballots instead of the back as in Poll No. 57 aforesaid. Here also the D.R.O. and the Poll Clerk gave evidence. At this Poll, the D.R.O., after getting the number from the Poll Clerk, placed the number, wrote the number on the counterfoil before folding the ballot but when doing so he frequently laid the ballot, when extracted from the book of ballots, on the book itself and then wrote the number on the cunterfoil. When this was done the off-set was made somewhere on the face of the ballot, which was upper-most in the book. It will thus be seen that the number given to the voter would produce an off-set on the face of the ballot that was used by the next succeeding voter.

In this Poll the counterfoils were destroyed and, therefore, it was not possible to make a comparison with the original markings as in Poll No. 57. The expert evidence, however, shows that all the markings on the ballots in Poll No. 87 are off-sets; that none are original markings; that all are clearly copies of the originals made in the handwriting of the D.R.O. Here again the markings were made inadvertently and without anyone officiating at the Poll noticing that such was being done.

The investigation of the two Polls aforesaid, as anticipated, pretty well solved the mystery of the objectionable numbers and it should be said that the results would be the same whether a lead pencil or a ball pointed pen were used for the purpose of placing the figures on the counterfoil. The evidence disclosed that a ball pointed pen was used by some of the D.R.O.s.

Having disposed of the two sample selected Polls the investigation proceeded along similar lines for Poll Nos. 52a, 86, 108, 105, 111 and 73. In each of these Polls the Expert made a careful examination of the ballots with results similar to that secured for Poll Nos. 57 and 87. In every instance it was shown that the numbers were not original markings but were made as off-sets from the number placed on the counterfoil by the D.R.O.

Re Poll No. 108:

Poll No. 108 naturally gave Mr. Probe some concern and got special emphasis in his letter of complaint.

In this connection I should state that some 25 or 30 Polls—there was no way of getting the exact number—had been dealt with by the Judge conducting the recount before anyone noticed any numbers on the ballots. They were first noticed on the face of a ballot marked for Dr. E. A. McCusker and the objection was taken to the validity of the ballot by counsel for Mr. Probe.

It is altogether likely that ballots in Polls previously dealt with had numbers on them but had not been noticed and the learned District Court Judge did not and, apparently, could not go over these ballots again in order to make a check in that respect.

Similarly, no numbers were noticed on the back of any ballot until Poll No. 108 was reached and this was not until many more Polls were disposed of by the Judge after first discovering the numbers on the face of the ballots.

In Poll No. 108, the ballot on which a number was first discovered was one marked for Mr. Probe and Mr. Probe's ballots were the last to be examined in that Poll by the Judge conducting the recount. That explains why so many of Mr. Probe's ballots, and his alone, were rejected. The Expert, after inspecting all the ballots at this Poll, finds that the total number of ballots used was 262 and out of that number 243 had the numbers on the back of the ballot. In other words, only 19 ballots out of 262 were free from such numbers.

All these markings fall into the same category as the ballots in Poll No. 57.

After hearing the evidence bearing on the Polls already dealt with, all parties agreed that no good purpose would be served by investigating the balance of the Polls complained of. These ballots had been seen by the interested parties on the recount and they agreed that the markings on all of them are of a character similar to those already dealt with.

I now quote from Subsection (2) (*d*) of Section 50 of the Dominion Elections Act, as follows:

> In counting the votes the deputy returning officer shall reject all ballot papers upon which there is any writing or mark by which the voter could be identified, other than the numbering by the deputy returning officer in the cases hereinbefore referred to, but no ballot paper shall be rejected on account of any writing, number or mark placed thereon by any deputy returning officer.

As the numbers on the ballots in question were inadvertently placed there by the deputy returning officers it seems clear from the aforesaid provision of the Act that the ballots are not invalidated and should not be rejected. That does not mean that the learned District Court Judge erred. He did not have the information and had no way of getting it such as has been revealed by this investigation.

The result, however, is, as admitted by all parties concerned, that no one has been seriously hurt. It is simply a question as to the extent of the majority of votes received by Dr. McCusker. It is admitted that as a result of the recount, even if all these marked ballots were allowed that Dr. McCusker would have a majority of at least 55 votes.

Anyone wishing to see how easy and natural it is to produce the results which have been found to be made on the ballot from the counterfoil markings can make the experiment by taking a magazine ready to hand, which has in it a page of pictorial advertising. If the ink side of the page is placed on a white piece of paper and numbers are written in pencil over the picture, the impression goes through to the white paper underneath in a remarkably clear manner. This will be found to be true as I have myself proved from a number of experiments, regardless of the color or density of the ink. Of course, if all D.R.O.s would, after they tear off the ballot from the book of ballots, place same on a table and write the number on the counterfoil before folding the ballot no trouble would arise. This investigation, however, shows that many D.R.O.s, and some of the most intelligent and conscientious ones, do not always, in the rush of voters, follow that practice.

Secrecy of ballot

The right of every elector to use his franchise free from undue influence or threat or duress, is one of the freedoms valued by a free people and the Parliament of Canada seeks to preserve it by the secret ballot.

This investigation discloses that over 33 per cent of ballots used in the 8 Polls, which were investigated, have numbers on them either on the back of the ballot or on its face, and it would, I think, be a conservative estimate to say that in 20 per cent of the ballots so used the numbers are decipherable under a magnifying glass.

Where the number is on the back of the ballot that ballot is clearly the one used by the voter who has been given that number in the Poll book and where the number is on the face of the ballot that ballot is the one used by the voter whose name appears in the poll book immediately following the number thus disclosed.

It will thus be seen that anyone who has custody of or access to the ballots and the poll book can, with certainty so far as these 8 Polls are concerned, tell how some 20 per cent of the voters voted.

I, of course, have not allowed myself or anyone else, to make the experiment.

The evidence shows that schools were held at convenient places throughout the City some time prior to the Election, at which nearly all the D.R.O.s received special instruction from the Returning Officer or his Election Clerk as to their duties on polling day and they were also all furnished with the booklet "G" of instructions, and it would, I think, not be an exaggeration to state that the officials, who acted at the Polls in Regina City, are at least up to the average of intelligence and conscientiousness which might be expected throughout the Dominion.

I am, therefore, bold enough to suggest that what happened in Regina City in this respect probably happened in many electoral districts throughout the Dominion.

In any avent, in view of what has been disclosed it would appear that some change should be made in the form of the ballot used or in the regulations applicable thereto.

I have not the temerity to suggest to you Sir what those changes should be. It would be a case of the amateur giving advice to the expert.

I have I believe, to the best of my ability, dealt in this report with all the matters referred to me for investigation.

Dated at Regina, Saskatchewan, this 29th day of October, A.D., 1949.

Respectfully submitted,

(sgd) J. T. Brown,
Commissioner.

SCHEDULE A

List of Witnesses

1.	Mrs. Ann Bokitch, P.C. at Poll 73	232
2.	Mrs. A. E. Booth, P.C. at Poll 52A	129
3.	Mrs. Annie Butt, D.R.O. at Poll 42	265
4.	M. J. Burkart, D.R.O. at Poll 57	23
5.	Mrs. Margaret Crawford, D.R.O. at Poll 9	274 & 341
6.	Dwight O. Dickert, D.R.O. at Poll 103B	259
7.	Mrs. Era Eddy, P.C. at Poll 111	197 & 290
8.	Mrs. Mary Flock, P.C. at Poll 85	308
9.	Mrs. Mary Forsythe, D.R.O. at Poll 87	101
10.	John Jones, D.R.O. at Poll 69	286
11.	Bernard Klein, D.R.O. at Poll 73	242
12.	Gordon Krisco, Election Clerk	312
13.	William Kuhn, D.R.O. at Poll 52A	122, 138 & 141
14.	Mrs. Rachel McLeod, P.C. at Poll 45	257
15.	Mrs. Sylvia Marshall, P.C. at Poll 57	11
16.	Mrs. Leah Mursell, P.C. at Poll 87	115
17.	George Norman, Agent of Mr. Probe	338
18.	Staff-Sgt. Radcliffe, Expert 40, 67, 134, 140, 153, 177, 194, 204 and 253.	
19.	Syd. C. Rambaut, D.R.O. at Poll 105	185
20.	Mrs. Christina Schneider, Scrutineer at Poll 87	158
21.	Mrs. Nell Slack, Agent at Poll 76	295
22.	Mrs. Alma Sneath, P.C. at Poll 108	173
23.	Mrs. Stella Tasche, D.R.O. at Poll 85	300 & 308
24.	Mrs. Annie Ulrich, D.R.O. at Poll 108	162 & 181
25.	William Woronoski, P.C. at Poll 86	152
26.	Anthony Young, D.R.O. at Poll 86	145 & 156
27.		

SCHEDULE B

Exhibits Filed at the Inquiry with Pages of the Record

Exhibit 1—Letter of Mr. Probe and Commission—P. 2.
Exhibit 2—Oaths of Office and appointments of Officials at Inquiry—P. 3.
Exhibit 3—Large envelope with contents for Poll No. 57—P. 9.
Exhibit 4—Appointment of D.R.O.—P. 24.
Exhibit 5—Sample pencil used by the voters—P. 24.
Exhibit 6—Sample ballot used by Expert showing how numbers could be made—P. 44.

Exhibit 7—Photos taken by the Expert illustrating—P. 52.
Exhibit 8—Large envelope with contents for Poll No. 87—P. 67.
Exhibit 8(2)—This second Exhibit 8 is a sample ballot folded by D.R.O. at Poll No. 87—P. 114.
Exhibit 9—Sample numbers made by D.R.O. at Poll No. 52a—P. 140.
Exhibit 10—Large envelope with contents for Poll No. 52a—P. 145.
Exhibit 11—Large envelope with contents for Poll No. 86—P. 145.
Exhibit 12—Sample numbers made by D.R.O. for Poll No. 86—P. 156.
Exhibit 13—Large envelope and contents for Poll No. 108—P. 161.
Exhibit 14—Large envelope and contents for Poll No. 105—P. 185.
Exhibit 15—Large envelope and contents for Poll No. 111—P. 196.
Exhibit 16—Large envelope and contents for Poll No. 73—P. 231.
Exhibit 17—Sample numbers made by D.R.O. for Poll No. 73—P. 254.
Exhibit 18—Large envelope and contents for Poll No. 45—P. 257.
Exhibit 19—Large envelope and contents for Poll No. 103b—P. 259.
Exhibit 20—Notice of Preliminary Hearing, etc.

N.B.—Where large envelopes and contents are filed as Exhibits, the poll book in each instance is not included as part of the Exhibit.

Appendix "C"

OTTAWA, November 12, 1949.

To The Honourable W. Ross MACDONALD,
Speaker of the House of Commons,
Ottawa, Ontario.

Re: *Chief Electoral Officer's report under section 58 of The Dominion Elections Act 1938.*

Dear Sir:—

I wish to draw your attention to pages fifteen to nineteen of the report dated September 26, 1949, that my predecessor in office made to you pursuant to section fifty-eight of the Dominion Elections Act, 1938 in which appear copies of the letters exchanged with Mr. John O. Probe of Regina, Sask., who was a candidate in the electoral district of Regina City at the general election held on June 27 last.

You will observe that in the Chief Electoral Officer's letter dated August 18, 1949, it is stated that arrangements were being made for the holding of an inquiry, under section 70 of the said Act, with regard to the representations made by Mr. Probe.

Subsequently, the Honourable James T. Brown, Chief Justice of the Court of King's Bench for Saskatchewan, was appointed as Commissioner to conduct such inquiry, of which the sittings were completed on the 15th day of October last.

Attached please find two mimeographed copies of a report, dated October 29, 1949, made by Chief Justice Brown on the above mentioned inquiry. I respectfully request that this letter, together with a copy of the attached report, be laid on the Table of the House, as was done in the case of the Chief Electoral Officer's report dated September 26 last. This letter has been made in duplicate for that purpose.

Obviously, the most important item of such inquiry consists of the representations made by Mr. Probe to the effect that 460 ballot papers marked in favour of various candidates, which were counted by the deputy returning officers at the close of the poll on polling day, were rejected during the recount proceedings held before His Honour B. D. Hogarth, District Court Judge. The reason for the rejection of these ballot papers appears to be the inadvertent off-setting of numerals upon them by the deputy returning officers.

After considering several suggested changes in the procedure, which would prevent the repetition of such off-setting, I have come to the conclusion that the best way to deal with the matter is by the elimination of the insertion by the deputy returning officer, in the space provided for that purpose on the back of the counterfoil of each ballot paper, of the consecutive number given to each elector in the poll book, as he applies to vote. There does not appear to be any doubt that it is the insertion of these consecutive numbers on the back of the counterfoils which is the cause of all the off-setting complained of.

The reason for the insertion of these consecutive numbers is to enable the deputy returning officer to ascertain that the ballot paper returned to him by any elector is the same ballot paper that was handed to the elector by the deputy returning officer.

If the elimination of the consecutive number is approved, there would still remain an efficient method for the deputy returning officer to ascertain the identity of the ballot paper before the counterfoil is torn off and destroyed. At present, a serial number commencing with 1,001 is printed on the counterfoil and on the stub of each ballot paper, and it seems to me that this serial number provides adequate means to the deputy returning officer to ascertain the identity of any ballot paper furnished to any elector before such ballot paper is placed in the ballot box. This change in the procedure could only be brought about by appropriate amendments to the Dominion Elections Act, 1938.

On page two of the above mentioned report of my predecessor in office, a recommendation is made for the consideration, at an early date, of amendments to the Dominion Elections Act, relating to the province of Newfoundland and also to suggestions made during and after the last general election by political organizations and individual electors. The amendments relating to the elimination of the insertion by the deputy returning officer of the consecutive numbers in the space provided for that purpose on the back of the counterfoils of ballot papers could be considered at the same time.

In the meantime, if by-elections are ordered, I propose to issue special instructions to every deputy returning officer so that the insertion of the consecutive numbers on the back of the counterfoils of the ballot papers will be made in such a manner as to avoid the off-setting of numerals.

Yours faithfully,

(Sgd) NELSON CASTONGUAY,
Chief Electoral Officer.

NC/REL
Encls.

Appendix "D"

(COPY)

S.C. 14726

IN THE SUPREME COURT OF NOVA SCOTIA

Election for a Member of the House of Commons for the Electoral District of Annapolis-Kings, Nova Scotia, Holden on the 27th Day of June, A.D. 1949.

BEFORE THE HONOURABLE MR. JUSTICE DOULL AND THE HONOURABLE MR. JUSTICE MACQUARRIE.

By the Court:

This is the petition of George Clyde Nowlan of Wolfville in the County of Kings, Nova Scotia, Barrister at law.

The petition sets out and it is admitted that the petitioner was a candidate at the election above mentioned. It is also set out and it is admitted that the candidates at the said election were the petitioner and Angus Alexander Elderkin of Wolfville, who may be referred to as the respondent.

It is also set out and admitted that the election was held on June 27, 1949 and Declaration Day proceedings were held at the Court house at Annapolis Royal on the fourth day of July, A.D. 1949.

It is also set out and admitted that a recount took place before His Honour K. L. Crowell, Judge of the County Court for District Number Three and that at the conclusion of the recount, the petitioner had a majority of sixty-two (62) votes excluding the votes of Defence Service electors and Veteran electors and the respondent had a majority of sixty-six (66) votes of the Defence Service and Veteran electors, and that thereupon the respondent was declared elected by a majority of four (4) votes and that notice of the return was published in the issue of the *Canada Gazette* of July 30, A.D. 1949.

It is also set out and admitted there were authorized to vote for the said candidates "Defence Service Electors and Veteran Electors" qualified pursuant to the provisions of the "Canada Defence Service Voting Regulations".

It is also set out and admitted that certain votes of the said Defence Electors and Veteran Electors were counted by Judge Crowell in the recount.

It is also set out and admitted that of these Defence Service Electors and Veteran Electors, there were counted as follows:

Returning Division	*Elderkin*	*Nowlan*
Edmonton	10	7
Ottawa	18	18
Halifax	130	67

It is further set out in the petition and not admitted that of the one hundred and ninety-seven (197) votes of Defence Service Electors received at Halifax as aforesaid, at least one hundred and thirty (130) were cast by persons not entitled by law to vote in the said election as Defence Service Electors or Veteran Electors or at all.

The answer admits that more than five but less than one hundred and thirty unqualified Defence electors voted.

At the opening day of the trial the respondent by his counsel admitted that six unqualified Defence electors had voted and on the final day of the trial, counsel for the respondent admitted that ten whom he named were not qualified. These were:

No. 86—W. B. Murphy
No. 6—F. C. Bezanson
No. 19—D. Batchuk
No. 39—S. S. Dickonson
No. 139—W. E. Smith
No. 78—Michael Lozinsky
No. 1—W. B. Alexander
No. 147—L. J. Ventner
No. 57—Allan D. Hubbard
No. 117—L. P. Priestley.

The petitioner claims that he received a majority of the lawful votes cast, also that the respondent did not receive the majority of such lawful votes.

Further, that the petitioner was duly elected or, in the alternative, that the election is void.

Objection was taken at the opening of the hearing to the alternative claim of the petitioner, but as the Court has ample power on a petition claiming the seat to report that the election is void, there can be no reasonable objection to the alternative claim on behalf of the petitioner.

It was clear, therefore, at the beginning of the trial, that:

The petitioner had a majority of the civilian votes	62
In Service votes received outside of Halifax the respondent had a majority of	3
So that before counting the Halifax Service Ballots the petitioner had a majority of	59
The votes in the Halifax area received and counted for either candidate were	197
Of these 67 were counted for the petitioner and 130 for the respondent.	

There is no voters' list for Service electors. They vote after filling out a declaration on an outside envelope, which they do before an officer who is appointed a special returning officer and these outside envelopes constitute the list. If a voter does not have the qualifications set out in Sections 21, 22 and 23 of the Canadian Defence Service Voting Regulations, he has no right to vote.

Consequently if it is shown that five or more of those who cast ballots in the service polls were not entitled to vote, the election of the respondent must be declared invalid, but to enable the petitioner to be declared entitled to be elected it must be shown that not more than 58 of the Service voters were entitled to vote.

If evidence were received and believed that a number of the electors who were entitled to vote had voted for the petitioner, the number 58 might be increased by the addition of the votes of such electors. Evidence was tendered by the petitioner of one voter who was apparently qualified and who said that he was willing to tell for which candidate he voted. Believing that we were bound by the Haldimand Election case, 15 S.C.R. 495, we refused to receive this evidence.

A list of the Service men who voted in the Halifax District was produced and agreed to. These names are numbered from 1 to 199 inclusive but as one name has been entered twice on the list, the total is 198. As there was one spoiled ballot in the poll, this count agrees with the number of votes returned, viz., 197.

The right to vote of the persons whose names are on the numbered list is attacked on various grounds. It is clear that to vote as a Defence Service voter, a person must be a man or woman who has attained the age of twenty-one years and is a British subject by birth or naturalization and must qualify under some one of the following clauses of the Canadian Defence Service Voting Regulations:

"21 (1) Every person, man or woman, who has attained the full age of twenty-one years and who is a British subject by birth or naturalization, shall be deemed to be a Defence Service elector and qualified to vote under the procedure set forth in these Regulations, if he or she

(*a*) is a member of the Royal Canadian Navy other than those on the retired list; or

(*b*) is a member of the Royal Canadian Navy (Reserve) who is performing (i) periodic training; (ii) voluntary service; (iii) special naval duty; or

(*c*) is a member of the Canadian Army Active Force; or

(*d*) is a member of the Canadian Army Reserve Force, and is absent from the place of his or her ordinary residence while undergoing training at a duly authorized training camp or school established for full-time courses, including any person who, being a member of a Reserve unit or formation of the Canadian Army Reserve Force, has been called up on service by the Minister of National Defence, but only with respect to the period during which such person is in receipt of compensation in consequence of his or her having been so called up; or

(*e*) is a member of the Royal Canadian Air Force (Regular) employed on continuous general service; or

(*f*) is a member of any other component of the Royal Canadian Air Force employed on continuous training or duty."

and further, under Sections 22 and 23;

"22. In order to be entitled to vote under the procedure set forth in these Regulations, a Defence Service elector shall specify, in a declaration in Form No. 7, the name of the place of his or her ordinary residence in Canada as defined in paragraph 23, and his or her vote shall be applied only to the electoral district in which such place of ordinary residence is situated.

"23. (1) For the purpose of these Regulations, the place of ordinary residence in Canada of a Defence Service elector, as defined in paragraph 21, shall be as follows:

(*a*) in the case of a person who becomes qualified as Defence Service elector after the first day of August, nineteen hundred and forty-eight, the place of his or her ordinary residence shall be the city, town, village, or other place in Canada, wherein he or she was ordinarily residing prior to his or her appointment or enlistment in the Naval, Military, or Air Forces of Canada; or

(*b*) in the case of a person qualified as Defence Service elector on the first day of August, nineteen hundred and forty-eight, who has changed his or her place of residence since his or her appointment or enlistment, the place of his or her ordinary residence shall be the city, town, village or other place in Canada, mentioned in a statement of ordinary residence completed before the first day of January, nineteen hundred and forty-nine, and filed at the Naval Service, or Military or Air Force Headquarters; whenever no such statement is made and filed at such Headquarters during the period herein specified, the place of ordinary residence of such Defence Service elector shall be the city, town, village, or other place in Canada, wherein such elector ordinarily resided prior to his or her appointment or enlistment in the Naval, Military, or Air Forces of Canada.

(2) A Defence Service elector, as described in clause (*b*), (*d*), or (*f*) of subparagraph one of paragraph 21, shall be deemed to be qualified to vote under the procedure set forth in these Regulations, at a general election, in the electoral district wherein he or she ordinarily resided on the date of the commencement of the period of his or her special service or on the date of the commencement of each of the individual periods of his or her training in the Naval, Military, or Air Forces of Canada; the commencement of such special service is that period of special training or duty on which he or she is engaged during the voting period prescribed in subparagraph one of paragraph 26."

A large number of the questions which have arisen and in regard to which evidence was received at the trial, relate to the qualifications of voters in regard to residence. It will be seen by the regulations quoted that a Defence Service voter may have his vote applied only to the electoral district in which his "ordinary place of residence" is situated.

It will also be noted that "ordinary residence" is defined in the regulations and is in a great many cases the "city, town, village or other place in Canada wherein he or she was ordinarily resident prior to his or her appointment or enlistment in the Naval, Military or Air Forces of Canada."

The date of appointment or enlistment therefore becomes an important relevant fact. It is in every case a matter of military record, to be determined by an examination of military documents. These documents, for that purpose at any rate, come in upon production of the documents from proper custody. It may be true that if the Minister of the Crown, administering the Department, were of the opinion that the production of such documents would be detrimental to the public interest, he might refuse to produce them, but in the present case no such privilege is claimed and with the utmost fairness the records were produced by the Records officers and made available to both sides.

In regard to the date of enlistment, the attestation documents are the enlistment and the date of the record in the absence of some mistake is to be taken. About this there has been no argument and we fail to see how there could be, but the argument in parts claimed that the documents should be shut out altogether.

The real question, and one of some substance, is whether the entries in these documents are *prima facie* evidence of the matters recorded and more particularly whether they are *prima facie* evidence of the "city, town, village or other place in Canada wherein he or she was ordinarily residing prior to his or her appointment or enlistment in the Naval, Military or Air Forces of Canada".

Several cases were cited to us, illustrating the rule in regard to Public or Official Documents.

The rule as stated in Phipson, 8th Edition at page 332 is as follows:

> At common law public registers are admissible (but not generally conclusive) proof of the facts recorded therein when (1) the book is required by law to be kept for public information or reference, and (2) the entry has been made promptly and by the proper officer. By Statute also, the registers, minute books, records and documents kept by many public or semi-public departments or bodies are frequently made evidence either *prima facie* or conclusive of the matters therein recorded.

The words "for the information of the public" have in late years and in the English courts been given a meaning much wider than is warranted by the earlier cases. Wigmore, 3rd edition at Sections 1630 *et seq.* indicates the process by which the word "public" in the phrase "public documents" came to be construed as meaning "capable of being known or observed by all" rather than "made by a public officer".

The older cases set out in Wigmore make this exception to the hearsay rule depend upon the duty and the office of the official recording the entries in the documents.

Some suggestion of the necessity of "publicity" in the modern sense was contained in words of Lord Denham, C.J. in *Merrick* vs. *Wakley, 8 A. & E. 170,* considering records of a poor house:

> The endeavour was to put this document upon the same footing with the register of the Navy office, the log book of a man of war, the books of the Master's office and other public books which are held to be admissible in evidence. But in these cases the entries are made by an officer in discharge of a public duty; they are accredited by those who have to act upon the statements; and they are made for the benefit of third persons.

It will be noted that in this case the official made the entries for his own benefit. The Chief Justice takes it as clear that a "register of the Navy office, the log book of a man of war", etc., are admissible. No publicity in the sense of "open to every one" was said to be a requirement.

In 1880, Lord Blackburn in *Sturla* vs. *Freccia L.R.S. A.C. 623* differentiated between a "public" document and a "confidential report". He understood a public document to mean one which was "intended for the purpose of the public making use of it".

Wigmore regards this sanction of publicity as not an essential limitation but only as a casual advantage.

Later English decisions, however, have not only emphasized the necessity of open publicity but have confused it with another principle, that of the privilege of the Crown or officers of State to withhold production of any evidence documentary or otherwise, the production of which would be detrimental to the public service. It was suggested in this case that because a Minister of the Crown might refuse production on that ground, the document ceased to be a "public document". Such a contention has no foundation in law. The matter of admissibility is one thing and generally speaking any relevant evidence is admissible and any person is bound to produce any relevant evidence. The matter of privilege is quite another matter and a Minister may refuse to produce any document, relevant or not and otherwise admissible if the Minister states that the production of such evidence would be prejudicial to the public interest. No such question arises here and we deal with this only because a confusion of the two ideas seems to have influenced very high Courts.

It is to be noted that in Sturla vs. Freccia, the House of Lords was dealing with a foreign document, a report of a committee appointed by a public department in a foreign state. The various Lords gave various reasons for not admitting the document and even Lord Blackburn, whose decision is referred to in this connection, did not carry the question very far. He said:

> I do not think that "public" there is to be taken in the sense of the whole world. I think that an entry in the books of a manor is public in the sense that it concerns all the people interested in the manor.

The present entries are "public" in the sense that they concern all the Army, or Navy or Air Force as the case may be.

The Army Act 1881, which has been made to apply to the Armed Forces of Canada, makes these records admissible in proceedings under the Army Act in either military or civil Courts. We think that it is correct that this does not make the documents admissible in other cases but it does indicate the official character of these records.

Passing on to more modern cases—in Lilley vs. Pettit (1946) 1 K.B. 401, which was a case of making a false statement concerning the birth of a child, a Court consisting of Goddard, C. J., Croom-Johnson and Lynskey, JJ., refused to admit the regimental record to prove that the husband of the accused was out of the Kingdom during certain periods for various reasons, one of which was that they were not public documents. Lord Goddard seems to base his opinion of their publicity upon another assumption "than an officer of the Crown could refuse to produce on a subpoena if it was considered contrary to the public interest so to do." This reasoning is not convincing.

Following this case in Andrews vs. Cordmer (1947) 1 A.E.R. 777 a Court consisting of Goddard, C. J., Akinson and Oliver J. J., held that such records were admissible in a civil case under the Evidence Amendment Act 1938. This or a similar act is not in force in Nova Scotia and the case is not helpful. The concluding paragraph is, however, interesting after Lilley vs. Pettit.

> How could any document have greater probability of accuracy—and that is after all what is relied on—and how could any evidence come from a more compelling source than a regimental record of this nature?

The admissibility of these records has arisen in Canada in connection with divorce cases.

In Hare vs. Hare (1943) 3 D.L.R. 579, the Supreme Court of Ontario overruling a decision of Urquhart, J., held that army records were admissible to prove the absence of the soldier overseas. The Court held that these were made admissible under the Army Act 1881 (Imp.) and the Militia Act, ch. 132, R.S.C., Sec. 69 and also under the Evidence Act R.S.O. (1937) ch. 119, s. 28.

As noted above and as was pointed out later by Urquhart, J., in Stafford vs. Stafford (1945) 1 D.L.R. 263, the Army Act provides only for admissibility in proceedings under the Army Act and consequently we get no assistance from Section 69 of Chapter 132, R.S.C. which makes the Army Act applicable to Canadian forces. Nor for that matter does Section 28 of the Evidence Act R.C.O. 137, Ch. 19 take the matter further, for that section only makes certified copies available in cases where the original is admissible.

Section 26 of the Canada Evidence Act is, as pointed out in the above case by Urquhart, J., a section of much wider significance. It is similar to Section 13 of the Nova Scotia Evidence Act, Chapter 225 R.S.N.S.

Section 26 of the Canada Evidence Act is as follows:

> *Books kept in offices under Dominion Government.*—A copy of any entry in any book kept in any office or department of the Government of Canada, or in any commission, board or other branch of the public service of Canada, shall be received as evidence of such entry, and of the matters, transactions and accounts therein recorded, if it is proved by the oath or affidavit of an officer of such department, commission, board or other branch of the said public service, that such book was, at the time of the making of the entry, one of the ordinary books kept in such office, department, commission, board or other branch of the said public service, that the entry was made in the usual and ordinary course of business of such office, department, commission, board or other branch of the said public service, and that such copy is a true copy thereof.

This section makes copies evidence and if the originals were not otherwise evidence, it clearly makes the originals evidence by a necessary inference. It has been proven that these documents are under the control of the Minister or Acting Minister, who has in this case authorized their production, so that it is quite clear that they are entries in a Department of the Government of Canada. It is clear from the evidence that these are made in the ordinary course of business of the Army, Navy or Air Force which is under the Department. The only question is whether these files in most cases loosely fastened together constitute a "book". The term is not a narrow one and is sufficient to include these files and these entries.

By a long discussion we have come to the conclusion that these documents are admissible to prove the facts recorded. They are admissible apart from this to prove the enlistment and its date. If it were not for recent cases of high authority, we would consider Wigmore's opinion, the better opinion and would admit them as public documents irespective of the Statute.

The attestation and other documents which we have decided to be admissible are not the only evidence of the ordinary residence of the voters at the time of enlistment. Oral evidence in almost all cases of objection to their qualifications, showed that the voters moved into the vicinity of Greenwood after enlistment.

The result of the documents and this other evidence showed at the close of the evidence and at the time of the argument, three classes into which the names objected to were divided, and apart from objections in a few individual

cases, there was no very serious argument that if the documents were received, the names might be appropriately classified under the several headings of the petitioner's argument.

Schedule "B" which the petitioner submitted as part of his argument contains 101 names of voters who "were residing outside of the constituency at time of enlistment and did not thereafter file statements of ordinary residence". We find that this list is correct with the exception of two names, Hubley and Porter, and on this list we find that there are 99 names of persons who voted and were not entitled to vote at the election in question.

Schedule "C" which the petitioner submitted as part of his argument contains 29 names of voters who "filed statements of ordinary residence outside of the constituency". We find this list to be correct and on this list we find 29 names of persons who voted and were not entitled to vote at the election in question.

Schedule "E" which the petitioner submitted as part of his argument contains 8 names of electors objected to for various causes. Three of these were persons who took declarations before non-commissioned officers. This is permissible under the regulations in case of small detachments where the service of a commissioned officer is not available. These votes were taken at outlying places and in the absence of evidence, it might be presumed that this was done regularly. In the case of the two voters, Peck and Watson, whose votes were taken at Moncton, the evidence is that the detachment there could not be properly called "small" and that there were, at any rate, commissioned officers to the number of ten or more in the detachment. We think that these two names did not vote regularly.

As to the Army soldier Banks C.W.D. there is nothing to rebut the presumption of regularity.

As to Edward McNeil Banks, while he could not vote unless undergoing training, we think that the burden of showing that the voter was disqualified is on the petitioner.

W. A. Cullen was entitled to vote. John H. Redmond was clearly not entitled to vote as he did. The result is that we decide that 5 of the 8 names on Schedule "E" were not qualified.

Schedule "D" which the petitioner submitted as part of his argument contains 18 names of voters who "filed statements of ordinary residence within the constituency" but in regard to whom the petitioner claims that they had not the right to file such statements.

This involves some consideration of the Regulations under which electors on Defence Service are entitled to vote.

Section 16 (4) of the Dominion Elections Act (1938) reads as follows:

> (4) Any person on Defence Service as defined in paragraph twenty-one of The Canadian Defence Service Voting Regulations, shall be deemed to continue to ordinarily reside in the place of his ordinary residence as defined in paragraph twenty-three of the said Regulations.

As there can be no question that the voters in question are persons on Defence Service, we turn to paragraph 23 of the Regulations, which has been quoted above.

We construe these regulations to mean:

(*a*) a person who was not qualified as a Defence Service elector on August 1, 1948, but has become qualified since that date, has his "ordinary residence" in the city, town, village, or other place in Canada where he was ordinarily residing prior to his appointment or enlistment;

(*b*) a person, qualified as a Defence Service voter on August 1, 1948, and who has changed his place of residence since his appointment or enlistment, may file at headquarters a "statement of ordinary residence" before January 1, 1949,

and if he does file such a statement, the "place of ordinary residence" shall be the "city, town, village or other place in Canada" set out in the statement, otherwise his "ordinary place of residence" is the "city, town, village or other place in Canada" where he resided prior to his appointment or enlistment.

The electors whose qualifications are questioned in Schedule "D" are (with one exception) persons who resided outside of the constituency at the time of their enlistment or appointment and who by a "statement of ordinary residence" showed a change of address to R.C.A.F. Station Greenwood. That is to say, the voters whose rights are questioned under this schedule are residing at the Air Force Station barracks at Greenwood, a place admittedly within the constituency.

These definitions of "ordinary place of residence" are a little difficult because the definitions themselves make use of the term residence.

The term residence, apart from the definition in the statute, is a question of fact. It means the place where a person is making his home for the present, more than temporarily but not necessarily with an intention or even expectation that it will be permanent. If a person has a wife or family who are with him and has no other home, his residence may usually be taken to be where their living quarters are. If a person has no home in that sense, he is usually said to reside where he ordinarily sleeps.

The Regulations provide in effect that if an elector "has changed his or her place of residence", he may change his "place of ordinary residence in Canada" by completing and filing the proper form within the time limited.

But, it is argued, he can only change his residence according to the words of the section to a—"city, town, village or other place in Canada", and R.C.A.F. Station, Greenwood, is not a city, town or village and not a place of the class which is contemplated by the Act. In other words, the *ejusdem generis* rule applies and we must read "place" as meaning some definite territorial unit. At any rate, the argument is, the R.C.A.F. Station is not a place within the meaning of the Regulation.

After consideration, we are unable to accept this construction. The word "place" must reasonably be taken to include any locality which provides a residence in point of fact. Indeed, even if we did apply the *ejusdem generis* rule, we would think that any Army station of the size of the present R.C.A.F. Station, Greenwood, was a village or a place of like character. The genus is not the corporate existence of the city, town or village but the fact that they designate a locality.

We have therefore come to the conclusion that a person who has in fact changed his residence to the R.C.A.F. Station Greenwood may properly make the declaration in question. We reach this conclusion from an examination of the Act and the regulations.

The result is that we must decide that the persons on Schedule "D" had a right to vote in Annapolis-Kings with the exception of J. E. W. Ellis whose declaration was not signed.

In so far as these schedules go, the petitioner has shown that the following numbers of Service personnel voted, although they were not qualified:

On Schedule "B"	99
On Schedule "C"	29
On Schedule "E"	5
On Schedule "D"	1
	134

As the total voters were 197, there were 63 voters whose right to vote has not been successfully attacked.

The petitioner now argues as follows: Of this Nova Scotia Service vote, the respondent was credited with 130 and the petitioner with 67. The result of this trial has been that there are only 63 votes to distribute. The probability that the petitioner received only 4 of them must be very small. We are therefore asked to say that the weight of evidence is to the effect that the petitioner received at least 5.

While we have a good deal of sympathy with this view as a practical proposition, we do not think that we can act upon it in the decision of an election petition. It is only in the extraordinary case of a separate Service voters poll that we can count as far as we have been able to do and we think that unless by figures the petitioner can count himself in, we can go no further than to declare the election void.

The petitioner also argues that there were irregularities of so serious a nature as to require that the whole of the Greenwood vote be thrown out.

The vote at Greenwood was not taken in an orderly manner and some of the regulations were not complied with. The poll, by Section 26, was required to be open—

> not less than three hours each day between nine o'cock in the forenoon and ten o'clock in the evening of the six days from the Monday next following nomination to the Saturday immediately preceding polling day, both inclusive.

The Greenwood poll was kept open—

> from ten o'clock to twelve in the morning of the entire week till Saturday inclusive, the week prior to the election.
>
> "Q. And you closed on Saturday, did you?—A. No. Monday to Saturday inclusive.
>
> Q. I say, you closed on Saturday?—A. Saturday noon.
>
> Q. Saturday noon?—A. That is right."

(Evidence of F/C Donald C. Keith)

In the second place the room may have been too large, but it is also probable that the time was too short for in any case a considerable number of electors were allowed in the polling booth at the same time. Voters with ballots walked around the room waiting for their turn to get into the booth.

The officer in charge was assisted by a non-commissioned officer and the outside envelopes were furnished by this non-commissioned officer to the Service voters who signed them and they were passed along a table to the commissioned officer who signed them. The commissioned officer certified that the voter "did this day make before me the above set forth declaration".

It was made before him in the sense that it was made in the room in which the commissioned officer was present. Perhaps this was not important except that Section 35 provides that:

> 35. *After the declaration has been completed* and signed by the Defence Service elector *and the certificate thereunder has been completed and signed by the commissioned officer* as prescribed by paragraph 34, the commissioned officer shall hand a ballot paper to such elector.

It is clear that in many cases the ballots were given to the voters by the non-commissioned officer and before the commissioned officer had signed the declaration. The officers in charge seem to have had little conception of the importance of their duties and the necessity of strictly carrying out the regulations.

Matters were not improved by a "signal" from Air Force headquarters which the officer interpreted to mean that he was to make no inquiry as to the qualifications of voters and that once an envelope was presented to him with a signature, he was to give the holder a ballot even if he knew that the person was not entitled to vote. He asked the voters no questions, not even whether the declaration was true.

It is evident that the officer who took the vote at Greenwood regarded himself as acting as an Air Force officer, subject to instructions by his superior officers whether such instructions were consistent with the regulations or not.

Even the office of the Special Returning Officer for the District does not seem to have been conducted with the care which is desirable.

The Special Returning Officer was unable to furnish a list or even the names of the commissioned officers appointed to take the votes, although he said that to the best of his knowledge the names were sent to Ottawa with the other papers.

As to checking the envelopes with the names, he says "generally we checked".

In regard to this constituency which must have been a considerable part of the district, the Special Returning Officer is vague as to the checking. None of the outer envelopes have been initialled by the scrutineers as directed. In the constituency of Annapolis-King the contest was between representatives of two parties, but the Special Returning Officer is unable to tell what parties were represented by scrutineers at the scrutiny of envelopes or counting of ballots of that constituency. For anything that he was able to tell the two "opposing" parties at the counting may have been the C.C.F. and the Social Credit, although those parties had no candidates in the constituency. His answer was "I have no idea from memory; I have no idea".

It may be taken as proven that there were irregularities of considerable importance in connection with the taking of the Service vote and some irregularities of probably less importance in connection with the counting of that vote.

We are referred to Section 90 of the Regulations which reads:

> 90. The validity of the election of a member to serve in the House of Commons shall not be questioned on the ground of any omission or irregularity in connection with the administration of these Regulations, if it appears that such omission or irregularity did not affect the result of the election, nor on the ground that for any reason it was found impossible to secure the vote of any Defence Service elector or Veteran elector under the procedure set forth in the said Regulations.

In spite of the wide character of this Section, we think that the irregularities at Greenwood Air Force Station were of a serious character and no one can say that the failure to carry out the regulations did not affect the result of the election.

This, of course, is one more reason why we should declare the election void and no doubt would be a sufficient reason if there were no others.

The argument on behalf of the petitioner goes further and is that we should disregard the Greenwood votes entirely and find that the petitioner has been elected by the other votes.

Apparently the effect of irregularities is to render the election void and we have not been directed to a case where a poll has been thrown out of the count and a candidate elected who would be in the minority if the poll were counted. In all the cases cited by the petitioner, the question was whether the election was void. In *Jenkins vs. Brecken 7 S.C.R. 247*, the County Court Judge did not count any vote in a certain poll but the question was in regard to the validity of the individual votes. The principle does not enable us here to give any particular number of votes to the petitioner.

In the result we can make no finding that the petitioner has been elected.

We therefore find:

(1) The respondent Angus Alexander Elderkin, the member whose election is complained of, was not duly elected or returned;

(2) The election of a member to the House of Commons for the Electoral District of Annapolis-Kings, Nova Scotia, holden on the 27th day of June, A.D. 1949, was void.

COSTS

In regard to a considerable part of the expense of this trial, the expense of the Sheriff and other officers of the Court are under Section 86 to be payable by Canada.

As to other costs between the parties, we were asked that the respondent should have costs for the reason that be fore the trial, he made certain admissions which would have had the effect of avoiding the election. These admissions, however, were of a very guarded character and were not at all in conformity with the requirements of Section 19. The petitioner alleged that 130 votes of Defence Service voters in the Halifax District were cast by persons not entitled by law to vote. The admission was that more than 5 but less than 130 unqualified Defence Service electors voted in the election. The admission was not sufficient and in any case would not be sufficient to justify a finding by the Court without some evidence. In response to demand for admission of facts, the respondent did not go further until the opening day of the Court. On that day the respondent admitted that ten (10) voters whose names he gave were under age and were not entitled to vote. The evidence is that over 130 votes were disqualified, a fact in itself which justified the petitioner in continuing the proceedings.

We therefore award to the petitioner against the respondent the costs of proceedings up to and including the opening day of the Court. In regard to other costs we make no order. We are of opinion that any expense incurred by members of the Armed Forces in attending at the trial should be borne by those forces. In considerable measure they were responsible for the irregularities which occurred.

(Sgd.) JOHN DOULL,

JOSIAH H. MacQUARRIE.

Halifax, N.S., February 22, 1950.

IN THE SUPREME COURT OF NOVA SCOTIA

DOMINION CONTROVERTED ELECTIONS ACT

IN THE MATTER OF THE ELECTION OF A MEMBER OF THE HOUSE OF COMMONS FOR THE CONSTITUENCY OF ANNAPOLIS-KINGS, HOLDEN ON THE TWENTY-SEVENTH DAY OF JUNE, A.D. 1949.

Special Report

To the Honourable The Speaker of the House of Commons.

Under Section 60 of the Dominion Controverted Elections Act it is provided that the trial judges may, at the same time as they certify their determination of a petition, also make a special report to the Speaker as to any matter arising in the course of the trial, an account of which ought, in their judgment, to be submitted to the House of Commons.

We have had under observation during the trial of this petition, the manner in which the vote of Defence Service voters was taken with particular reference to Greenwood Airport. The irregularities at that station were, in our opinion, so considerable as to warrant consideration of the system of taking the Service vote and a review of the Regulations applicable thereto.

The present Regulations provide that the votes of Defence voters be taken by Commissioned Officers, with an exception in the case of small detachments where Commissioned Officers are not available.

At Greenwood Air Station the officer who was in charge of taking the vote was a Commissioned Officer who appeared to have good clerical ability and to be an intelligent and competent officer, but he seems to have totally failed to appreciate that he was bound to follow the Regulations. The following are some of the respects in which he failed to carry out the prescribed rules:

(1) The hours of voting prescribed by the Regulations were not followed. Section 26 provides that:—

> 26 (1) Every commanding officer shall, forthwith upon being notified by the liaison officer, publish as part of Daily Orders, a notice, in Form No. 5, informing all Defence Service electors under his command that a general election has been ordered in Canada and shall therein state the dates fixed for nomination and polling days; it shall also be stated in the said notice that every Defence Service electors may cast his vote before any commissioned officer designated by the commanding officer for that purpose, during such hours as may be fixed by the commanding officer, not less than three each day, between nine o'clock in the forenoon and ten o'clock in the evening, of the six days from the Monday next following nomination day to the Saturday immediately preceding polling day, both inclusive; the commanding officer shall afford all necessary facilities to Defence Service electors attached to his unit to cast their votes in the manner prescribed in these Regulations.

In the case of Greenwood Air Station, the polling place was open only two hours each day.

This regulation and others of like character were perhaps essential in time of war, but in Canada in time of peace, we believe that it is quite unnecessary to have any part of the taking of the vote directed by the Commanding Officer. The officer or other person taking the vote should be under the direction of the Chief Electoral Officer and should understand that he must follow the Regulations strictly.

(2) The declarations under Section 34 were not taken "before" the officer in the sense in which a lawyer would understand the word "before". This officer thought it sufficient if they were signed in the same room. The declarant should declare to the officer that the statement is true. In this case, the officer had received instructions from Air Headquarters which he interpreted as meaning that he must not ask a voter whether the declaration was true and that he was required to give a ballot to the voter even if he knew that the declaration was untrue.

(3) The Commissioned Officer did not keep control of the ballots but passed them to his assistant who, in many cases, delivered ballots to the voters before the certificate had been signed by the officer. This was contrary to the provisions of Section 35 of the Regulations.

(4) Other provisions of Section 35 were not observed; there were a number of persons in the voting place and persons were walking around after they had been given ballots, so that there could have been no proper secrecy and it is also fairly clear that the provisions for giving and receiving the ballots and inside envelope were not carried out.

(5) The "postal facility" made available was an open mail bag which was not locked until the end of the day. It was not in charge of postal authorities.

(6) The evidence indicates a disorganized polling booth where a considerable number of persons were walking around. The officer seems to have considered that he had no duty in regard to anything except signing the certificates.

(7) Under order of Headquarters, the Commissioned Officer made no inquiry of voters. He interpreted his instructions to mean that if a declara-

tion was presented to him and signed, he would certify it and give a ballot to the person presenting it, even if he knew that that person was not entitled to vote.

The Regulations should make it clear that no superior officer should give directions to the person taking the vote. The person taking the vote should be required to carry out the regulations and not the orders of the officers of the Service.

In regard to the Special Returning Officer for the District, his work was apparently not carried out with the care that would have been expected from an experienced official. While he states that the votes were counted by pairs of scrutineers, no initials of scrutineers appeared on the outer envelopes and his interpretation of "different and opposed political interests" was not a reasonable interpretation when applied to Annapolis-Kings constituency.

We therefore submit our opinion—

(1) That, if hereafter it is considered necessary to place officers in charge of taking the Service vote, such officers should be properly instructed and should be under the control of the Chief Electoral Officer and not subject in any way to the instruction of his higher Defence Command in respect of these duties.

(2) In stations of any considerable size, provision should be made for the presence of representatives of the parties which have candidates and that if the parties so desire, these representatives may be civilians.

(3) Consideration should be given, in cases where there are large stations, to the feasibility of taking the Service vote for the constituency in which the camp is situate, entirely outside of the station and by civilian Returning Officers. A poll for all Service men set up in the manner used for an advance poll and under the control of civilians would improve the results.

(4) Reasonable opportunity should be given to the political parties who wish, to meet the Service personnel and explain their views.

JOHN DOULL, J.

March 4, 1950.

APPENDIX "D"

LIST OF COMMUNICATIONS RECEIVED BY THE CHIEF ELECTORAL OFFICER SINCE THE COMING INTO FORCE OF THE 1948 AMENDMENTS TO THE DOMINION ELECTIONS ACT, 1938, SHOWING IN EACH CASE THE RELATIVE SECTION OR SECTION OF THE SAID ACT REFERRED TO IN THE COMMUNICATION

1. Jean-Marie Fleury, Candidate, 15 rue St. Laurent, Longueuil, P.Q.; Re "Selection of Returning Officers"—(Section 8).

2. Jasper Park Liberal Association, Jasper, Alta. *Re* "Qualifications of Electors"—(Section 14 (1)).

3. R. A. Gibson, Deputy Commissioner, Administration of the Northwest Territories. *Re* "Status of the Eskimo under the Dominion Elections Act"—(Section 14 (2) (*e*)).

4. The Native Brotherhood of British Columbia Northern District, Prince Rupert, B.C. *Re* "Franchise for Indians who are Disqualified from Voting"—(Section 14 (2) (*f*)).

5. Florence M. Grant, 6889 Chabot St., Montreal, P.Q. *Re* "Enumeration of Electors"—(Section 17).

6. A. B. Walker, Returning Officer for Vancouver-Quadra, B.C. *Re* "Penalty Provision when Enumerator is Denied Information"—(Schedule A to Section 17).

7. David Watson, Bellbeck, Sask. *Re* "Christian Name of Married Women to Appear in Bracket on Printed Lists of Electors"—(Rule 14 of Schedule A, Rule 6 of Schedule B to Section 17).

8. Honourable C. S. Tyndale, A.C.J.S.C., Superior Court, Montreal, P.Q. (*ex officio* Revising Officer for District of Montreal). *Re* "Publication in Newspapers, of Notice Showing Dates, Hours and Places for Urban Revision"—(Rule 24 of Schedule A to Section 17).

9. K. P. Hodges, 2819 19th Ave., Regina, Sask. *Re* "Wider Powers be Given to Revising Officers"—(Rule 27 of Schedule A to Section 17).

10. K. P. Hodges, 2819 19th Ave., Regina, Sask. *Re* "Procedure to be Followed for Affidavit of Objection"—(Rule 28 of Schedule A to Section 17).

11. John E. Madden, Returning Officer for Parkdale. *Re* "Restrictions to be Placed on Use of Form 15-16"—(Rule 32 of Schedule A to Section 17).

12. John E. Madden, Returning Officer for Parkdale. *Re* "Elimination of Revising Officer's Certificate on Finally Revised List of Electors"—(Rule 43 of Schedule A to Section 17).

13. J. C. Nelson, Hudson, Que. *Re* "Mailing of Rural Lists of Electors to Each Householder"—(Schedule B to Section 17).

14. Jean-Marie Fleury, Candidate, 15 rue St. Laurent, Longueuil, P.Q. *Re* "Biography of Candidates"—(Section 21).

15. F. Dorion, Candidate, 856 rue St. Cyrille, P.Q. *Re* "Extending Period between Nomination Day and Polling Day in Electoral District of Saguenay" —(Section 21 (3)).

16. C. M. Ironside, Candidate, R.R. No. 1, Blackfalds, Alta. *Re* "Candidate's Deposit Eliminated under Certain Conditions"—(Section 21 (9)).

17. John O. Probe, Candidate, Regina, Sask. *Re* "Method of Selecting Deputy Returning Officers and Poll Clerks"—(Section 26).

18. Jean-Marie Fleury, Candidate, 15 rue St. Laurent, Longueuil, P.Q. *Re* (1) "Numbers Printed on Ballot Boxes"—(Section 27); (2) "Penalty for Exchanging Ballot Boxes"—(Section 27).

19. J. L. McDougall, Regina, Sask. *Re* "Form of Ballot Paper"—(Section 28).

20. A. B. Walker, Returning Officer for Vancouver-Quadra. *Re* "Use of Schools for Polling Stations"—(Section 31).

21. David Watson, Bellbeck, Sask. *Re* "Notice to Voters Relating to Ballot Paper"—(Section 45).

22. C. M. Ironside, Candidate, R.R. No. 1, Blackfalds, Alta. *Re* "Method of Voting"—(Section 45).

23. The Canadian Chamber of Commerce. *Re* "Single Alternative Vote"—(Section 45).

24. (1) H. T. Ewart, M.D., Medical Superintendent, The Mountain Sanatorium, Hamilton, Ont.; (2) D. F. Brown, M.P. for Essex West. *Re* "Floating or Travelling Polls for Bedridden Patients in Sanitoriums, Hospitals or Similar Institutions"—(Section 45).

25. J. L. Brown, 1101 Burnside Rd., West Victoria, B.C. *Re* "Production by Electors of Enumerator's Slips when Voting"—(Section 45).

26. J. L. McDougall, Regina, Sask. *Re* "Method of Marking Ballot Paper" —(Section 45 (3)).

27. Hamilton Street Railway Company, Hamilton, Ont. *Re* "Time Off for Voting"—(Section 47).

28. J. L. Brown, 1101 Burnside Rd., West Victoria, B.C. *Re* "Preservation of Order in Polling Stations"—(Section 48 (1)).

29. A. S. Tordiffe, Smithers, B.C. *Re* "Wearing of Side Arms by Police Officers when Voting"—(Section 49 (1)).

30. John O. Probe, Candidate, Regina, Sask. *Re* "Signature of Candidate's Agents to Official Satement of the Poll"—(Section 50).

31. Jean-Marie Fleury, Candidate, 15 rue St. Laurent, Longueuil, P.Q. *Re* "Publication of Statement Showing Detailed Vote Cast in Electoral District"—(Section 51).

32. W. Garfield Case, Candidate, 767 Second Ave., Owen Sound, Ont. *Re* "Procedure to be Followed at the Final Addition of the Votes"—(Section 51).

33. J. L. McDougall, Regina, Sask. *Re* "Procedure Regarding Application for Recount"—(Section 54).

34. John O. Probe, Candidate, Regina, Sask. *Re* "Cost of Recount to be Borne by the Crown under Certain Conditions"—(Section 54 (15)).

35. R. W. Gladstone, ex-M.P., 21 Oxford St., Guelph, Ont. *Re* "Treating"—(Section 66).

36. Maurice Boisvert, M.P. for Nicolet Yamaska. *Re* "Conveyance of Electors to Polling Stations"—(Section 73).

37. (1) Walter Little, M.P. for Timiskaming.
(2) A. Walker, Returning Officer for Electoral District of Vancouver-Quadra.
(3) T. W. Tomlinson, Perth, N.B.
(4) P. C. Black, M.P. for Cumberland.
Re "Amendments to Section 94 (Advance Polling Stations)"

38. (1) David Manley, 31 McDonald Ave., Toronto, Ont.
(2) W. L. Currier, Boy Scouts Association, Ottawa, Ont.
(3) Canadian Chamber of Commerce.
(4) Jasper Park Liberal Association, Jasper, Alta.
(5) Kiwanis International, 1 Austin Terrace, Toronto, Ont.
Re "Amendments to Section 95. (Right of Voting at Advance Polling Stations)"

39. R. W. Gladstone, ex-M.P., 21 Oxford St., Guelph, Ont. *Re* "Prohibited Period for Political Broadcasts to be Extended"—(Section 101).

40. Jean-Marie Fleury, Candidate, 15 rue St. Laurent, Longueuil, P.Q. *Re* "Manner in which the Returns of Vote Cast in Electoral District is to be Broadcast"—(Section 107).

41. George C. Nowlan, K.C., Candidate, Wolfville, N.S. *Re* (1) "Statements of Ordinary Residence of Defence Service Electors"—(Paragraph 23 of Schedule 3).

(2) "Period of voting for Defence Service Electors"—Paragraph 26 (1) of Schedule 3).

(3) "Lists of Electors for Defence Service Regulations"—Paragraph 27 of Section 3).

(4) "Declarations by Defence Service Electors"—Paragraph 34 of Schedule 3).

(5) "Inspection of Documents"—(Paragraph 92 of Schedule 3).

SESSION 1950

HOUSE OF COMMONS

STANDING COMMITTEE

ON

DOMINION ELECTIONS ACT 1938

AND AMENDMENTS THERETO

MINUTES OF PROCEEDINGS

No. 2

THURSDAY, JUNE 8, 1950

WITNESS:

Mr. Nelson Castonguay, Chief Electoral Officer.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1950

63926—1

M. Sarto Fournier (*Maisonneuve-Rosemont*), *Chairman.*

Mr. George T. Fulford, *Vice-Chairman,* and

Messrs.

Applewhaite	Carter	Jeffery
Argue	Dewar	MacDougall
Balcer	Diefenbaker	McWilliam
Boisvert	Fair	Pearkes
Boucher	Garland	Valois
Browne (*St. John's West*)	Harris (*Grey-Bruce*)	Viau
Cameron	Hatfield	Ward
Cannon	Hellyer	Welbourn
Carroll	Herridge	White (*Middlesex-East*)
		Wylie—30.

(Quorum, 10)

ANTOINE CHASSÉ,
Clerk of the Committee.

ORDER OF REFERENCE

TUESDAY, 6th June, 1950.

Ordered,—That the name of Mr. Carter be substituted for that of Mr. Kent on the said Committee.

Attest.

LEON J. RAYMOND,
Clerk of the House.

MINUTES OF PROCEEDINGS

House of Commons,

Thursday, June 8, 1950.

The Special Committee appointed to study The Dominion Elections Act, 1938, and amendments thereto, met this day at 10.00 o'clock a.m.

Mr. Sarto Fournier (*Maisonneuve-Rosemont*), Chairman, presided.

Members present: Messrs Applewhaite, Argue, Boisvert, Boucher, Browne (*St. John's West*), Cameron, Carter, Fair, Fournier (*Maisonneuve-Rosemont*), Fulford, Garland, Harris (*Grey-Bruce*), Hellyer, Herridge, MacDougall, McWilliam, Valois, Welbourn, White (*Middlesex East*), Wylie.

In attendance: Mr. Nelson Castonguay and Mr. E. A. Anglin, respectively Chief Electoral Officer and Assistant Chief Electoral Officer.

The Chairman announced that he had named to serve on the Steering Sub-committee, in addition to himself and the Honourable Mr. Harris, the following members: Messrs, Applewhaite, Cannon, Diefenbaker and Herridge.

The Steering Committee having had a meeting, and recommended that the first thing with which the Committee proceed, should be the electoral situation in Newfoundland.

The Committee then proceeded to the consideration of the Order of Reference (already published in these minutes).

The Honourable Mr. Harris proposed the following amendment for the study of the members, a distribution of which was made.

"Amend paragraph (*f*) of subsection 2 of section 14 of the Dominion Elections Act, 1938, to read as follows:

(*f*) every Indian, as defined in The Indian Act, ordinarily resident on a reserve, unless,

(i) he served in the naval, army or air forces of Canada in World War I or World War II, or

(ii) he executed a waiver of tax exemption under The Indian Act, from or in respect of personal property, in a form prescribed by the Minister of Citizenship and Immigration;

Amend subsection (4) of section 14 of the Dominion Elections Act, 1938, to read as follows:

(4) Notwithstanding anything in this Act, a woman who is the wife of an Indian who served in the naval, army or air forces of Canada in World War I or World War II, is entitled to have her name included in the list of electors prepared for the polling division in which she ordinarily resides and is entitled to vote in such polling division, if such a woman is otherwise qualified as an elector."

Consideration was given to the Sections relating to Newfoundland.

On Motion of Mr. Argue, it was resolved that the Committee meet again tomorrow at 10.00 o'clock a.m.

At 11.00 o'clock a.m., the Committee adjourned until 10.00 a.m., Friday, June 9, 1950.

ANTOINE CHASSÉ
Clerk of the Committee.

63926—1½

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

THURSDAY, June 8, 1950.

The Special Committee on Dominion Elections Act met this day at 10.00 a.m. The Chairman, Mr. Sarto Fournier, presided.

The CHAIRMAN: We have a quorum. We shall proceed. To serve on the steering sub-committee in addition to myself and the Hon. Mr. Harris, I have named Mr. Argue, Mr. Diefenbaker, Mr. Cannon and Mr. Applewhaite, and we recommend that the first thing with which the Committee proceed should be the electoral situation in Newfoundland. We will proceed with that this morning.

Before that, I want to tell the committee that I have received a notice of motion from Hon. Mr. Harris to the effect that section 14 be amended. I would suggest that this stand until we reach section 14 in the Elections Act.

Hon. Mr. HARRIS: Yes, that is quite agreeable, Mr. Chairman. I think I should make a few remarks to the committee on this motion before we go on with Newfoundland so members may give the matter some thought before it comes up for discussion.

I am proposing that the clause of the Elections Act relating to Indians be amended so that a large number of Indians may be entitled to vote.

As you know, at the present time Indian veterans and their wives on a reserve have the dominion franchise. An Indian who lives off a reserve votes in Federal election, so that the present disqualification applies only to those Indians on reserves. Now, of those on reserves the veterans and their wives may vote now, but all others may not. It is proposed by this amendment to continue the right of the veteran and his wife to vote on reserves and to extend the right to vote at federal elections to all other Indians twenty-one years and over who have the ordinary qualifications that the rest of us have, provided that he or she file a waiver of exemption from taxation for personal property, which is set out in the Indian Act at the moment, and also is continued in the Bill which I presented to the House yesterday.

The Indian resident on a reserve is exempted from real and personal property tax at this moment; that is, he is taxable for personal income earned off the reserve but not that part earned on the reserve. We are continuing that exemption in the new Bill which was introduced and if the Indian desires to continue to have that exemption he may do so. There is no compulsion involved in the amendment I have placed before you. But if he wishes to vote he will file a waiver of tax exemption with respect to his personal property only with the Indian superintendent and in that way will be entitled to be included in the list of voters in that reserve.

Now, I think that is the gist of my suggested amendment, and I only make this explanation because I think that a good many of you will be reading the Indian Bill itself and wondering perhaps just what is meant in section 86, and this is what is meant.

I thank you, Mr. Chairman, and I can leave this suggested amendment for discussion at another time. I should hope that the committee would be able to dispose of the Newfoundland difficulties and later on dispose of this suggested amendment, so that it can be included in the Bill reported from this committee to the House and passed later on in the session.

Mr. Applewhaite: Mr. Chairman, if you require to have a seconder for this motion, I shall be very pleased to second it.

The Chairman: It is not necessary to second a motion in committee. I understand it is your intention to give effect to this motion this year?

Hon. Mr. Harris: Yes.

Mr. Browne: May I ask the minister, Mr. Chairman, whether the Indians in Newfoundland and Labrador come under this Act?

Hon. Mr. Harris: The Indians in Newfoundland and Labrador are not under the Indian Act at the moment and if the Indian Act is passed at this session, which I hope it will be, we will make a decision then as to whether it will apply to the Indians in Labrador and Newfoundland. If it does, we will announce our policy in that connection.

Mr. Browne: Because with respect to the Indians in Newfoundland, they do not live on reserves; they are mostly guides and hunters, but the ones in Labrador are nomadic and go out from Seven Islands and come in at Goose Bay.

Hon. Mr. Harris: They have always been entitled to vote if they are not on a reserve?

Mr. Browne: Yes.

The Chairman: Now, I think we would be interested to hear from Mr. Castonguay about the difficulties of Newfoundland and after Mr. Castonguay is through we will be open for discussion.

Nelson Castonguay, Chief Electoral Officer, called:

The Witness: Mr. Chairman, at page 6 of the draft amendment I have suggested an amendment to section 21, subsection 3, of the Dominion Elections Act. The effect of this amendment is to provide a period of twenty-eight days between nomination day and polling day not only in five of the electoral districts in Newfoundland but also in some of the electoral districts in other provinces of Canada whose borders touch those of the Yukon territory, the Northwest Territories, Hudson bay—

The Chairman: Sorry to interrupt you. There was a change in the steering committee. The name of Mr. Herridge was substituted for the name of Mr. Argue.

The Witness: —Hudson bay and also the Hudson strait. In New foundland the five electoral districts are Bonavista-Twillingate, Burin-Burgeo, Trinity-Conception, Humber-St. Georges, and Grand Falls-White Bay. In Newfoundland there is a six thousand mile coast-line and, generally, the ocean is the highway in many of those electoral districts.

I was instrumental in preparing the organization of the mechanics for the first federal election in Newfoundland, and I was told by everyone I met in Newfoundland that I needed a longer period between nomination day and polling day than the fourteen days provided in the Act at that time; so by the powers of adaptation given to the chief electoral officer in the act to approve the terms of union of Newfoundland with Canada a period of twenty-eight days was provided in those five districts, as it was impossible between nomination day and polling day to deliver ballot boxes and voting supplies to many of the voting stations located in these five districts.

In the two electoral districts of St. John's East and St. John's West—there were no similar difficulties. These districts were comprised in the area of the Avalon peninsula. There are good roads and sufficient transportation in the Peninsula, and the returning officers there did not experience any more difficulty than returning officers in other similar areas in Canada, but in the

five other districts which I mentioned before, I respectfully submit that I consider that it would be almost impossible to have the ballots printed and to have supplies delivered to the polling stations in time for voting day with only a period of fourteen days between nomination day and polling day.

In the electoral district of Burin-Burgeo in the south part of Newfoundland, we had to have a Royal Canadian Mounted Police cutter and a Royal Canadian Navy algerine minesweeper spend two weeks delivering supplies along the coast. The R.C.M.P. cutter delivered ballot boxes and it took the cutter three weeks to deliver all the ballot boxes to the settlements in that electoral district.

In the electoral district of Grand Falls-White Bay, which takes in part of Labrador, we had an ice breaker delivering supplies and we had Royal Canadian Air Force Dokotas dropping ballot boxes by parachute to many settlements. In Grand Falls-White Bay I would feel more comfortable even if there were a longer period. However, it can be done in twenty-eight days. We have done it under the most difficult circumstances and I do not think there will be any difficulty in providing voting facilities for the district of Labrador in twenty-eight days.

With respect to the other provinces, some members have spoken to me, members of those electoral districts mentioned in Schedule 4, asking that a longer period of time be provided, so I took the liberty of including in schedule 4, which is printed at page 20 of the draft amendments, the names of electoral districts that I believe should also have the same period.

Now, this is not a radical departure from the present practice. In 1945 all electoral districts in Canada had a period of twenty-eight days between nomination day and polling day. At the 1940 general elections it was fourteen days. Prior to that some districts which were more urban in nature were seven days, and others which were sparsely settled and large in area were fourteen days prior to 1938. So I feel that if nothing is done between now and the next election and this section is not amended, it would be very difficult for me and the returning officers to conduct the elections in those five electoral districts in Newfoundland. There is already provision in the Act for twenty-eight days for the electoral district of Yukon-Mackenzie River, which is about the second largest electoral district in the world. Ballot boxes were also dropped by parachute in the Mackenzie district in many places. It is absolutely essential that twenty-eight days be provided in Yukon-Mackenzie River.

By Mr. Welbourn:

Q. Is there any objection to having them all twenty-eight days?—A. I think our returning officers would welcome twenty-eight days, but in urban areas electoral committees in the past have objected to a longer period.

Q. I know it would be a very good thing in Jasper-Edson.—A. If there are additional names to be put in this Schedule, I am sure our electoral officers would welcome it. However, I do not know that it is absolutely essential in urban districts.

Some of the rural constituencies cover a vast area like Port Arthur—148,000 square miles, and a great deal of that territory is uninhabited, but we never know when there will be people living there.

Hon. Mr. Harris: Of course, the practical objection to the twenty-eight days applying to them all is that parties normally do not get their candidates in the field until about that time, in many cases.

Mr. Browne: Mr. Chairman, is it in order to make some comments on Newfoundland now?

The Chairman: Are you through, Mr. Castonguay?

The Witness: I have one more observation to make relating to section 99 of the Act. The chief electoral officer has very broad powers under this section.

You will find it in Book A-32—section 99 at page 308. I could possibly use the discretionary powers to provide a period of twenty-eight days in Newfoundland in those five electoral districts, but my predecessor in office always refrained from using this discretionary power except in an emergency and it is my intention to pursue the same course. For instance, I would not want to take the responsibility to direct that in the electoral district of Bonavista-Twillingate the period would be twenty-eight days. Somebody might arrive on the fourteenth day to be nominated as provided by law, and not having seen the direction given by me, he could not be a candidate.

In an absolute emergency I have been informed that I can use the powers given to me under this section, that is to extend the time between nomination day and polling day, but I would not be very comfortable in using those powers.

By Mr. Browne:

Q. I wonder if the Chief Electoral Officer has any documents by which he or his predecessor adapted the Elections Act for use in Newfoundland?—A. Yes, I have.

Q. I wonder if we could see them?—A. Yes. They read this way:—

> Pursuant to subsection three of section six of the ACT TO APPROVE THE TERMS OF UNION OF NEWFOUNDLAND WITH CANADA, the Chief Electoral Officer has directed the following adaptations to The Dominion Elections Act, 1938, as specially consolidated for the conduct of general elections:—
>
> (*a*) The words 'or Newfoundland' are deemed to be inserted after the word 'Canada' wherever such word appears.

The reason for this adaptation was that the terms of the union having been consummated on the first of April and the date of the issue of the writ being the 30th of April, it was thought that somebody might dispute the fact that ordinary residence in Newfoundland prior to April 1st, would not constitute residence in Canada.

> (*b*) The term 'by-election' is deemed to refer to the first Dominion election held in Newfoundland.
>
> (*c*) Section 2 (15) is deemed to be amended to include the following clause:—

By Mr. Browne:

Q. Is there any point in distinguishing between by-election and a general election?—A. It was thought that the first election in Newfoundland could not be a by-election as there was no vacancy under the House of Commons Act.

Q. But it might have been similar to a by-election?—A. It was decided to use the by-election procedure for the election in Newfoundland if the first election was not a general election.

> (*c*) Section 2 (15) is deemed to be amended to include the following clause:
>
> (*f*) in relation to the province of Newfoundland, the judges from time to time performing the duties of judges of the Supreme Court of Newfoundland.

The judges of the Supreme Court of Newfoundland were given all the powers that are conferred by the Act on judges for purposes of recounts, appointment of the revising officers, and so on.

> (*d*) Rules (3) and (4) of Schedule A to section 17 are deemed to be amended to provide that the persons who will nominate urban enumerators will be designated by the returning officer with the approval of the Chief Electoral Officer.

All districts in Newfoundland were rural with the exception of the two St. John's districts where the territory within the boundaries of the city were urban and

under our method of nominating urban enumerators, the candidate at the preceding election who polled the most votes selects one enumerator per polling division and the candidate who was runner-up at the preceding election selects the other, but they must be of opposed political interests. In Newfoundland the division was made as to the parties that existed in 1932 prior to the commission government. The Liberals and the Conservatives selected the urban enumerators.

Mr. BROWNE: There was no Conservative party there at the time.

The WITNESS: The two parties that existed prior to the commission government were given the right of nominating urban enumerators.

(*e*) Section 21 (3) is deemed to be amended to provide that the day fixed for the close of nominations shall be Monday the twenty-eighth day before polling day in the electoral districts of Grand Falls-White Bay, Bonavista-Twillingate, Trinity-Conception, Burin-Burgeo, and Humber-St. George's.

(*f*) Schedule Two is deemed to be amended to include the following reference:

NEWFOUNDLAND—Burin, Bishop's Falls, Bonavista, Clarenceville, Corner Brook West, Grand Bank, Harbour Grace, Port aux Basques-Channel, St. John's.

The above mentioned adaptations also apply to the General Instructions (Book A-32).

Adaptations were also made to the Canadian Defence Service Voting Regulations.

(*a*) The words "or Newfoundland" are deemed to be inserted after the word "Canada" wherever such word appears.

(*b*) The expression "nomination day" shall mean Monday, the fourteenth day before polling day.

(*c*) Clause (*b*) of subparagraph one of paragraph five is deemed to be amended to read as follows:

(*b*) the provinces of Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland shall constitute a voting territory with the headquarters of the special returning officer located at Halifax.

These adaptations were made on April 12, 1949 and were the only adaptations made to the present Dominion Elections Act for the general election in Newfoundland.

By Mr. Browne:

Q. May I make a few observations on the report by the Chief Electoral Officer. I presume this was signed by your father?—A. Yes.

Q. —and may I refer to the observations made by the Chief Electoral Officer this morning?

In the first place I might point out that had nomination day been twenty-eight days before polling day you might not have been burdened with my presence here this morning. Yesterday was the anniversary of the day upon which I resigned my position of judge of Central District Court which I held for fifteen years. I do not think it would be in order to explain how I came to resign that position, but I do want to make reference to an incident that occurred during the general election down there and which is of very great and far reaching importance but which has not been mentioned by the Chief Electoral Officer. I suppose honourable members like myself did not pay much attention to this report when it was tabled. I do not know whether it was printed or not?—A. It was not printed.

Q. I do not think anybody went to the trouble of going downstairs to look at it and I did not notice this statement on the conduct of the election in Newfoundland until this statement was handed out the other day. I read from page 2.

> Notwithstanding that Newfoundland entered Confederation less than one month before the date of the issue of the writs ordering the last general election, no serious difficulty was encountered in the conduct of the said general election in any of the above mentioned seven electoral districts.

Now, sir, I asked the Chief Electoral Officer the other day if he had seen the judgment of Judge Winter dealing with the election in Newfoundland, and he said he had not seen it. I may be pardoned for delaying the committee for a moment or two, but I would like to point out a serious omission in connection with the Election Act in Newfoundland. Just a year ago today I made my first political speech in fifteen years and the next day the premier of the province started out on a campaign in favour of my opponent, and at five places in the riding he made slanderous statements concerning me, threatening the people that if they voted for me they would not have any public works executed in the riding. Now, sir, when that information was brought to my attention, the next morning I immediately investigated and took fifteen or twenty affidavits from people and then I applied to the court under the section of the Elections Act for the arrest of criminals, section 67, dealing with offences under this Act—that is the section which provides for the prosecution of anyone who directly or indirectly makes use of or threatens to make use of any force, violence or restraint, and so on—under that section it is not possible now...

Hon. Mr. HARRIS: On a point of order, Mr. Chairman.

The CHAIRMAN: Yes.

Hon. Mr. HARRIS: I have some sympathy with Mr. Browne, but if I understand the point of his remarks it relates to something which took place a year ago in connection with the fact that the Criminal Code was not in force in Newfoundland; and that, of course, is being adjusted, and the situation which he is now discussing no longer exists; so it seems to me that in fairness to the other members of the committee he might very well omit the complaint of past difficulties so that we can get on with the work of straightening out the difficulties in this bill, which the Chief Electoral Officer has brought to our attention.

Mr. BROWNE: Well, Mr. Chairman, may I answer the point of order raised by my honourable friend. I would like to read for the benefit of my honourable friend, the Minister of Citizenship and Immigration (Mr. Harris) a reference made in the judgment of Judge Winter in the case to which I was unfortunately the complainant. It deals very intimately with this Act as it stood and as it still stands in any election that may take place immediately down there, or in the course of the next month or so if there were a by-election called. I will make my remarks very brief, just scan over them. I do not intend to go into detail and I do not want to be personal in the matter at all, but I do want to call attention to the observation the minister has made, that the Criminal Code did not apply, and still does not apply, to the enforcement of this Act. When I read that Act last year I said; this is a marvellous Act, it is wonderfully interesting; and I made a very thorough and careful study of it, but when I wanted to take action to protect myself I was told that the Criminal Code did not apply in Newfoundland, therefore the Act was not enforceable. Now, sir, I think it should be on record that in the first general election in Newfoundland there was no means of enforcing the provisions of this Act. That being the case, Mr. Chairman, I assume that it is in order to discuss this matter, but I want to make it clear

that it is not my opinion but rather that of the judge who presided at the hearing of the action, Judge Winter. May I just read a short statement from his judgment—this is given in the Maritime Provinces Reports, published in Toronto, December 1st, 1949, Vol. XXIV, No. 2, page 234:

> Regarding the question of the applicability of the Canadian Criminal Code, it is unnecessary for me to point out the anomalous—I feel sure I may correctly say, the unique—position in which this Province is placed for the moment: it has, I think, been apparent from the start of these proceedings. Newfoundland became a Canadian province on April 1st, 1949. Since a Dominion election was to be held soon afterwards, it became necessary to bring into effect the Federal Election Act of 1938 so that the election might be governed by it. Doubtless little or no thought was given to its criminal provisions, and for reasons of their own the two Governments concerned agreed to postpone until some convenient future date the application to Newfoundland of the Canadian Criminal Code. As a result we have this situation, that a party has been charged with committing an offence under the Election Act, the full investigation and trial of which are, or seem to be, impossible without resort to the Code, in, it may be, many places. The Election Act provides, as one of two alternative procedure, trial by "summary conviction". That form of trial has a special place in the Code and covers a very large ground. Broadly, it seems to correspond to the summary proceedings before magistrates familiar in the English and Newfoundland criminal systems, but the fact remains that it is given by the Code a machinery of its own, it is technical in many respects and I do not see how the meaning of the Election Act can be stretched to cover, and permit, the use of the summary procedure provided by Newfoundland law merely on the ground of a broad analogy. The same objection cannot be made to a trial by indictment under Newfoundland law. The Election Act specifically makes the offence charged here an indictable offence, which means that it is one which may be tried by a jury, and the right to such trial is a fundamental one owned by every accused person under the English system of law from the days of Magna Carta. If that view were not a correct one, if indeed the provisions of the Canadian Criminal Code regarding trials by indictment were peculiar and different in material respects from those in force in Newfoundland, and if this case could not be properly tried before a jury without the application of rules which do not exist here, then all I would have to say is that the respondent cannot be tried at all. I do not think that is the case, but I do think that such a situation is theoretically quite possible. In the peculiar circumstances in which this Province for the moment finds itself, it might well be that a person was in fact guilty of some offence but could not be punished simply because the Act creating the offence could not be enforced.

Mr. APPLEWHAITE: On a point of order, Mr. Chairman, I do not want to interrupt my friend but I would like to ask him if he is bringing this point forward with a view especially of using it for revising or improving the Dominion Election Act, because, if that is so, then may I suggest to him that he bring the matter forward when the proper section is before the committee.

The CHAIRMAN: I think it would be more appropriate if he were to hold this matter until we reach the related section. It seems to me there is something in the point he raises but bringing it forward now would merely have the result of opening a rather wide field of discussion as to something which occurred during an election which is now past. If the honourable gentleman has some-

thing practical to suggest with a view to avoiding some of the difficulties experienced in the past I think it would be better for him to wait until we reach the related section in the Act which we now have before us.

Mr. BROWNE: This is very important. Many people ask me what has happened in this case and I have to tell them that the Supreme Court held that it had no control under the Act over anything which took place in Newfoundland in that particular election, and was powerless to do anything in connection with any offences committed at the time of that election.

Mr. APPLEWHAITE: Is the Code in force in Newfoundland yet?

Mr. BROWNE: No, it is not in force there yet. There is a provision in the agreement that the Code would not come into effect until the courts, the judges and the lawyers have had an opportunity of familiarizing themselves with its provisions. But the anomaly which arises in this situation is that there is a provision in this Election Act which says that no offence can be prosecuted twelve months after it has been committed, and it is just a year ago tomorrow since these offences were committed and the Criminal Code is not in effect yet so that after tomorrow, I presume, under this Act it will not be possible to go on with the prosecution.

The CHAIRMAN: I think there is a way out for the honourable gentleman, I know that he is a good Christian; maybe he can forgive the offender and forget everything about it.

Mr. BROWNE: It is not a personal matter, Mr. Chairman.

The CHAIRMAN: Pardon me?

Mr. BROWNE: It is not a personal matter. It is a matter which affects the whole situation in Newfoundland. This Dominion Election Act cannot be enforced there.

Hon. Mr. HARRIS: The judgment I think sets out what happened. The Newfoundland delegation did request that the Criminal Code be not applied in Newfoundland until such time as the courts, the judges and the lawyers became acquainted with this provision. Now, that is a proper request for them to make. So far as Newfoundland is concerned, it will come under the appropriate section in due course.

Mr. ARGUE: I think the honourable member (Mr. Browne) has a right to discuss this matter before the committee.

Hon. Mr. HARRIS: That is true, but the difficulty will be overcome by proclamation of the Criminal Code in Newfoundland.

Mr. ARGUE: That may be true, I would not know; but I think Mr. Browne has the right to make his statement and to point out that the Election Act does not apply to Newfoundland in all its aspects at the present time. If he wants to bring that to the attention of the committee I submit that he has the right to do so.

Mr. BROWNE: There is only that bald point, the Act could not be enforced—no violation of the Dominion Elections Act could be enforced in Newfoundland; and that has been recorded. The second question is, and it has relevance all over Canada, whether the summary proceedings are to be at the discretion of the prosecutor or at the will of the defendant. When we come to that section of the Elections Act I propose to bring the matter up again.

Now in regard to the matter brought up by the Chief Electoral Officer this morning in which he recommends that five districts of Newfoundland should have nomination day twenty-eight days before polling day, I expected to hear from him some sound reason for that proposal. I must confess that I did not hear any sound reason from him. Take for example the district Trinity-Con-

ception which, according to the figures here, has an area of 2,245 square miles. That district is not nearly as large as my own which runs about 100 miles south, 150 miles northwest, and over 100 miles back again to St. John's. That district is served by a good system of roads and by a railway and it is composed of the provincial districts of Port de Grave, Harbour Grace, Carbonear, Trinity South, and Trinity North.

Those were the districts which in the old days, when Newfoundland was independent, always had first results in. I have brought along this morning the Electoral Act under which the provincial election was held in Newfoundland. I am not in a position to say whether there were any amendments to this for the purposes of the provincial election, but I do want to point out that under this Election Act nomination day was ten days before polling day. With our inadequate system and our unprogressive methods of doing things we were able to get all the ballot boxes to all of the different settlements throughout Newfoundland. I will except there Labrador; we did not have polling booths in Labrador, but in the rest of the country we were able to get out all of the ballot boxes. Occasionally one would get overlooked but that will happen in the best of regulated communities. I took part in four elections and I know the Act was workable when only ten days elapsed between nomination day and polling day. So, I was expecting to hear from the Chief Electoral Officer some stronger reason than he has advanced. Certainly a number of provincial constituencies have been combined to make a riding but of them all the Trinity-Conception one is the easiest and the one from which returns can be had first A very good road goes along the north shore of Conception Bay. If we had a map here it could be easily demonstrated. The road goes down the south side of Trinity Bay and it meets the railway; the railway goes up as far as Bonavista which is the end of the district.

I think the Chief Electoral Officer will agree that as far as the district is concerned there ought not to be any difficulty even if the election was held in the depths of the worst winters we have there—and it is not usual for elections to be held in the wintertime.

Mr. MacDougall: Would the objection of my friend Mr. Browne be overcome by the inclusion of not only the five that have been already named, but also of St. John's East and St. John's West within the twenty-eight day clause?

Mr. Browne: I think that is too long, and I think there is no necessity of that. I think fourteen days should be sufficient. The honourable senior members here must know the reason was for shortening of the period for the 1945 election. Why was that improvement made? It seems to me that someone has made the statement here this morning that there is difficulty in getting candidates so long ahead. As I told you you would not have been burdened with my presence if it had been twenty-eight days because it was only just within less than three weeks before that I was free to come out and contest the constituency of St. John's West. I would say that twenty-eight days was too long.

Mr. Carter: May I say a word.

Mr. Browne: I wanted to make an exception in the case of Mr. Carter's constituency, and it is a very difficult one. Burin-Burgeo is a long district, as is also Humber-St. Georges, and Grand Falls. But Bonavista and Trinity-Conception are very much in the position of St. John's East and St. John's West. Trinity-Conception certainly is, and Bonavista-Twillingate can be served within the time.

Mr. Carter: I would just like to say, Mr. Chairman, that in matters of this kind I always like to be sure that I am guided by the correct principle. I take it that the whole purpose of amending this Act or of setting up the Act is to

facilitate the ability of the people to cast their votes, to give everybody as good a chance as possible of discharging their duty to their country and to themselves in this connection. Therefore that duty to the people I think should take precedence over any inconvenience that parties may suffer in obtaining candidates or getting them into the field. I think that should be the governing principle and the only objection to having a longer period is that it is not always convenient for the party.

I think we should be guided by the other principle; if it does facilitate and make it more convenient for the people to discharge their duty, that principle should take precedence.

I should like to see every district in Newfoundland have twenty-eight days provided. As the member for St. John's west has said, his district is not an urban district in the sense of an urban district which you have in Montreal, Toronto, or Hamilton, or in larger cities in Canada. St. John's is only part of it—the rest takes in a large urban area which is difficult to get around to, even though you have experience in elections. It was perhaps a little easier in St. John's west than in my district where it takes three weeks to deliver the ballot boxes, yet I still think no harship would be incurred if we did extend the period to twenty-eight days. The reason why I would support twenty-eight days is that in Newfoundland we have a large floating population. You may take the word floating literally; they are floating. They go out to the Grand Banks fishing, and they go to Labrador fishing and we have a floating population in the woods. It is essential that we have an advance poll for those people as early as possible. If you limited it to ten days it is impossible, with the present facilities available, and the means of communication, it would be absolutely impossible to hold the advance poll. It would take ten days to get the printing done and you could not possibly have it distributed and then gathered in. It might be to the advantage of the candidate, irrespective of party, to have a longer period than ten days, because it gives him some additional time to know what parties are in the field, to know what candidates are going to contest the election, and it gives him a better chance to plan his campaign. I admit that it may cause some inconvenience to parties who may find it difficult to get candidates, but I think if the conditions were set parties would adjust themselves and I think it would be better all round. I cannot see any inconvenience that any party would suffer through a longer period. I think great advantage is to be gained from it.

Mr. Herridge: In order to know and to appreciate the effect on the people in Newfoundland may I ask a question of Mr. Browne. Were there any other cases in the recent election in which there was an attempt to use the provisions of the Criminal Code to enforce this Act, other than the tone he has mentioned?

Mr. Browne: No, I do not know of any other cases of breach—

Mr. Harris: Alleged breach.

Mr. Browne: No, breach.

Mr. Harris: Alleged.

Mr. Browne: All right, alleged.

The Chairman: Perhaps we can hear from the Chief Electoral Officer.

Mr. Boisvert: Did you examine the case of the Magdalen Islands?

The Witness: Yes, we have, the Magdalen Islands has an aeroplane service to the mainland and I believe the period is sufficient.

The Chairman: We are discussing Newfoundland.

The Witness: The reason why the specific case which Mr. Browne mentioned was omitted from the Chief Electoral Officer's report was that my predecessor was not informed officially of anything that happened with regard to that

case. Amongst other things, this report is compiled on the basis of information given under section 58 (2) of the Act which reads as follows:

> 58. (2) Every candidate at any election and the official agent of any candidate shall have the right to send to the Chief Electoral Officer in writing any complaint he may have to make with respect to the conduct of the election or of any election officer, and to suggest any such changes or improvements in the law as he may consider desirable; every such complaint or statement shall be included by the Chief Electoral Officer in his next following report to the Speaker of the House of Commons, with such recommendation, if any, as he may see fit to make thereon.

We did not receive any communication on the matter. That is to say, my predecessor did not receive any communication from any interested person in Newfoundland about this particular matter. There is no correspondence on file relating to the electoral district of St. John's West with respect to this matter.

By Mr. Browne:

Q. But surely it was public knowledge, and the newspapers from all over the country had representatives there in Newfoundland. Your returning officer must surely have advised you about it.—A. There was no information from the returning officer. We were not advised by any person. Our files are open for inspection. There is no information on the matter in our files. We cannot base this report on press reports; there must be a complaint made pursuant to section 58, of the Act. Colonel O. M. Biggar, and my predecessor always compiled their reports on the basis of an official complaint received from the candidate. In the case of Annapolis-Kings the judges who heard the case, under section 60, made a report to the Speaker of the House to be brought to the attention of the House.

With regard to the 28 days, I probably did not explain it as well as I should have. When I was in Newfoundland I received recommendations from officials of the Commission Government. I consulted with the Assistant Chief Electoral Officer who acted with Magistrate Short, the Chief Electoral Officer for the referendum. I interviewed the officials having to do with the post office, and the resources department. I tried to obtain information from all sources on the situation in Newfoundland with regard to this period of 28 days. In my original recommendation to my predecessor I did put in 21 days for Trinity-Conception, because I was informed that 14 days would not be sufficient at certain times of the year because of the lack of communication or transportation, and the lack of printing facilities.

A great deal of the printing in the electoral district of Trinity-Conception was done in St. John's. The same thing applied with respect to Bonavista-Twillingate. In those districts the returning officers, as I understand it, could not find suitable printing establishments to print the ballot papers in the time available. That is what I was informed at the time I was there. As you know, it is the responsibility of the returning officer under the Act to have the ballots printed. There were printing difficulties in most districts, except St. John's, Grand Falls-White Bay, and Humber-St. Georges. There are no printing establishments large enough to do the printing of the voters lists and ballots in the other constituencies, so it had to be done in St. John's.

Q. But is there not a printing establishment in Twillingate?—A. Yes, but it is not large enough to do this particular type of work. For example the returning officer for the electoral district of Bonavista-Twillingate has to proceed to St. John's to get his ballots printed and he has to return, let us say,

to Bonavista. It may take him 4, 5, or 6 days to go to St. John's, get the ballots printed and return. Trains run three times a week, and if he is lucky, he may be able to do it in 6 days.

Q. But there is a road, of course?—A. I was in Newfoundland in January and I could not get through by road. In 1940 the general election in Canada was on the 26th of March and the preparations had to begin in January, so it was a winter election. There have been other winter elections in Canada. As stated before the ocean is the highway in Newfoundland in some cases and there is no other way of delivering election material except by boat and only at certain times of the year; with the limited time available boats cannot deliver the ballot boxes for polling in the present period of 14 days. So it might be taking a chance to rely on them. My suggestion of 28 days is merely a recommendation to the committee. If the committee should see fit to reduce it to 21 days or 14 days, I am prepared to follow its recommendation. But my reason in recommending 28 days comes from the advice given to me by people in Newfoundland who handled the elections, such as the returning officers of the electoral districts whom I consulted.

In Newfoundland at the last election we made use of dog teams, boats, ice-breakers, aircraft, everything you can think of to meet our schedule. It was a very tight schedule. I agree with Mr. Browne that the period of 28 days for Trinity-Conception is too long. However, I was told when I was in Newfoundland that 14 days was too short, and that it would be preferable to have 21 days. I have no motive other than to point this out. It may be that I did not explain it as well as I should have in the first instance.

Q. Yes, if you had given those reasons in the first instance. But for Trinity-Conception I do not think 28 days can be justified.—A. At certain times the road is closed, for example in a winter election.

Q. But there is a railway line, is there not?—A. But the railway does not serve every polling station in Trinity-Conception.

Q. No, it does not.—A. Moreover, this does not apply only to the 5 districts in Newfoundland. There are some members here who represent districts bordering on the northwest territories where the same difficulty would be met.

The Chairman: Gentlemen, the bell is ringing and we have to be in the House in a few minutes. It may be that we could meet at 11:30 this morning?

Mr. MacDougall: I thought we had permission to sit while the House was sitting.

The Chairman: Yes, we have, but do you think we should adjourn until Thursday next?

Mr. Browne: Why not continue today?

Mr. Boisvert: There are other committees sitting this morning, Mr. Chairman.

Mr. Boucher: I would not be in favour of sitting tomorrow, Mr. Chairman.

Mr. Argue: Mr. Chairman, I would like to move that we sit again tomorrow at 10 o'clock.

The. Chairman: Gentlemen, we have a motion from Mr. Argue that we sit again tomorrow at 10 o'clock. All those in favour? (Eight). Those against? (Six). I declare the motion carried. We shall adjourn now until tomorrow at 10 a.m.

The committee adjourned.

SESSION 1950

HOUSE OF COMMONS

STANDING COMMITTEE

ON

DOMINION ELECTIONS ACT 1938

AND AMENDMENTS THERETO

MINUTES OF PROCEEDINGS

No. 3

FRIDAY, JUNE 9, 1950

WITNESSES:

Honourable F. G. Bradley, P.C., M.P., Secretary of State;
Mr. Nelson Castonguay, Chief Electoral Officer.

OTTAWA
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Mr. Sarto Fournier (*Maisonneuve-Rosemont*); *Chairman.*

Mr. George T. Fulford, *Vice-Chairman,* and

Messrs.

Applewhaite
Argue
Balcer
Boisvert
Boucher
Browne *(St. John's West)*
Cameron
Cannon
Carroll
Carter
Dewar
Diefenbaker
Fair
Garland
Harris *(Grey-Bruce)*
Hatfield
Hellyer
Herridge
Jeffery
MacDougall
McWilliam
Pearkes
Valois
Viau
Ward
Welbourn
White *(Middlesex-East)*
Wylie—30.

(Quorum, 10)

ANTOINE CHASSÉ,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

House of Commons,

Friday, June 9, 1950.

The Special Committee appointed to study The Dominion Elections Act, 1938, and amendments thereto, met this day at 10.00 o'clock a.m.

The Vice-Chairman: Mr. G. T. Fulford, presided.

Members present: Messrs. Applewhaite, Argue, Boisvert, Boucher, Browne (*St. John's West*), Cameron, Carter, Fulford, Garland, Harris (*Grey-Bruce*), Hellyer, Herridge, MacDougall, McWilliam, Ward, Welbourn, White (*Middlesex East*), Wylie.

In attendance: Honourable F. G. Bradley, Secretary of State; Messrs. Nelson Castonguay and E. A. Anglin, respectively Chief Electoral Officer and Assistant Chief Electoral Officer.

The Committee proceeded to consideration of Amendments submitted by the Chief Electoral Officer and Honourable Mr. Harris, to The Dominion Elections Act, 1938, and amendments thereto.

On motion of Mr. Boisvert, it was

Resolved, That Subsection three of section twenty-one of the said Act be repealed and the following substituted therefor:—

Nomination day.

(3) The day for the close of nominations (in this Act referred to as nomination day) in the electoral districts specified in Schedule Four to this Act shall be Monday, the twenty-eighth day before polling day, and in all other electoral districts shall be Monday, the fourteenth day before polling day.

Mr. MacDougall moved:

That the said Act be amended by adding thereto Schedule Four:—

SCHEDULE FOUR

List of electoral districts in which an interval of twenty-eight days between nomination day and polling day is to be allowed.

Province of Ontario
- Cochrane
- Kenora-Rainy River
- Port Arthur

Province of Quebec
- Chapleau
- Saguenay

Province of Newfoundland
- Bonavista-Twillingate
- Burin-Burgeo
- Grand Falls-White Bay
- Humber-St. Georges
- Trinity-Conception

Province of Manitoba
- Churchill

Province of Saskatchewan
- Mackenzie
- Meadow Lake
- Melfort
- Prince Albert

Province of Alberta
- Athabaska
- Peace River
- Jasper-Edson

Province of British Columbia
- Cariboo
- Skeena

Yukon and Northwest Territories
- Yukon-Mackenzie River.

Mr. Carter, in amendment to the said proposed motion of Mr. MacDougall, moved:

That the electoral district of St. John's West be added to the five of Newfoundland already mentioned in Schedule Four.

After debate thereon and the question being put on the said proposed amendment of Mr. Carter, it was resolved in the negative.

Mr. Welbourn then moved in amendment to the said proposed motion of Mr. MacDougall, that the Electoral District of Jasper-Edson be added to that part of the Schedule pertaining to Alberta.

And the question having been put on the said proposed amendment of Mr. Welbourn, it was resolved in the affirmative.

The said proposed motion of Mr. MacDougall, as amended, was agreed to.

On motion of Mr. Cameron, it was

Resolved, That paragraph (*c*) of subsection one of section fifty-five of the said Act be repealed and that the following be substituted therefor:

(*c*) in the provinces of Nova Scotia, New Brunswick, Prince Edward Island, British Columbia, Alberta, or *Newfoundland,* to a judge of the Supreme Court of the province.

The Committee then discussed the matter of Advance Polling Stations in Newfoundland.

On motion of Mr. Applewhaite, it was

Resolved, That the Committee recommend that the Chief Electoral Officer be authorized to use his discretion in respect of Newfoundland Advanced Polling Stations, irrespective of the number of votes cast at the last general election.

The Committee considered the proposed amendment to Section 14 of the Act relating to Indians, as previously proposed by Honourable Mr. Harris and with a modification thereto suggested by the Chief Electoral Officer (underlined).

After debate thereon it was

Resolved, That paragraph (f) of subsection 2 of section 14 of the Dominion Elections Act, 1938, be amended to read as follows:

(*f*) every Indian, as defined in The Indian Act, ordinarily resident on a reserve, unless,

(i) he served in the naval, army or air forces of Canada in World War I or World War II, or

(ii) he executed a waiver of tax exemption under The Indian Act, *on or prior to the date of the issue of the Writ ordering an election in any electoral district,* from or in respect of personal property, in a form prescribed by the Minister of Citizenship and Immigration;

Further, that subsection (4) of section 14 of The Dominion Elections Act, 1938, be amended to read as follows:

(4) Notwithstanding anything in this Act, a woman who is the wife of an Indian who served in the naval, army or air forces of Canada in World War I or World War II, is entitled to have her name included

in the list of electors prepared for the polling division in which she ordinarily resides and is entitled to vote in such polling division, if such a woman is otherwise qualified as an elector.

On motion of Mr. McWilliam, it was

Resolved, That the name of Mr. Fulford be added to the Steering Committee.

At 11.00 o'clock a.m., the Committee adjourned to meet again at 11.00 o'clock a.m., Thursday, June 15, 1950.

ANTOINE CHASSÉ
Clerk of the Committee.

MINUTES OF EVIDENCE

House of Commons,

Friday, June 9, 1950.

The Special Committee on Dominion Elections Act, 1938, met this day at 10.00 a.m. The Vice-Chairman, Mr. G. T. Fulford, presided.

The Vice-Chairman: Gentlemen, we have a quorum now and we might as well start where we left off yesterday. Mr. Browne had just finished speaking about certain conditions that existed in Newfoundland. Are we ready to go ahead this morning with section 3 of section 22 of the Act? That is to be found on page 6 of the draft amendments and page 308 of the Act.

Nelson Castonguay, Chief Electoral Officer, called:

By Mr. Browne:

Q. I wonder if I could ask a question of the Chief Electoral Officer. Did you hear of any complaints from anybody about St. John's West or St. John's East? Did you have any difficulties there?—A. We had no reports of any difficulties from the returning officers or from any other person in the two electoral districts of St. John's East and St. John's West.

Q. Where the provision is fourteen days?—A. Where the fourteen days applied.

Q. Do you not think that Trinity-Conception is very much like St. John's West as far as difficulties are concerned?—A. As I informed you yesterday, sir, and as I informed the committee, when I was in Newfoundland, Trinity-Conception was discussed with the Assistant Chief Electoral Officer and various other officials of the commission government. They were generally of the opinion that fourteen days was not enough but that twenty-eight days was too much. Therefore, in my initial recommendations to my predecessor I mentioned that Trinity-Conception should have twenty-one days. My predecessor considered that three periods for nomination throughout Canada—fourteen, twenty-one, and twenty-eight days, would lead to confusion. Therefore Trinity-Conception was included in the group of constituencies that had twenty-eight days.

The returning officer for Trinity-Conception was Mr. Russell, and he told me that he needed twenty-one days. Nobody that I spoke to informed me that it could be done in fourteen days.

In normal times you would have an election announced say in the latter part of May or up until September. I do not believe there would be any difficulties in Trinity-Conception with the fourteen day period in those months. However, we do have by-elections and general elections in the winter months and I was informed that in such a case fourteen days would not be sufficient and that many polling stations would not open because they could not get the ballot boxes and the voting supplies there on time. I agree with you on a period of twenty-one days for Trinity-Conception; in normal times of the year fourteen days would be sufficient but it is a matter of deciding whether we are going to have periods of fourteen, twenty-one, and twenty-eight days in the Elections Act.

Q. It really does not mean very much.

The VICE-CHAIRMAN: I wonder if we should not put this off until we come to the part in which names are to be added or taken off the list of electoral districts which will be given twenty-eight days. I would like to see us get ahead with the principle now and when we come to the section in a few minutes we can deal with the matter then.

Mr. MACDOUGALL: Will you accept the suggestion now that all of the federal ridings in Newfoundland be given twenty-eight day periods?

The VICE-CHAIRMAN: I think it would be better if we could put that off until we come to the particular ridings with which we are going to deal. That information is given on page 20 of the draft amendment. We are now just dealing with the principle of twenty-eight days.

Mr. HARRIS: Is it a case of approving of the suggested amendment in page 6?

The VICE-CHAIRMAN: That is it.

Mr. HARRIS: We are agreed I hope.

By Mr. Browne:

Q. What about the proclamation?—A. The procedure is when the writ is issued the proclamation is printed within forty-eight hours after the returning officer receives advice by telegram that the writ has been issued.

Q. How many days have to elapse for a general election?—A. At a general election the only statutory date mentioned in the Act is that enumeration must begin on the 49th day before polling day. At a by-election enumeration has to begin on the 35th day before polling day. We would like to have ten days and we would even like to have twenty days before the enumeration begins in order to get the supplies to the enumerators and in order to get the preliminary organization under way prior to the commencement of enumeration. Invariably, at the general elections held in the last twenty years, we have had a period from the date of the issue of the writ of 59 to 60 days. For by-elections we have had a period running anywhere from 44 to 46 days from the day the election is announced to polling day. During that period all operations of the Act must be completed.

Q. When does the advance poll take place?—A. The advance poll takes place on the Thursday, Friday, and Saturday before polling day.

Q. That is the same everywhere?—A. All over Canada.

Q. That takes away the force of my friend Mr. Carter's argument?

By Mr. Carter:

Q. I was going to ask a question on that. Is the date fixed by statute?—A. It is fixed by statute.

Q. Is it in this Act?—A. Yes.

Q. Can we amend the Act?—A. Yes.

Q. Because that is no good to us.

The VICE-CHAIRMAN: When we get to section 94 and 95 of the Act which deals with advance polls you may deal with the matter.

Mr. CARTER: In what order is this going to be done? If one is dependent on the other we would have an argument against it.

The VICE-CHAIRMAN: I understand that we are going through the Act clause by clause and when we come to section 94 it will be in order for you to make an amendment.

Has anybody else anything further to say on the matter or are we agreed on the amendment?

Mr. BROWNE: We are not agreed on the amendment, Mr. Chairman, because I have pointed out the difficulty with Trinity-Conception.

Mr. APPLEWHAITE: Are we going to accept the amendment and consider the schedule?

Mr. CARTER: I am not quite clear. I was only projected into this thing yesterday and I do not know what the procedure is. What are we doing now? Are we just going through this briefly and adopting it?

The VICE-CHAIRMAN: We are getting the Act up to date for Newfoundland so that it will be the same for Newfoundland as for the rest of Canada.

Mr. CARTER: I understand that we are going over certain amendments which we have and then we are going through the Act.

The VICE-CHAIRMAN: Yes, section by section.

Mr. CARTER: If we approve this what is the point of going through the other sections?

The VICE-CHAIRMAN: Because there is a lot of other business.

Mr. CARTER: Well, as far as Newfoundland is concerned, whatever decision we make now applies right away?

The VICE-CHAIRMAN: Yes.

Mr. CARTER: Then I think I would have to agree with Mr. Browne.

The VICE-CHAIRMAN: If there are amendments to the Act they have got to be made general throughout Canada and not particularly for Newfoundland.

Hon. Mr. HARRIS: Perhaps Mr. Carter was not here when we explained the purpose of the committee. The Dominion Elections Act now does not apply to any elections held in the province of Newfoundland. We want to make it apply at this session of parliament. We want to bring in amendments which will make it possible to hold an election in Newfoundland after the present session, should we have a by or general election. In order to do that, we should first discuss the amendments which are necessary to apply our law generally to Newfoundland. Now, if there are some things which you feel are quite improper and should be objected to, you can air your views after we have completed the immediate explanation and passed the sections. If when we are going over the Act you find that the amendments will not fit in, then there is no reason why you should not bring that up at that time. If you would rather we should start at section 1 and go through the Act section by section, there is no objection to that, except that we will have to work on other matters in the Act.

Mr. CARTER: I have no preference one way or the other. The only thing I do not want is to tie my hands now so that I cannot do anything when we come to the sections of the Act.

Hon. Mr. HARRIS: Well, this is the section of the Act, and if you are not in favour of having twenty-eight days between nomination and election days you can bring it up now.

Hon. Mr. BRADLEY: I think we should establish what we want.

Hon. Mr. HARRIS: Well, I do not think there is anyone who is going to vote against the twenty-eight days in Newfoundland.

The VICE-CHAIRMAN: This is a principle to fit it into the rest of Canada.

Hon. Mr. HARRIS: Mr. Browne says that a certain section should state fourteen rather than twenty-eight days; Mr. Carter thinks all should have twenty-eight days. We should vote now on the principle and when we come to the schedule we can then decide to approve twenty-one, twenty-eight or fourteen days.

Hon. Mr. BRADLEY: Then we can adopt this in principle?

Mr. MACDOUGALL: I second that.

The VICE-CHAIRMAN: Well, if it is the decision of the committee that we want to have a vote on the principle, there is no reason why we should not. All those in favour?

Mr. BROWNE: Mr. Chairman, before you vote, I do not think there is any objection to any part raised by anybody except in regard to Newfoundland and that, in my opinion, is confined to Trinity-Conception which, I think, should be considered from a different aspect than the district which I represent.

Hon. Mr. HARRIS: Why do you not add that to the list?

The VICE-CHAIRMAN: When we come to that you are perfectly at liberty to take it off the list. It is only a matter of principle that certain ridings should be given twenty-eight days before election day after nominations.

Hon. Mr. HARRIS: Let us see the schedule now and get that over with. There is no use haggling over things.

The VICE-CHAIRMAN: Can we not pass on the principle now and then go back to those ridings individually?

Hon. Mr. HARRIS: I would hope so.

The VICE-CHAIRMAN: All in favour of the principle? Contrary, if any? I declare the amendment carried.

Carried.

Now, we go to page 20. I shall read it:

The said Act is amended by adding thereto Schedule Four:

Schedule Four

List of electoral districts in which an interval of twenty-eight days between nomination day and polling day is to be allowed.

I shall go through it province by province.

Province of Ontario—Cochrane, Kenora-Rainy River, and Port Arthur.

Now, are there any additions or should any of those suggested amendments be knocked off?

Carried.

Province of Quebec—Chapleau and Saguenay. Are there any additions? Are there any to be knocked off?

Carried.

Province of Newfoundland—and now this, Mr. Browne, is where you come in.

Mr. BROWNE: Well, Trinity-Conception—

The VICE-CHAIRMAN: I shall read this: Bonavista-Twillingate, Burin-Burgeo, Grand Falls-White Bay, Humber-St. George's and Trinity-Conception.

Hon. Mr. HARRIS: Now, what is the exception?

Mr. BROWNE: I think the twenty-eight days is not necessary there.

Hon. Mr. BRADLEY: I happen to know that district from end to end, and I know what I am talking about, and fourteen days are not enough.

The VICE-CHAIRMAN: Are you a member of the committee or not?

Hon. Mr. BRADLEY: I do not know, but I am giving evidence, if nothing else.

The VICE-CHAIRMAN: Will the committee allow the minister to speak? May I have the permission of the committee to call Mr. Bradley as a witness?

Mr. BOISVERT: Mr. Chairman, have we got a map of Newfoundland?

The WITNESS: Yes, I have one here.

Hon. Mr. BRADLEY: Perhaps I could explain. Here is the section where we are going to have the trouble. You will have no trouble in Conception Bay. I do not think you are likely to have much trouble on the south side of Trinity Bay. You are going to have it when you start to go from Bay Bulls Arm down to Trinity. I have campaigned that country in the winter and I know what I am talking about.

Mr. BROWNE: What is the trouble there?

Hon. Mr. BRADLEY: The trouble is you cannot get around. There is only mail one day a week.

Mr. BROWNE: Is there not a road which goes down there?

Hon. Mr. BRADLEY: It does not go anywhere near that section at all.

Mr. BROWNE: You were a member there when there were only ten days between nomination and election.

Hon. Mr. BRADLEY: That was only a small section of the district. The returning officer has to go all over his district.

Mr. BROWNE: But that is the only part he is going to have any difficulty with. Should it be necessary to have two extra weeks for that particular part of the district?

Hon. Mr. BRADLEY: I did not say that two extra weeks were necessary, I said that fourteen days were not enough.

Mr. BROWNE: Well, I am satisfied with twenty-one days.

The VICE-CHAIRMAN: The principle is that it should either be fourteen or twenty-eight days. Under the Act there cannot be a compromise of twenty-one; it is either fourteen or twenty-eight.

Mr. APPLEWHAITE: The principle, of course, is to enable the parties to get as many votes as possible from all places. I am unable to see how the lengthening of the time can possibly hurt anybody or make it more difficult for anybody to record his preference. My inclination would be to enlarge the time in every riding where there is any conceivable excuse for enlarging it in.

The WITNESS: I would say, Mr. Browne, that in your district it would be necessary. I would say in the southern portions it is probably necessary too.

Mr. BROWNE: Well, it is hard to get around, particularly in the winter time, I will say that. If you have to get right up to the southern shore you have some job.

The VICE-CHAIRMAN: Well, we certainly are not going to act for one party in preference to another party. All should come in for an equal opportunity.

Mr. MACDOUGALL: I move that the five ridings in Newfoundland, mentioned in that schedule, be given twenty-eight days.

The VICE-CHAIRMAN: The motion is an amendment that all five ridings in Newfoundland mentioned in the schedule be twenty-eight days. All in favour?

Hon. Mr. HARRIS: Mr. Chairman, perhaps I ought to answer what Mr. Carter said yesterday, and my objection to this is the objection I gave as a practical objection yesterday. The party system is a system that provides a candidate for the public to choose as its member, and I dare say that at least 25 per cent of the candidates, if not 33 per cent, are not chosen in the first twenty-eight days after an election is announced. The fewer we have to have chosen within twenty-eight days the better.

Now, I know that Mr. Carter thinks that party consideration should not affect this, but the point is that the system we have is a party system, it is the way we have of getting the best candidate that the party thinks we should have to present to the public, and I know very well that if in some ridings you have

to choose a candidate within the usual thirty days after the writ is issued and the public knows there is going to be an election, you would have someone you would not have to take if you had another two weeks.

So I am opposed to twenty-eight days unless it can be shown that the returning officer must have that time in order to prepare his voters' list and get his materials. I know it would be a convenience, perhaps more so in Newfoundland than anywhere else, and for that reason you will probably find more Newfoundland ridings in the schedule than from any other province. But in principle I think the longer the period we have after the issuing of the writ for the parties to find their candidates the better it is, and unless it can be shown that several ridings in Newfoundland should have twenty-eight days for the technical reasons I have given, I am opposed to any extension.

Mr. MacDougall: I move that the ones in the schedule be extended to twenty-eight days.

Mr. Boisvert: I second the five mentioned in the schedule, too.

Hon. Mr. Harris: I understood there was an amendment that it be all twenty-eight days.

Mr. Carter: I would like to say a word. I still think that we should be sure that we are being guided by the right principle in this matter. Whether the principle should be a convenience or whether it should be the right of the individual to discharge his responsibilities or the right of as many individuals as possible to discharge their responsibilites, that is a matter for this committee to decide. But there are two opposing principles.

Now, I do not think the argument that the longer you have to get the candidates the better is very strong. Certainly I do not know how strong it would be in other parts of Canada, but I do not think it applies to any great degree in Newfoundland because if we can get a man fourteen days before polling day, well, we can shake ourselves a little faster and get him twenty-eight days before polling day. And I think in the interest of safeguarding the rights of the individuals that we should do that.

There are other matters too. In Newfoundland we have very slow communication and if a man or a community are to discharge their responsibilities properly, they need to be given adequate notice, and you cannot give them adequate notice. They want to know just where the vote is going to be and who the candidates are, and if you have only fourteen days you cannot do it.

The chief electoral officer testified yesterday that when he had to distribute materials in my riding he had to engage the R.C.M.P. cutter, a minesweeper, and something else, and even then it took twenty-one days to get around with the ballot boxes, and I should point out that that was on the 27th of June, the very best time of the year. If it had been the 27th of December or the 27th of February, it would have taken six weeks and you would have to have twice as many vessels doing it.

Now, I think Mr. Browne advocates taking Trinity-Conception off. I do not care personally whether you take Trinity-Conception off if you think that is the right thing to do, but if you leave Trinity-Conception in, I think that St. John's West has got just as good a claim. We are here to do what is right. We are not here to just accede to the wishes of any one particular candidate in this matter. We are here to decide our responsibility to the people of our province and the fact that a certain member of the committee does not ask for it does not lessen our responsibility one bit in that respect.

I would say that I know that St. John's West in the winter time is just as isolated as any other part of Newfoundland. The roads are impassable, and if there is any snow, people are isolated for weeks at a time on the south shore. I would ask you to look at the map and you will see for yourselves. It is a

large rural district and it is not an urban district in any sense of the word. I should say that more than 50 per cent of the people are living in small rural fishing settlements.

Now, gentlemen, there is another reason. The reason is that we should have time enough to give proper notice and proper instructions to our people so that they will know what is expected of them and to make sure that they have all the notice and information they need to discharge their responsibility as well as other people can.

There comes up then the factor of advance polling. That is a very important matter in our district, as I said yesterday, and if you are going to limit it what I want and what my other colleagues here from Newfoundland want, is more advanced polls and we want them as near to the day of nomination as possible, and if you limit them to the two or three days, with the difficulty we have in getting our material printed and distributed, getting he proper notices out and the instructions that are necessary, we are not doing the thing that is in the best interest of the electors in my province.

The VICE-CHAIRMAN: Are you moving an amendment that St. John's West be included?

Mr. CARTER: The only one that can be included is St. John's East. I do not know enough about that to say if it is absolutely necessary there or not. It is certainly necessary, I believe.

Mr. MACDOUGALL: There is a motion before the committee.

The VICE-CHAIRMAN: Well, there is an amendment to the motion. Have you anything more to say, Mr. Browne?

Mr. BROWNE: I think that Mr. Bradley has agreed with me when he said that fourteen days is not enough, but he also has said that he agreed with me that twenty-eight days might be too long.

Hon. Mr. BRADLEY: I did not say that.

Mr. BROWNE: Well, I inferred from what you said that you agreed to that. Mr. Carter has said that St. John's West is in the same boat, and I would suggest that Trinity-Conception be stricken out of the schedule and that a new schedule be made for Trinity-Conception at St. John's West.

The VICE-CHAIRMAN: Well, that cannot be done. When we come to that clause of the Act, we may be able to amend it, but at this time it cannot be done.

Mr. BROWNE: That is what I thought we were dealing with.

Mr. MACDOUGALL: It seems to me we are quibbling over a lot of things, and there is only one motion and that is the inclusion or exclusion of Trinity-Conception.

The VICE-CHAIRMAN: You have moved, but there has been an amendment to your motion. Mr. Carter, I take it you were amending the motion to include St. John's West; is that right?

Mr. CARTER: I was not sure as to what was before the committee at this moment. Somebody made a motion and somebody made an amendment.

The VICE-CHAIRMAN: To clarify it, Dr. MacDougall made a motion that the five ridings be included in the schedule and the purpose of that would be to give twenty-eight days from nomination day to polling day.

Mr. CARTER: Well, there is no further amendment to that?

The VICE-CHAIRMAN: No.

Mr. CARTER: Then, I would amend the motion to include St. John's West.

The VICE-CHAIRMAN: Gentlemen, you have all heard the amendment to the motion. All in favour? Contrary?

I declare the amendment lost.

All in favour of the motion? Contrary?

Carried.

Now, we come to the province of Manitoba—Churchill?

Carried.

Province of Saskatchewan—Mackenzie, Meadow Lake, Melfort, Prince Albert?

Carried.

Province of Alberta—Athabaska and Peace River?

Carried.

Mr. Welbourn mentioned yesterday that he wanted to add Jasper-Edson.

Mr. WELBOURN: I would like to add Jasper-Edson to that.

The VICE-CHAIRMAN: Will you make such a motion?

Mr. WELBOURN: I make such a motion.

Mr. BROWNE: How large is that?

Mr. BOISVERT: What is the area of Jasper-Edson?

Mr. WELBOURN: It is about 280 miles east and west by, roughly, 200 miles north and south.

The VICE-CHAIRMAN: I wonder if Mr. Castonguay would like to say anything on that?

The WITNESS: I agree with Mr. Welbourn that a period of twenty-eight days should be provided for Jasper-Edson, but the reason I did not include it in the Schedule was that I only inserted constituencies where definitely a twenty-eight day period would not be questioned. This is a draft amendment and it is left open to members to add or delete the names of constituencies and I agree heartily with Mr. Welbourn that the period of twenty-eight days is required in this electoral district. I am sure the returning officer would welcome a 28 day period.

Mr. CARTER: I think we are voting on that without knowing—

The VICE-CHAIRMAN: We have not voted on it yet.

Mr. CARTER: Not this one, but the other one.

The VICE-CHAIRMAN: All in favour of Mr. Welbourn's amendment? Agreed?

Carried.

That is that Jasper-Edson be added to the other two ridings in Alberta.

Province of British Columbia—Cariboo and Skeena?

By Mr. Applewhaite:

Q. I would like to ask the Chief Electoral Officer if any consideration was given to Comox-Alberni?—A. No.

Q. No suggestions were received?—A. No.

Q. No complaints?—A. No. But I might point out that the conditions there in the winter might be difficult.

The VICE-CHAIRMAN: Carried?

Carried.

Yukon and Northwest Territories—Yukon-Mackenzie River?

Mr. MACDOUGALL: No argument.

The CHAIRMAN: Shall the schedule carry?

Carried.

Now, we come back to page 11 on the suggested amendment. I shall read the amendment:

> Paragraph (*c*) of subsection one of section fifty-five of the said Act is repealed and the following substituted therefor:
>
> (*c*) in the provinces of Nova Scotia, New Brunswick, Prince Edward Island, British Columbia, Alberta, or Newfoundland, to a judge of the Supreme Court of the province.

That is only bringing, as I understand it, the province of Newfoundland into line with the other provinces in respect of having the supreme court judge.

Mr. MacDougall: Is that a typographical error there "in the provinces of Nova Scotia, New Brunswick, Prince Edward Island, British Columbia or Alberta"?

The Witness: You are reading the wrong portion. The amendment is on the left.

The Vice-Chairman: Yes, the amendment is on the left.

Hon. Mr. Harris: Why do you use the word "or" instead of "and" there?

The Witness: I am just following the procedure in the Act prior to this amendment. The Act was drafted in that manner before. All I did was to add to the paragraph "Newfoundland".

By Mr. Browne:

Q. It could only be one at a time. I wonder if the Chief Électoral Officer would explain the section, because it speaks about a judge and then it speaks about an appeal.—A. Section 55 provides a procedure to follow if a judge fails to comply in an application for a recount. For instance, if the district court judge refuses a candidate a recount, that candidate has the right to make an appeal from the judge's decision to the Supreme Court judge of the province.

Q. Is not that described on page 218 under subsection 2? The judge described in that section, and the interpretation of subsection 2, was a judge upon whom specific powers are conveyed for purposes of refusing recounts but not for this purpose. There is a confusion there, is there not? How do you clear it up?

> (1) Except in the electoral district of Yukon-Mackenzie River, in case of any omission, neglect—

Hon. Mr. Harris: You have just omitted the explanatory words when you read that—

> —or refusal of the judge to comply with the foregoing provisions in respect of the recount—

That is under section 54, immediately preceding; if the judge refuses to conduct a recount.

By Mr. Browne:

Q. That is what I was asking, if the judge in subsection 2 was defined to mean the judge on page 282.—A. You are referring to subsection 2 on page 218?

Q. No, 217.—A. Well, that is a judge who has the power to carry out these duties under section 54. For instance, if the district court judge does not allow a recount to the candidate, then the candidate can appeal to a higher authority.

Q. What judge is meant in Newfoundland?—A. The district court judges.

Q. Where is that?—A. Subsection 15 of section 2, and I understand that the provincial government has passed legislation providing for district court judges. So if you go to subsection 15 of section 2, clause (*e*), on page 218, it reads in this manner:

> In relation to any other place or territory in Canada, the judge exercising from time to time the jurisdiction of the judge of the county court of the county, or the judge of the district court of the judicial district, as the case may be, within which such place or territory lies, and if there is more than one such judge the senior of them.

So if such judge refuses a candidate's application for a recount, then the candidate can make an appeal to the supreme court judge.

Mr. APPLEWHAITE: That is an appeal from the county court to the Supreme Court.

The WITNESS: Yes.

Mr. BROWNE: In our case that means that you have an appeal to a judge of the high court.

The VICE-CHAIRMAN: Is that agreed?

Some Hon. MEMBERS: Agreed.

The VICE-CHAIRMAN: Now, gentlemen, the Chief Electoral Officer has something he would like to give the committee in regard to advance polls in Newfoundland.

Now, just a minute, the clerk tells me that we had no one to move the motion I just put. Would somebody move that?

Mr. CAMERON: I would so move.

The VICE-CHAIRMAN: Moved by Mr. Cameron.

Carried.

The WITNESS: Mr. Chairman, at the last general election in the province of Newfoundland the following advance polls were established or authorized:

Names of Electoral Districts	*Name of Advance Poll*
Bonavista-Twillingate	Bonavista
Burin-Burgeo	Burin
	Grand Bank
	Port aux Basques Channel
Grand Falls-White Bay	Bishop's Falls
Humber-St. Georges	Corner Brook West
St. John's East	St. John's
St. John's West	St. John's
Trinity-Conception	Clarenville
	Harbour Grace

These advance polls were established pursuant to the powers of adaptation given the Chief Electoral Officer under the Act approving the terms of union of Newfoundland with Canada. The votes cast at these polls were as follows:

Name of Advance Poll	*Votes Cast*
Bonavista	5
Burin	1
Grand Bank	3
Port aux Basques Channel	5
Bishop's Falls	3
Corner Brook West	1
St. John's	1
St. John's	3
Clarenville	1
Harbour Grace	0

According to section 94 of the Act power to amend schedule 2 of the Act reads as follows:

(5) The Chief Electoral Officer may from time to time amend Schedule Two of this Act by deleting therefrom the name of any place or by adding thereto the name of any other place, and, so amended, such Schedule shall have effect as if incorporated into this Act; but he shall amend under the following circumstances only:—

(*a*) If a total of less than fifteen votes is cast at the advance poll held within any such place at the election which immediately preceded the amendment, he may strike off the name of that place; or

(*b*) If he is advised and believes that a total of fifteen votes will be cast at any place in case an advance poll is established there, he may add the name of that place.

In view of the provisions of clause (*b*) I have not added the names of the advance pools to the schedule that were authorized to be established at the last election under the powers of adaptation. I wrote to the returning officers and asked them if in their opinion there were any special circumstances which resulted in such a small vote being cast, and the returning officers informed me that under the present provisions of the advance poll and in view of the fact that the privilege of voting at advance polls is limited to specific groups, they felt that, if the advance poll section remained unchanged, there would not be a larger vote cast at those advance polls at future elections. However, I believe it may be that in view of the fact that this was the first federal election in Newfoundland, the public may not have been aware of the advance poll provision and of the privilege they might have exercised by voting at those advance polls. While I have the power to take action under section 2 to establish and maintain advance polls, the situation is that legally there was not a sufficient vote to justify the continuation of those advance polls, but for the reasons I have indicated above, that the people were not perhaps fully aware of the existence of such advance polls and the privileges afforded by them, I would like the support of the committee to continue those advance polls until after another election. If after the next federal election it appears that there are not sufficient voters making use of those advance polls they can be discontinued. I consider that it might be unfair not to include those advance polls in the schedule for another federal election, and to that end I invite the support of the committee to continue them.

Mr. Carter: Mr. Chairman, I would like to say this, that if any advance poll is limited to three days before voting day you might just as well strike them off now because you will not get any more than that vote and you might even have less because of the fact that at certain times of the year nearly all, at least a large percentage of our voters are afloat; they are on the high seas on the Grand Banks; and of course they cannot vote when they are out on the Banks, and when they come in, to whatever point they come in to get bait, you can't tell just where that point is going to be, it is just as apt to be almost any other point as the particular poll in which the voter is registered. Another important point is this, that I do not think many of the people knew where the advance polls were or what they were for. Speaking for myself I may tell the committee that I did not know where the advance polls were until I bumped into them. I didn't even know the polling booths in my own riding. There was no list given to me, and what I did was I went into the deputy returning officer's place and he gave me a list and I copied it down in longhand, with the assistance of my agent; and if I didn't know and if my agent didn't know how would the man off fishing on the Banks know about the Polls when he puts into port once every ten days or two weeks; and then, the port to which he puts in may not be the advance poll in which, under the Act he is entitled

to cast his ballot. If something better than that cannot be done for the fishermen then there is no use messing around with it at all because it becomes just impossible for our people to take advantage of these advance polls. May I say also, Mr. Chairman, that I am a little disapointed that this committee did not support that amendment concerning St. John's West. I can only assume that the committee did not really know what it was doing. Now, don't let us keep on doing things that way anymore. If we are not going to do things in a reasonable and sensible manner let us fold up and get out. I quite appreciate that there are certain difficulties in keeping people informed, that it is a slow process in Newfoundland where our communications are limited, but if people do not know that there is such a thing as an advance poll or where it is located you cannot expect them to use them.

The VICE-CHAIRMAN: Mr. Carter, that is dealt with under section 94 of the Election Act and I suggest that you bring the matter forward again when we are dealing with that particular section. I may tell you that as a matter of fact we have a lot of difficulty in Ontario for the same reason in connection with sailors on the Great Lakes.

Now, gentlemen, the matter before the committee is the suggestion of the Chief Electoral Officer that we support him in the principle of allowing these advance polls to continue for at least one more federal general election. Is that agreed?

Hon. Mr. HARRIS: Oh yes, certainly.

Mr. HERRIDGE: That applies generally with respect to Newfoundland?

The VICE-CHAIRMAN: Yes.

Mr. CARTER: I just wanted to point out that the figures of the count given in those advance polls by the Chief Electoral Officer do not mean anything at all.

The VICE-CHAIRMAN: Yes. Of course, the difficulty to which he referred arose from the fact that the number of votes cast at those advance polls did not come up to the minimum set in the Act for continuing them and he now asks the support of the committee to extend that privilege for anoher election despite the fact that they did not have the required number of votes.

Mr. CARTER: That is all right, but it may be if he communicated with the returning officers he would have got some indication of the reasons why the number of voters was so small.

The WITNESS: I think maybe I did not make myself clear. I think I said that the returning officers informed me that if the provisions of the advance poll were not broadened there might be reason to discontinue them.

Mr. CARTER: I am sorry, I didn't understand that.

The VICE-CHAIRMAN: Is that agreed?

Some Hon. MEMBERS: Agreed.

Mr. CARTER: There is just one further point with respect to that matter. The Chief Electoral Officer referred to certain polls, we would like to have more than that and there is provision whereby more of them can be provided for, I understand.

The WITNESS: Under section 94 of the Act any member can make an application to me to establish advance polls and if he assures me that in his opinion he believes at the next election fifteen votes will be cast at that advance poll I will establish the advance poll in the place that he recommends and it will be published in the *Canada Gazette*. It must be published in the *Canada Gazette* sixty days prior to the issue of any writ, and then the advance poll is authorized by law for that locality. I have received applications since the last election asking for the establishment of advance polls in some electoral districts.

Pursuant to the powers conferred upon me by section 94 I have made a number of amendments to Schedule 2 on the recommendation of members. All that is required is for the member to assure me that in his opinion there will be fifteen votes cast at the next election in any particular locality.

Mr. CARTER: Thank you very much.

Mr. APPLEWHAITE: Mr. Chairman, will you accept this recommendation: This committee recommends that the Chief Electoral Officer be authorized to use his discretion in continuing these advance polls.

The VICE-CHAIRMAN: I think that is very acceptable.

Mr. BROWNE: What are the names of those places you gave us?

The WITNESS: I will repeat the names of the ridings and the advance polls:

Names of Electoral Districts	*Name of Advance Poll*
Bonavista-Twillingate	Bonavista
Burin-Burgeo	Burin
	Grand Bank
	Port aux Basques Channel
Grand Falls-White Bay	Bishop's Falls
Humber-St. Georges	Corner Brook West
St. John's East	St. John's
St. John's West	St. John's
Trinity-Conception	Clarenville
	Harbor Grace

Mr. BROWNE: What about Placentia?

The WITNESS: There was no advance poll authorized to be established at Placentia.

Mr. BROWNE: If I write to you about Placentia?

The WITNESS: If you will write to me about Placentia I will be pleased to include it.

The VICE-CHAIRMAN: Is the motion by Mr. Applewhaite agreed to?

Some Hon. MEMBERS: Agreed.

Carried.

Mr. CARTER: Mr. Chairman, there is an important question as far as advance polls are concerned in the provincial elections that a voter can vote in any district wherever he is, he does not have to be in his own district to be able to vote. That is not possible under the Federal Election Act. I think one of our main difficulties is that most of our people who are voters are fishermen and at the time when they would ordinarily use an advance poll they would not be able to do so because of being away on the Grand Banks and in any event they would not be returning to their home place but they would be wanting to use the advance poll at whatever port they put into. If a man has to return to his home riding, to his home advance poll, in order to be able to vote in his home district this is not going to be of any use to him.

The VICE-CHAIRMAN: I think that can be discussed satisfactorily when we come to clause 94.

Mr. APPLEWHAITE: Before going any further I would like to be sure that my resolution was moved.

The VICE-CHAIRMAN: It was passed—did you move it?

Mr. APPLEWHAITE: Yes, I will move it.

The VICE-CHAIRMAN: Mr. Harris, do you want to talk about your amendment with respect to Indian votes?

Mr. WARD: Pardon me, Mr. Chairman, I have been trying to get a question in here for some time.

The VICE-CHAIRMAN: I am very sorry, Mr. Ward.

Mr. WARD: That is all right. As I understand you the use of advance polls was being broadened.

The WITNESS: Sorry, I didn't hear the question.

Mr. WARD: I understood you to say that the classification of advance polls was being widened?

The WITNESS: Mr. Ward, I haven't prepared any amendment of that nature. That, after all, is a matter of policy, and any amendments that I have submitted are confined strictly to technical and administrative matters.

The VICE-CHAIRMAN: Now, just a minute, perhaps we could deal with that when we come to the related clause.

Now, Mr. Harris, would you like to deal with your proposed amendment?

Hon. Mr. HARRIS: If the committee would give me permission, I would move that consideration be given to the amendment which I placed before you at the last sitting having to do with the voting of Indians; and in that connection I have submitted the amendment to the Chief Electoral Officer and he has improved on it by the addition of something like this—if you have before you the copies which were issued at our last sitting perhaps you would like to make a note of this change: In section (ii) of subsection (*f*) after the words "the Indian Act," are added the words "on or prior to the date of the issue of the writ ordering an election in any electoral district"; so that it now reads this way:—

> (ii) he executed a waiver of tax exemption under The Indian Act, on or prior to the date of the issue of the Writ ordering an election in any electoral district, from or in respect of personal property, in a form prescribed by the Minister of Citizenship and Immigration;"

The point of the amendment being that we fix the date up to which the Indian may execute this waiver of taxation in order to qualify, and the date is the same date on which we have the residential qualifications, namely the date of the issue of the writ.

Mr. BROWNE: Is that a repeal of subsection (*f*)?

Hon. Mr. HARRIS: That is right, and we put in the new section I have referred to.

The VICE-CHAIRMAN: Shall I read the whole motion?

Mr. BROWNE: Could the minister give us the wording?

Hon. Mr. HARRIS: It will be in the Bill when it goes into the House in Bill form. The amendment will provide for the repeal of the old subsection and the substitution therefor of what I have just read to you.

The VICE-CHAIRMAN: Moved by Mr. Harris that paragraph (*f*) of subsection 2 of section 14 of the Dominion Elections Act, 1938, be amended to read as follows:—

> (*f*) every Indian, as defined in The Indian Act, ordinarily resident on a reserve, unless,
>
> (i) he served in the naval, army or air forces of Canada in World War I or World War II, or
>
> (ii) he executed a waiver of tax exemption under The Indian Act, on or prior to the date of the issue of the Writ ordering an election in any electoral district, from or in respect of personal property, in a form prescribed by the Minister of Citizenship and Immigration;

Amend subsection (4) of section 14 of the Dominion Elections Act, 1938, to read as follows:—

(4) Notwithstanding anything in this Act, a woman who is the wife of an Indian who served in the naval, army or air forces of Canada in World War I or World War II, is entitled to have her name included in the list of electors prepared for the polling division in which she ordinarily resides and is entitled to vote in such polling division, if such a woman is otherwise qualified as an elector.

Shall the amendment carry?

Carried.

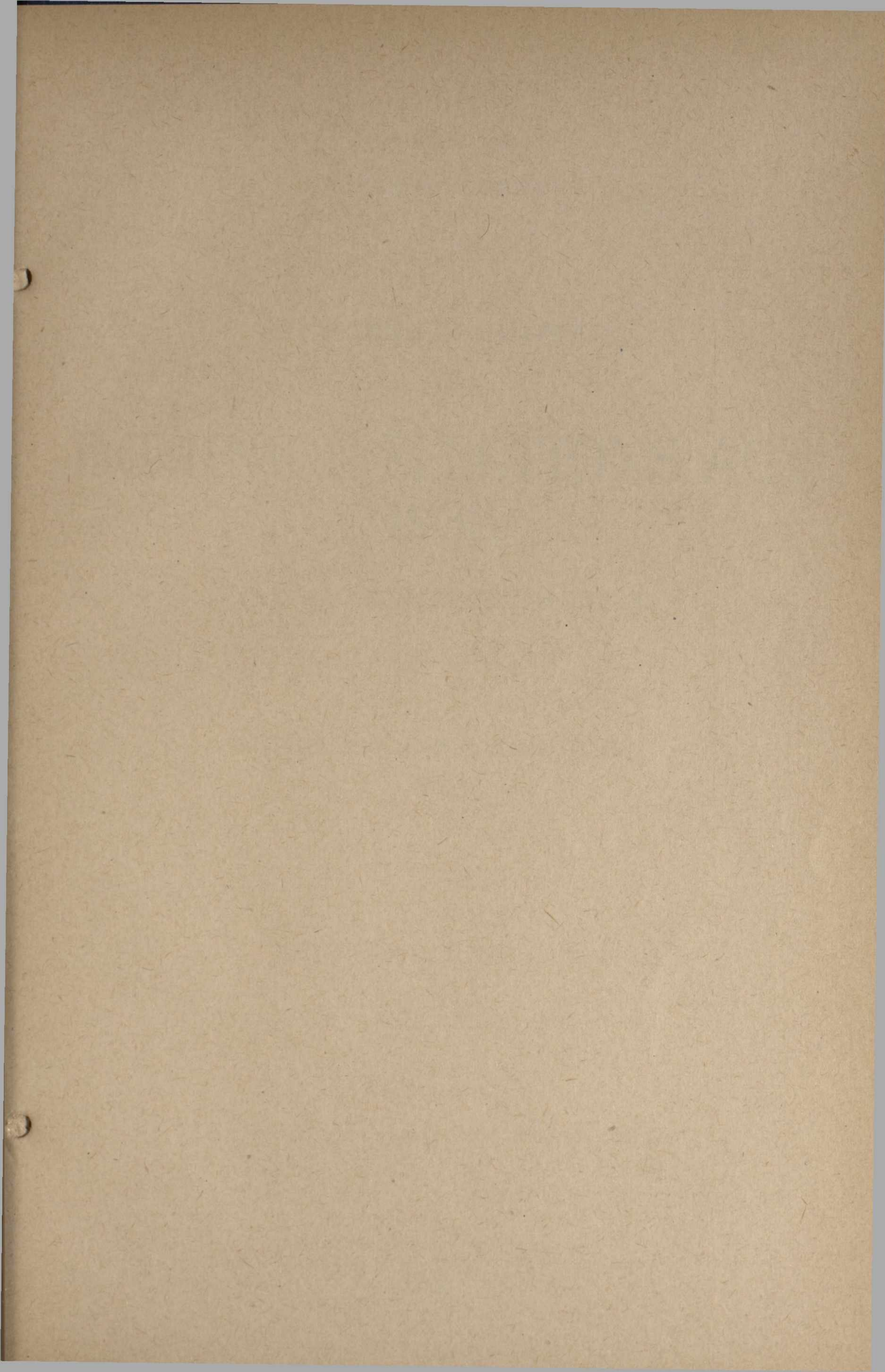
The bell is ringing now calling us down to the House.

Mr. McWilliam: Before we adjourn to go down to the House, Mr. Chairman, there is a little matter of a vacancy in the steering sub-committee which was referred to at our last sitting. I would like to move that the vice-chairman be named to fill that vacancy on the sub-steering committee.

Some Hon. Members: Agreed.

The Vice-Chairman: We will adjourn until 10 o'clock a.m. on Thursday morning next.

The committee adjourned.



SESSION 1950

HOUSE OF COMMONS

STANDING COMMITTEE

ON

DOMINION ELECTIONS ACT 1938

AND AMENDMENTS THERETO

MINUTES OF PROCEEDINGS
No. 4

THURSDAY, JUNE 15, 1950

WITNESS:

Mr. Nelson Castonguay, Chief Electoral Officer.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1950

Mr. Sarto Fournier (*Maisonneuve-Rosemont*), Chairman.
Mr. George T. Fulford, Vice-Chairman, and

Messrs.

Applewhaite	Dewar	MacDougall
Argue	Diefenbaker	McWilliam
Balcer	Fair	Pearkes
Boisvert	Garland	Valois
Boucher	Harris *(Grey-Bruce)*	Viau
Browne *(St. John's West)*	Hatfield	Ward
Cameron	Hellyer	Welbourn
Cannon	Herridge	White *(Middlesex-East)*
Carroll	Jeffery	Wylie—30.
Carter		

(Quorum, 10)

ANTOINE CHASSÉ
Clerk of the Committee.

Errata

On page 73 of the Minutes of Proceedings and Evidence, for Friday, June 2, 1950, APPENDIX "E" should be substituted to "D".

MINUTES OF PROCEEDINGS

HOUSE OF COMMONS,

THURSDAY, June 15, 1950.

The Special Committee appointed to study The Dominion Elections Act, 1938, and amendments thereto, met this day at 10.00 o'clock a.m: Mr. Sarto Fournier (*Maisonneuve-Rosemont*), Chairman, presided.

Members present: Messrs. Boisvert, Boucher, Browne (*St. John's West*), Cameron, Carter, Dewar, Fair, Fournier (*Maisonneuve-Rosemont*), Fulford, Garland, Harris (*Grey-Bruce*), Hellyer, Herridge, MacDougall, McWilliam, Pearkes, Viau, Welbourn, Wylie.

In attendance: Mr. Nelson Castonguay and Mr. E. A. Anglin, respectively Chief Electoral Officer and Assistant Chief Electoral Officer.

The Chairman submitted to the Committee a Draft Report embodying the Resolutions passed by the Committee on proposed amendments to the Act.

On motion of Honourable Mr. W. E. Harris, it was

Resolved, that paragraph (*e*) of Subsection two of Section fourteen of The Dominion Elections Act, 1938, be repealed.

It was agreed that any of the proposed amendments agreed to heretofore, would not preclude the Subsections of the Act as are being so amended, from being considered again as they are reached.

On motion of Mr. Boisvert, it was

Resolved, that the proposed amendment contained in the former Resolution be added to the recommendations contained in the Draft Report.

On motion of Mr. Fair, it was

Resolved, that the draft Report, as amended, be adopted and ordered to be presented to the House as the Second Report of the Committee.

The Committee then reverted to the study of The Dominion Elections Act, 1938, and amendments thereto, from Section one thereof.

Sections one to eleven, both inclusive, with the exception of Sections two, six and seven which stood, were severally considered and agreed to, without any change.

At 11.00 a.m., the Committee adjourned to meet again at 10.00 a.m., Thursday, June 22, 1950.

ANTOINE CHASSÉ,
Clerk of the Committee.

64516—1½

REPORT TO THE HOUSE

THURSDAY, 15th June, 1950.

The Special Committee on The Dominion Elections Act, 1938, and amendments thereto, begs leave to present the following as its

SECOND REPORT

Your Committee has considered certain amendments to the said Act, suggested by the Chief Electoral Officer, and recommends that the Government give consideration to the advisability of introducing a Bill at the present session of Parliament to give effect to the following proposed amendments to the said Act, viz:

1. That Subsection three of section twenty-one of the said Act be repealed and the following substituted therefor:—

Nomination day.

(3) The day for the close of nominations (in this Act referred to as nomination day) in the electoral districts specified in Schedule Four to this Act shall be Monday, the twenty-eighth day before polling day, and in all other electoral districts shall be Monday, the fourteenth day before polling day.

2. That the said Act be amended by adding thereto Schedule Four:—

SCHEDULE FOUR

List of electoral districts in which an interval of twenty-eight days between nomination day and polling day is to be allowed.

Province of Ontario
Cochrane
Kenora-Rainy River
Port Arthur

Province of Quebec
Chapleau
Saguenay

Province of Newfoundland
Bonavista-Twillingate
Burin-Burgeo
Grand Falls-White Bay
Humber-St. George's
Trinity-Conception

Province of Manitoba
Churchill

Province of Saskatchewan
Mackenzie
Meadow Lake
Melfort
Prince Albert

Province of Alberta
Athabaska
Peace River
Jasper-Edson

Province of British Columbia
Cariboo
Skeena

Yukon and Northwest Territories
Yukon-Mackenzie River

3. That Paragraph (*c*) of subsection one of section fifty-five of the said Act be repealed and that the following be substituted therefor:

(*c*) in the provinces of Nova Scotia, New Brunswick, Prince Edward Island, British Columbia, Alberta, or Newfoundland, to a judge of the Supreme Court of the province.

4. That Paragraph (*f*) of subsection 2 of section 14 of the Dominion Elections Act, 1938, be amended to read as follows:

(*f*) every Indian, as defined in The Indian Act, ordinarily resident on a reserve, unless,

(i) he served in the naval, army or air forces of Canada in World War I or World War II, or

(ii) he executed a waiver of tax exemption under The Indian Act, on or prior to the date of the issue of the Writ ordering an election in any electoral district, from or in respect of personal property, in a form prescribed by the Minister of Citizenship and Immigration;

Further, that Subsection (4) of section 14 of The Dominion Elections Act, 1938, be amended to read as follows:

(4) Notwithstanding anything in this Act, a woman who is the wife of an Indian who served in the naval, army or air forces of Canada in World War I or World War II, is entitled to have her name included in the list of electors prepared for the polling division in which she ordinarily resides and is entitled to vote in such polling division, if such a woman is otherwise qualified as an elector.

5. That Paragraph (*e*) of subsection two of section fourteen of The Dominion Elections Act, 1938, chapter forty-six Statutes of 1938, be repealed.

All of which is respectfully submitted.

SARTO FOURNIER,
Chairman.

MINUTES OF EVIDENCE

HOUSE OF COMMONS,
THURSDAY, June 15, 1950.

The Special Committee on Dominion Elections Act, 1938, met this day at 10.00 a.m. The Chairman, Mr. Sarto Fournier, presided.

The CHAIRMAN: Gentlemen, we have a quorum and we shall proceed. You made good progress in my absence the other day for which I desire to congratulate you.

We have a draft report of the committee and it is my intention to present it, if adopted, to the House at 11.00 today. I understand, however, that the minister has an amendment which he proposes to add to the report.

Hon. Mr. HARRIS: I am not just sure, Mr. Chairman, whether it can be done in the bill we are going to present, but I would like to move an amendment.

Mr. BROWNE: Have we had the report circulated?

Hon. Mr. HARRIS: It will be read here.

Mr. BROWNE: Before we have the amendment?

Hon. Mr. HARRIS: The report contains those amendments we made to the Newfoundland part of the bill and the Indian amendments which I presented the other day. That is all that I understand is in the report at the moment. We have drafted a bill for the purpose of carrying out those amendments and in the course of drafting the Department of Justice once more changed the wording about the date on which Indians will qualify.

Mr. BOISVERT: Is this an amendment to the amendment we have already passed?

Hon. Mr. HARRIS: It is an amendment made by Justice in the interests of better drafting. I want to move an amendment to the present paragraph (*e*) of subsection 2 of section 14. That is the section which disbars Eskimos from voting. The purpose of the amendment will be to give to the Eskimos the privilege of voting in the next general election.

You will see that the section reads—"Any Eskimo person whether born in Canada or elsewhere—" We found the rather unusual situation in the Yukon-Mackenzie riding in the last general election that Indians not living on reserves because there are no reserves in the area, were entitled to vote under the present Act as it has been for some years. The Eskimos who were also there in the same neighbourhood naturally felt they were quite as entitled to vote but they were not entitled. After consideration we think it is desirable that they should be admitted to the right to vote in that area. Now there are other Eskimos outside the Northwest Territories. There are a few in the province of Quebec around James Bay but in round figures I think the population is about 5,000 of which over 4,000 are in the Northwest Territories. There are a few Eskimos in Labrador and they too have felt they should be given this privilege as I understand they had the privilege under the old Newfoundland Act.

Mr. BROWN: They still have it under the provincial Act.

Hon. Mr. HARRIS: This, I gather, will clean up any of those disqualifications.

Mr. BROWNE: Is it the intention of the minister to strike out paragraph (*e*) altogether?

Mr. HARRIS: That is right.

As I say, I would like that amendment included in the report if I can have it. Nevertheless, I have prepared a bill on the basis of the deliberations of a week

ago I am not certain whether it is printed and ready for circulation. Should it happen that is the case, it will be introduced in the House and as it goes through the stages we may have to add that amendment regarding Eskimos—rather than delay and have the bill reprinted again.

Mr. CAMERON: I will second the amendment proposed by the minister.

Carried.

The CHAIRMAN: Shall we read the report before we adopt it.

Mr. BROWNE: We do not know what it is.

The CHAIRMAN: I will ask the clerk to read the report with the amendments.

(See report to the House published with today's Minutes of Proeedings.)

Mr. HERRIDGE: I understood when we were dealing with this Act that we were first dealing with the amendments concerned with Newfoundland. Now we have Indians and Eskimos and I want to bring up the question concerning Doukhabours if I have the opportunity later. Will we be able to come back to the section?

THE CHAIRMAN: Yes, we will study the Act section by section and when the time comes you may make your representations.

Shall the new amendment to section 14 carry?

Carried.

Shall the report as amended carry?

Carried.

Now we shall proceed with the Act, section by section.

Nelson Castonguay, Chief Electoral Officer, recalled:

The CHAIRMAN: I do not think it is necessary to read the whole Act. We will proceed slowly and if anyone has any remarks to make we will hear them.

Section 1, Short Title.

Carried.

Section 2, Interpretation.

I think we might let this section stand.

Agreed.

Section 3, Chief Electoral Officer and his Staff.

Carried.

Section 4, Rank, Powers, Salary, and Tenure of Office of Chief Electoral Officer.

Hon. Mr. HARRIS: Section 4 was settled just two years ago in its present form. I do not know of any alterations necessary.

The WITNESS: I have nothing to mention in relation to section 4 but I may have something under section 6.

The CHAIRMAN: Shall section 4 carry?

Carried.

Section 5, Special Powers and Duties of Chief Electoral Officer

Carried.

Section 6, Permanent Staff.

The WITNESS: I have something to mention there.

I would like to suggest to the committee that they agree to bring my staff under the Civil Service Commission. The present procedure for the appointment of a permanent employee is that I make a recommendation to the Secretary of State, the Secretary of State forwards the recommendation to the Governor in Council, the Governor in Council refers it to the Treasury Board, the Treasury Board refers it to the Civil Service Commission and the Civil Service Commission consults me to see if the position is required, and secondly, if the employee is qualified. The procedure I am following now, when there is a vacancy on the staff, is to seek the assistance of the Civil Service Commission in filling the vacancy. This is merely a suggestion that would be acceptable not only from the point of view of the permanent staff but also from the point of view of the temporary staff. In the last election we had a new responsibility inasmuch as we had the taxation of election accounts. I have a small permanent staff. During the election we hire up to about sixty temporary employees, and these employees are dismissed after the general election. For the efficiency of the office, and if the committee is agreeable, I would be more comfortable if the staff of the Chief Electoral Office came under the Civil Service Commission.

The CHAIRMAN: We might include that in one of the future reports of the committee, recommending that the staff, if it is agreeable to the committee, be placed under the Civil Service Commission.

Mr. FAIR: May I ask how many of the staff employed by the Chief Electoral Officer at the present time are permanent employees and how many are temporary?

The WITNESS: At the present time we have eight permanent and five temporary employees. In addition to that we have 260 returning officers who are paid for their services only during an election.

Mr. VIAU: How many returning officers did you say?

The WITNESS: 260. There are two dual ridings, Halifax and Queen's; there are 262 members of the House of Commons, but 260 returning officers.

Mr. BROWNE: Would that subsection give you the authority to employ temporary employees?

The WITNESS: I have at present that authority. All I am asking is that I can use the services of the Civil Service Commission. I am not asking for any additional powers, in fact, I am cutting down on my powers.

Mr. FAIR: Perhaps cutting down on your headaches, too.

The CHAIRMAN: I would ask the Chief Electoral Officer to write that down in such a manner that we could include it in our report.

The WITNESS: If the committee is agreeable I will prepare the amendment bringing this into effect for the committee's consideration at a future meeting. It would require a new section six.

Agreed.

The CHAIRMAN: Section 7: Writs of Election.

I understand that the Chief Electoral Officer has something to say about that.

The WITNESS: I do not want the committee to get the impression I have something to say about each and every section. This problem that I want to bring to the attention of the committee arises out of the fact that under the provisions of this Act there are no means of deferring or postponing an election

after the writs are issued ordering the election, in the event of a disaster such as the floods in the Red River Valley and in the city of Winnipeg, the fires in Rimouski and Cabano, and I have been informed that under no other legislation has anybody the power to either postpone, defer or cancel an election once the election is ordered.

Now, I am particularly concerned not so much as when parliament is sitting, because parliament could then provide some measure to deal with the situation, but my concern is for the period after the dissolution of Parliament when a general election is under way. If these catastrophes had occurred last year, after the dissolution of parliament on the 30th of April, I do not know if it would have been practicable to hold an election in the Red River Valley and Winnipeg during that period, particularly, in view of the fact that many people have moved out of these areas and bearing in mind that these people could only vote in the districts where they lived at the time the writs were issued.

We have not had deferred elections, since 1917, so, this suggestion might be a retrograde step. Still, the same disasters may occur in the future, and if I were in charge of the conduct of a general election and similar disasters were to happen after the writs were issued I would not be very comfortable, as there would be nothing I could do to deal with the matter. There are no powers in this Act which would allow me to defer or postpone that election until a future date, say until order was restored in that particular area. Throughout the years the Chief Electoral Officer has been fortunate in that none of such disasters have occurred during elections. We were very close in 1948 with the Fraser River floods during the Yale by-election. With such a disaster as the Winnipeg strike of 1919 or the recent floods in the Red River Valley, the fires in Rimouski and Cabano, I do not see how it can be practicable to conduct an election not only from the point of view of the returning officers and the election officials but from the point of view of the electorate. In some cases it would be impossible to hold a vote. In this matter, I am in the hands of the committee. I want to assure the committee that I would not like the wide powers to certify that there is a disaster and to subsequently recommend the deferment of an election. I am merely singling out a difficulty that may arise. I am not offering a solution because I think this particular question does not come within the general scope of my duties. I am merely suggesting that an amendment to provide a measure to give somebody the authority to defer an election may be desirable. Again, if the committee wish and if they will give me a direction in the manner in which they want me to proceed in drafting an amendment of this type, such as who would have such authority, I would only be too glad to prepare an amendment.

Mr. Boisvert: Have you asked the opinion of the Department of Justice about an amendment?

The Witness: I spoke to an official of the Department of Justice with the intention of trying to find out if anybody at present has the power to defer an election under any existing legislation. I know there is not any in the Election Act. This official told me he did not think there was any legislation that could allow an election to be deferred in the case of a disaster.

By Mr. Viau:

Q. At the present time the Governor in Council has no powers as to that? —A. He has only the power to issue a writ but not to defer an election after it is ordered.

Q. Section 2 says: "Writs of election shall be dated and, at a general election, shall be made returnable on such days as the Governor in Council shall determine".—A. Yes, he orders the election but the writs are to be returned on a certain date after the election so that the Governor in Council will have

some idea when the next parliament can meet. When the writs are returned from the returning officers I certify to the speaker that the members have been elected and a notice to that effect is published in the *Canada Gazette*. A specified date for the return of the writs is made for the purpose, I understand, of determining the life of the parliament. The life of Parliament begins and ends in the five-year period from the date on which the writs are made returnable. The last writ for the last general election was only received in September, it was the writ covering the election in the Grand Falls-White Bay area of Newfoundland. I am approaching the committee very delicately in this matter because I know it will mean giving wide powers to somebody. As stated before, we have not had deferred elections since 1917. They were the last.

Q. Under what power were they deferred?—A. Well, at that particular time the returning officer could set a date within a certain period after nomination day but it had to be as close as possible to the general polling day in those specific electoral districts mentioned in the Act. I think there were only five electoral districts where the returning officer could set the date beyond the one set for the general election. The returning officer had the power then but it was limited to a certain period after nomination day.

Mr. BROWNE: To whom would you suggest the power be given?

The WITNESS: I would hesitate to make a recommendation.

The CHAIRMAN: I think it should be given to the Governor in Council, on the recommendation of the Chief Electoral Officer.

Mr. BROWNE: I was wondering if he knows of any other precedent for this in any other country, say, in England or the United States?

The WITNESS: I think in the province of Saskatchewan they defer elections in two constituencies and I believe in Newfoundland, in the Labrador, the election was deferred until July when the provincial general election was held in May, 1949. I do not know of any other province that holds deferred elections.

Mr. BOISVERT: We had one in the province of Quebec, in the county of Saguenay; it was changed, I think, a few years ago, but we did have a deferred election in the province of Quebec and we found it to be a bad experience.

The CHAIRMAN: What would happen—this has never occurred but it might occur—if all the candidates are killed in a crash or something like that? What would happen?

The WITNESS: There is provision in section 23 of the Act to deal with such a situation; the election is postponed to a future date to allow for a new nomination day and the lists prepared for the original election are used.

The CHAIRMAN: Well then we will come to that later.

Mr. GARLAND: Do I understand this amendment and the changes will be in effect only when parliament is not sitting?

The CHAIRMAN: When parliament is not sitting?

Mr. GARLAND: When parliament is not sitting.

The WITNESS: When the writ is issued and a disaster occurs after the election has been ordered, if parliament is in session something could be readily done to deal with the matter but if a disaster occurred when parliament is not in session it is possible that a special session might have to be called to deal with that problem. I know it is a very difficult problem to deal with. However I might be faced with that in the future and I would not be very comfortable without somebody having some authority to deal with the matter.

Mr. BROWNE: I suggest the Chief Electoral Officer discuss it with one of the officials of the Department of Justice more fully and let it stand in the meantime.

The CHAIRMAN: Is it agreed that this authority should be given to the Governor in Council under the recommendation of the Chief Electoral Officer?

Some Hon. MEMBERS: No, no.

Mr. BROWNE: The reason I mentioned it is, someone in the Department of Justice may know of the discussion and may have some pointers.

The CHAIRMAN: We will let the section stand.

The WITNESS: I discussed this with my predecessor. The problem has never come up in the past. It has only been brought to light with the Winnipeg and Red River Valley disaster. I asked my predecessor what would have happened if this disaster had occurred last year and he informed me that he knew of no legislation to deal with such a problem.

By Mr. Browne:

Q. It would be necessary to have the Department of Justice say if there is any precedent in the United States or England.—A. In preparing a draft amendment, I feel that the Department of Justice, as myself, would like some direction as to the manner and procedure the committee wish to follow in tackling the problem—such as whether I should make the recommendation to the Governor in Council and then the Governor in Council shall withdraw the writ or, if I make a recommendation the Governor in Council still would have the power of veto, if he did not want to follow my recommendation, or I might not come into the picture at all—just the Governor in Council. Could the committee give a direction or some suggestion as to which way we should proceed in providing a draft amendment.

Q. I would suggest it would be something like this: "And, as to sudden emergencies which would prevent a large proportion of electors in any electoral area from exercising their privilege of voting, the Chief Electoral Officer would have power to recommend to the Governor in Council that the writ may be deferred to a later date." And so on like that.

By Hon. Mr. Harris:

Q. How many ridings would be affected by the Red River flood had the elections been going on?—A. I imagine every electoral district in the city of Winnipeg. You could not get enumerators to canvass when everyone was on the dykes fighting floods, and every riding south of Winnipeg would be affected, and I estimate that in that area there would be at least five or six divisions that would be affected even though the district was not completely flooded.

Take the case of Winnipeg, well, there you have two districts that were flooded and two that were not. I cannot see how you could get enumerators to canvass the city of Winnipeg and I do not know even if it were possible, how enumerators could spend a week taking names of people who are fighting floods or on dykes. At the same time I cannot see returning officers establishing polling stations and manning those polling stations on polling day with the floods still going on and with the people fighting the flood or evacuating the area. There would be no vote. So the problem would not only be in the districts immediately affected but it would be those adjoining. That is why it is very hard to provide a procedure that would sort of limit it to a particular area.

Mr. FULFORD: Can you imagine getting voters to the polls in boats? It is hard enough to get them to go in cars.

The CHAIRMAN: Does section 7 stand?

Mr. PEARKES: If you refer to the Winnipeg strikes in 1919, I think we would have to be very careful that we did not give, shall we say, subversive elements an opportunity of upsetting the election by calling a strike of that nature perhaps in a number of constituencies at some future time. I think you would have to be careful perhaps in the wording and definition of "a disaster". I just throw that out as a suggestion.

Mr. FULFORD: Acts of God.

Mr. PEARKES: But I do see the possibility of perhaps a wholesale disturbance.

The WITNESS: I will take that into consideration, Mr. Pearkes, when we are preparing the draft amendment.

The CHAIRMAN: Section 7 stands. Section 8—"Returning Officers and Election Clerks."

Mr. BROWNE: Returning officers there are temporary officials, are they not?

The WITNESS: Returning officers are permanent but they may be removed for causes under subsection 3 of section 8. They are appointed on a permanent basis, but they are only paid during an election and for the preliminary work that is done prior to an election such as the rearrangement of polling divisions in their electoral districts.

Mr. VIAU: How many returning officers would be at the age of sixty-five at the present time?

The WITNESS: We have no record of the age of returning officers.

The CHAIRMAN: And the returning officer is not supposed to give his age when he swears?

The WITNESS: The form of appointment and oath of office does not require that information.

The CHAIRMAN: We have received a communication from Jean-Marie Fleury, candidate for Chambly-Rouville. It is dated at Longueuil August 2, 1949, respecting returning officers.

> We believe that the appointment of returning officers, throughout the country, should rest directly and exclusively with the Chief Electoral Officer, instead of being vested in the Governor in Council, as the practice now obtains.

That is the substance of it.

The WITNESS: Yes.

By the Chairman:

Q. Have you anything to say about that, Mr. Castonguay?—A. Well, the returning officers were appointed by the Chief Electoral Officer in 1929 for the 1930 general election, and the experience of my predecessor leads me to believe that the present system of appointing returning officers, from the point of view of my predecessor and myself, should remain as it is.

If the responsibility is given to me, I certainly would take it, but for instance just picture the Chief Electoral Officer going to the electoral district of Cariboo. I know nobody in the electoral division of Cariboo. Whom would I see to get a recommendation? A banker or a dentist or a lawyer? I believe that I would have to see somebody connected with a political organization and get recommendations from all recognized political organizations, and I am sure that whomever I selected out of all the recommendations, there would be one organization that would be satisfied and there would be two or three that would not be

satisfied, and I would be in a very intenable position. That is the position my predecessor found himself in 1929, and I certainly would not invite this responsibility, although I would accept it, but I certainly would not welcome it.

By Mr. Browne:

Q. May I ask the Chief Electoral Officer if he has any say in the appointment?—A. None whatsoever.

Mr. PEARKES: When a new returning officer is appointed if he should not happen to be really familiar with a large rural constituency, for instance, is there any means by which you could give him, before the election is called, an opportunity to travel around and to make himself familiar with the constituency and the people in it, with an idea of appointing the various returning officers in the polling division? I had rather that experience in this last election. I have no complaints whatever. The returning officer endeavoured to do his best; he was handicapped in that he was not familiar with the district. It seems to me that if when a new one is appointed on account of a death, which was the case in my constituency—the other man who had been there for years and knew all the procedure had died—and if this new one appointed six months before were given a salary or an honorarium or something of that kind to make preparations, it seems that it would work more smoothly.

Mr. McDOUGALL: It is very seldom to my knowledge that you find a returning officer even in a new division who is not an elector and resident of that area, whether it is a new electoral district or not. To the best of my knowledge I never heard in British Columbia or in Saskatchewan of the appointment of a returning officer who was not known in the electoral district over which he had control.

Mr. PEARKES: I am only speaking from experience at this last election.

Mr. McDOUGALL: I think it is more the exception than the rule.

The WITNESS: The July, 1948, Parliament passed a bill of amendments to the Dominion Election Act containing one hundred pages. This book of instructions did not come off the press until December of 1948, and it is our practice, which we had to discontinue during the war, to see that returning officers are given personal instructions immediately prior to what we call the election period, all this depending on the life of parliament and everything else. Prior to the last general election it was my duty to travel and see every returning officer in Canada, but I had to spend most of my time in the province of Newfoundland for the first election. I was only able to see the returning officers in the maritimes, but what I plan to do in future is this. If the committee terminates its work next year and parliament finalizes this Act, we will have our instructions ready six months after the Act comes into force, and I can travel across the country and see every returning officer—drawing them to a central place in each province and have a three-day conference with them—then I propose to launch our preliminary work in the summer of 1952, so that every returning officer will be able to travel through his district during the summer months which, in some of the rural areas, is the only time he can do it, so that come the winter of 1952-53, at which, in my opinion, the election period for our purposes begins or the 1st of January, 1953, and ends in August 1954 when the life of parliament expires. Those are my proposed plans. But such plan hinges on, first, whether parliament will be able to finalize the Dominion Election Act at the next session.

Mr. PEARKES: That sounds reasonable.

The WITNESS: Then, after giving a course of instruction to every returning officer, pointing out to them the new amendments, pointing out to them the complaints we have received during the last election with regard to their district,

and instructing them to rearrange their polling divisions to suit the better convenience of electors, I think if that happy condition can be arrived at there would be a large improvement in the work of returning officers at the next general election.

There was only one official complaint about returning officers after the last election. I might add there were over one hundred new returning officers and a new man will run into difficulties, but once he has one election under his belt the second one should be better, and I can appreciate their position in this matter because I have just been appointed and I know exactly what it is like.

Mr. PEARKES: Of course, the difficulties were enhanced by the fact that the gentleman I was referring to was on active service and he was only appointed very shortly before the election, owing to the death of the man who held the office previously.

The WITNESS: With our proposed plans, I think your objections may be removed, but such plans hinge on whether the Act will be passed next year and whether I will be free, in 1952, to launch the rearrangement of the polling divisions in the electoral districts.

By Mr. Viau:

Q. There is no arrangement for a returning officer in an electoral district to be paid for his work?—A. There is for this preliminary work. There is a fee provided in the Tariff of Fees, and he is paid $2 for every polling division he has in his electoral district. This work may take him a month. In addition to that fee, he gets travelling allowance.

By Mr. Boucher:

Q. And he gets an allowance for his mileage, too?—A. Yes, and he gets $2 a polling division for rearranging polling divisions. In 1947 the Representation Act was passed. There is going to be a census in 1951. Whether a new Representation Act will be passed before the next general election, I do not know, but let us assume there is a Representation Act passed in 1952, that might delay our preliminary work—the initiation of our preliminary work.

In different circumstances, if we are in the happy position of having the Dominion Elections Act passed next year and a new Representation Act passed in 1952, then we can get on with this preliminary work in the summer of 1952, but any delay in the finalizing of this Act or the Representation Act will naturally affect the preliminary work done before the election.

By Mr. Carter:

Q. Is there any provision made for a probationary period for these returning officers? Do you appoint them permanently only until sixty-five years of age?—A. He may be removed for a cause before sixty-five, but I know we have a returning officer who has handled eleven general elections. I believe he is over sixty-five and incidentally he has not sent in an account for his personal services for the last two general elections.

Q. On what grounds would a returning officer be removed?—A. They are listed her in section 8 of the Act under subsection 3—

> The Governor in Council may remove from office, as for cause, any returning officer who—

He may—he shall not, but "may" only. As I say there is one man who has handled eleven general elections, and another who has handled ten elections.

Q. When you have a new man you do not know whether he is going to be a competent person or not. Do you not try him out for a year?—A. He may be removed for incompetence. It is in subsection 3 of section 8, subparagraph (v), as failure to discharge competently his duties.

The CHAIRMAN: All right. Does section 8 carry?

Carried.

Shall section 9 carry?

Carried.

Shall section 10 carry?

Mr. McDOUGALL: Before we come to deal with section 10, now that this Election Act is going to come up for revision, I understood, by virtue of certain requests that have been made by seven returning officers in and around the metropolitan centre of Vancouver, to call a meeting of these returning officers and ask for their suggestions with respect to potential amendments.

Now, I can, if the chairman wishes, bring those up when each section comes up for discussion, but I was wondering if it would not be advantageous to all if the recommendations of those returning officers should now be read, so that the opportunity would be given to members of the committee to have opinions more or less ready when these various clauses that they mention come up for discussion.

The CHAIRMAN: We have accepted the procedure of dealing section by section, so I think it would not be proper to deal with other sections before we are concerned with them.

Agreed.

Shall section 10 carry?

Carried.

Shall section 11 carry?

Mr. WELBOURN: Mr. Chairman, is there any provision made for a complete revision of the boundaries of the polling divisions in a constituency?

The WITNESS: Yes, there is. I was just explaining that prior to an election we try, if given the time by parliament, which depends on when this Act is passed and when the Representation Act is passed—we try to get our returning officers to make a complete rearrangement to revise existing polling divisions to suit the convenience of all electors.

At this last election we were not in a position to initiate our preliminary work before December 1948, and in rural areas returning officers were not able to get around. But if, in the summer of 1952, our plans materialize I propose to instruct all my returning officers to review their polling division boundaries and to rearrange them where necessary.

Mr. CARTER: I should like to say a word there, Mr. Chairman, because my district suffered considerably from insufficient polling divisions. There was quite a discrepancy between the polling divisions in the provincial election and the polling divisions in the federal election and people, of course,—it was new—but they naturally expected that one election would be the same as the other, but it so happens that I think you did not put polling booths within two miles of each other or something like that.

The WITNESS: Our instruction to returning officers is that no one should go more than ten miles on a return trip to a poll. Now, that sounds like a long distance but in certain areas in the prairies if you tried to make it two miles, you would have about four electors in a poll in some places. There are instructions regarding the establishment of polling divisions for the convenience of electors within the Act. The Act specifies that no polling division is to have more than 350 electors. If there are more, it is split in two and there are two polling stations established in that polling division.

The difficulty in your district, Mr. Carter, was that I was not able, when I was in Newfoundland, to be with Mr. Harris, who is the returning officer, due to his difficulty in getting to St. John's from Grand Bank; he spent a whole week trying to get to St. John's. I telephoned him I think on a Saturday and the following Saturday he had not arrived at St. John's, owing to ship connections. On the map it only looks to be a distance of 150 miles or so.

I obtained a description of the polls established at the referendum in Burin-Burgeo and I gave them to the returning officer and said, "They were established by the referendum but they may not be suitable for our purposes". They had travelling polls that would cover a distance of maybe 20 miles in some settlements and they would start in the morning and do every farmhouse in such regions. Our Act does not provide for travelling polls.

Mr. CARTER: You must look at it this way. In the summer time most of our men are away fishing on the Grand Banks, and that leaves the majority of voters as women. Now, the only way some of those women could vote would be to get in a boat and row three or four miles up to the polling station. Well, women could not do it. If it was a wet day, pouring rain or blowing hard, they could not do it.

The WITNESS: All the returning officers did not have much time. On the 1st of April the terms of the union were consummated and on the 30th of April the writs were issued. I was with them in January, February and March, but I could not get around to them all in their districts. I imagine there will be a great improvement in the next election in the light of the experience such returning officers had in this one, but it was the first election under Canadian legislation and I would say that the degree of success we had in Newfoundland was entirely due to the returning officers. They spent a great deal of time and they devoted themselves completely to their work, and I would say they did admirably well.

Mr. BROWNE: I would like to support that. I know they worked day and night. I do not know if they were supposed to do that, but they were working day and night.

The WITNESS: Yes, any degree of success we had in Newfoundland is entirely due to the returning officers and people acting as election officials — nobody else.

By Mr. Carter:

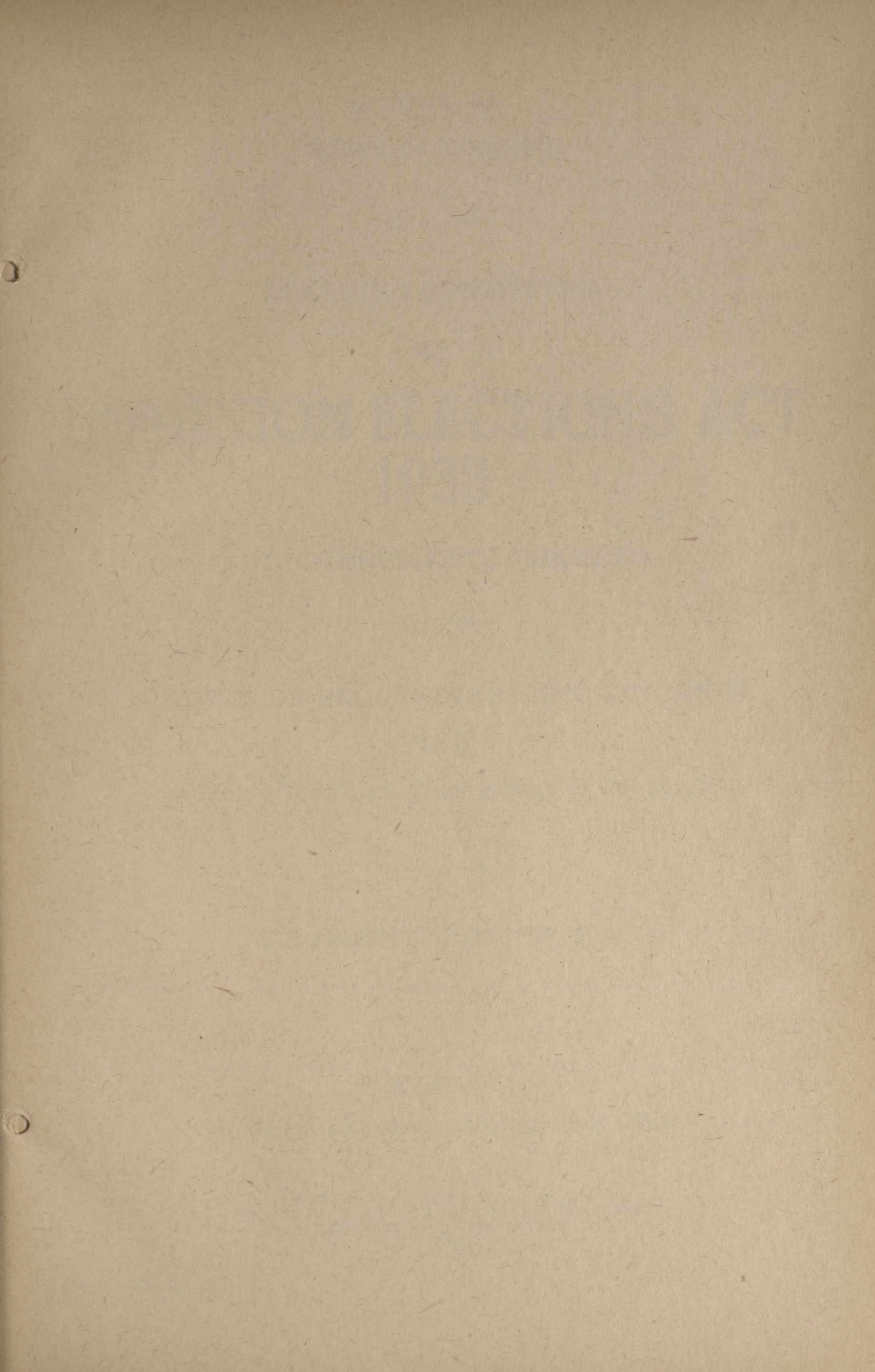
Q. The number of polling booths is up to the returning officer?—A. The returning officer makes the arrangement for the polling divisions in his electoral district. He makes copies of them and gives one to each recognized party in his district and then he invites suggestions.

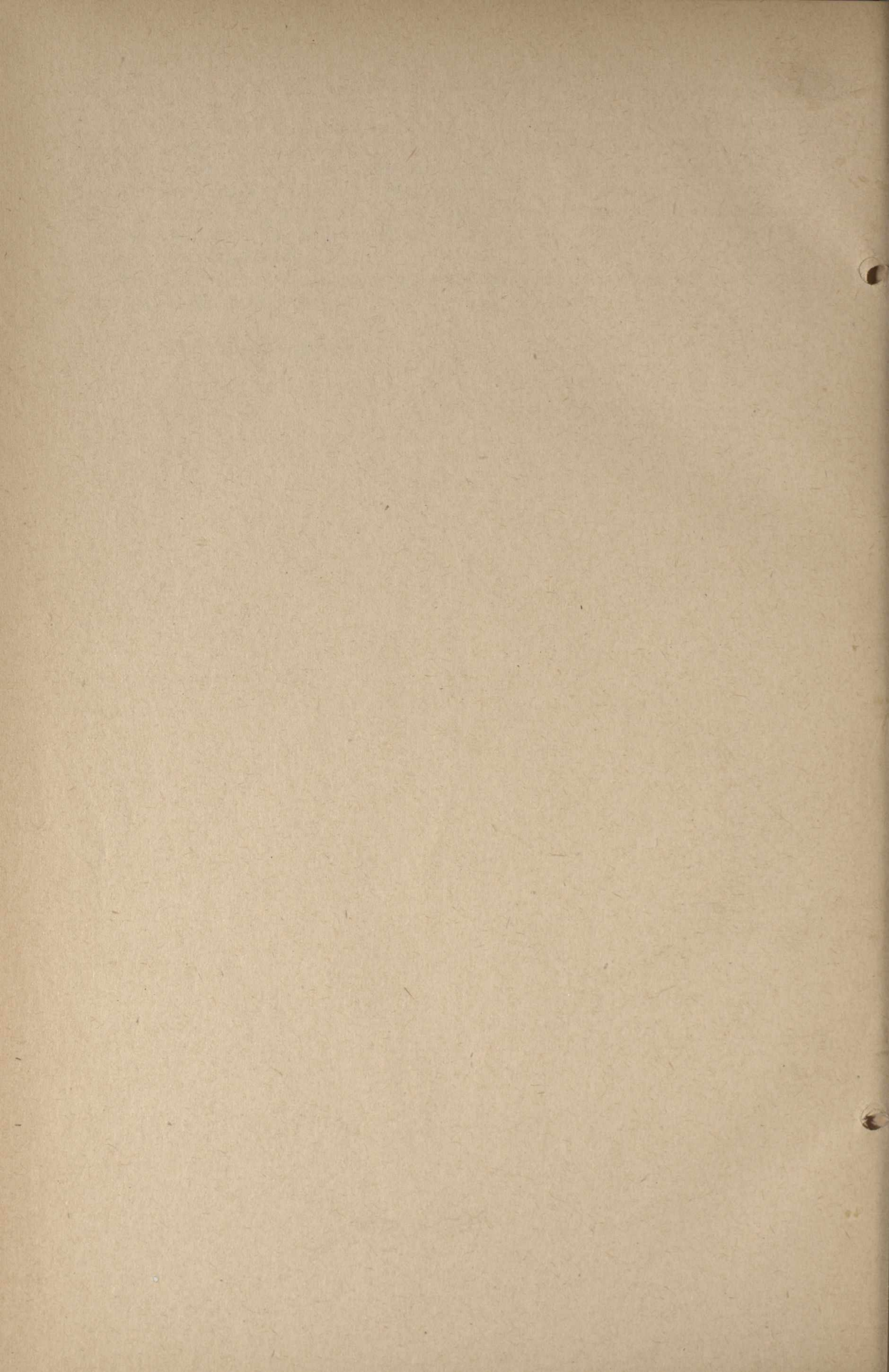
Q. That was not done in the last election?—A. There was not time; there was only one month. When they have two or three months they can do it and do it.

Q. Would it be advisable to set up a travelling booth, do you think?—A. Past committees have always rejected the adoption of travelling booths. They have been against that principle completely. It does not mean to say that this committee is bound by the decision of former committees. However, in the past travelling polls have been considered for institutions and hospitals and the committee has gone down on record as not approving travelling polls even for such institutions.

The CHAIRMAN: Gentlemen, we shall adjourn, and we shall meet again Thursday next at 10 o'clock.

The committee adjourned.





SESSION 1950

HOUSE OF COMMONS

STANDING COMMITTEE

ON

DOMINION ELECTIONS ACT 1938

AND AMENDMENTS THERETO

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 5

Including Third and Final Report to the House

THURSDAY, JUNE 22, 1950

WITNESS:

Mr. Nelson Castonguay, Chief Electoral Officer.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1950

64830—1

Mr. Sarto Fournier *(Maisonneuve-Rosemont)*, Chairman.
Mr. George T. Fulford, Vice-Chairman, and

Messrs.

Applewhaite	Dewar	MacDougall
Argue	Diefenbaker	McWilliam
Balcer	Fair	Pearkes
Boisvert	Garland	Valois
Boucher	Harris *(Grey-Bruce)*	Viau
Browne *(St. John's West)*	Hatfield	Ward
Cameron	Hellyer	Welbourn
Cannon	Herridge	White *(Middlesex East)*
Carroll	Jeffery	Wylie—30.
Carter		

(Quorum, 10)

ANTOINE CHASSÉ
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, June 22, 1950.

The Special Committee on Dominion Elections Act, 1938, and amendments thereto, met at 10:00 o'clock a.m. The Chairman, Mr. Sarto Fournier, presided.

Members present: Messrs. Balcer, Boisvert, Boucher, Browne (*St. John's West*), Cameron, Carroll, Carter, Dewar, Fair, Fournier (*Maisonneuve-Rosemont*), Herridge, MacDougall, Pearkes, Ward, Welbourn, White (*Middlesex East*), Wylie.

In attendance: Mr. Nelson Castonguay and Mr. E. A. Anglin, respectively Chief Electoral Officer and Assistant.

The Chairman announced he had received a communication from Mr. C. P. Wright, Professor of Economics and Political Science, University of New Brunswick, concerning the subject-matter of proportional representation. (Letter is filed with other communications to be considered later.)

The Committee considered the terms of the Third and Final Report to the House.

After some discussion thereon, and on motion of Mr. Boucher, the terms of the Report were adopted and ordered to be presented to the House.

The Committee then resumed consideration of the Dominion Elections Act, 1938, and amendments thereto.

Mr. Castonguay was called.

The witness submitted suggested draft amendments to Sections 6 and 7 of the Act, the consideration of which was deferred to a later date.

Other Sections of the Act were studied. However, no amendments thereto were suggested for the present.

At time of adjournment the discussion was continuing on Section 14, "Qualifications and Disqualifications of Electors".

The witness was retired.

A number of publications relating to the question of proportional representation were distributed to the Members for study.

At 11:00 o'clock a.m., the Committee adjourned *sine die.*

ANTOINE CHASSÉ
Clerk of the Committee.

64830—1½

REPORT TO THE HOUSE

THURSDAY, 22nd June, 1950.

The Special Committee on The Dominion Elections Act, 1938, and amendments thereto, begs leave to present the following as a

THIRD AND FINAL REPORT

Your Committee has held five meetings in the course of which a number of matters relating to The Dominion Elections Act, 1938, and amendments thereto, were before it, such as the several amendments to the Act, suggested by the Chief Electoral Officer, various changes suggested to the latter by the public and communicated to the Committee; also, certain proposed amendments considered advisable by the Committee in its brief study of the Act.

Your Committee already has recommended, in its Second Report to the House, certain amendments to the Act, affecting the right to vote for Indians and Eskimos; extending the period between nomination day and polling day in a number of electoral districts throughout Canada, and a minor amendment respecting Newfoundland. Your Committee is pleased to note that these recommendations already have been translated into legislation by the Government.

Your Commitee has before it still, many important proposals which require the most careful consideration but it is felt that the time at the Committee's disposal, before the close of the present session, is not sufficient to permit a thorough examination of these matters.

Therefore, it is recommended that a similar Committee be set up early at the next session of Parliament to continue the study of The Dominion Elections Act, 1938, and amendments thereto; to consider the several amendments to the Act suggested by the Chief Electoral Officer and such other matters of which your Committee is presently seized or which may be brought up at a later date.

A copy of the printed report of the Minutes of Proceedings and of the evidence is tabled herewith.

All of which is respectfully submitted.

SARTO FOURNIER,
Chairman.

MINUTES OF EVIDENCE

House of Commons,
Thursday, June 22, 1950.

The Special Committee on Dominion Elections Act, 1938, met this day at 10:00 a.m. The Chairman, Mr. Sarto Fournier, presided.

The Chairman: Order, gentlemen. I have received a communication from a gentleman whose name is Mr. C. P. Wright, from Fredericton. He is a professor of Economics and Political Science in the University of New Brunswick. He testified in 1936 before the committee and he desires to come back to propose and discuss the subject of proportional representation. I do not think that we have time to hear him at this session but we will answer his letter and explain the situation. We will add this letter to other communications we have received.

Mr. Browne: Mr. Chairman, will you give him any encouragement about the future? It might be interesting to hear him in the future.

The Chairman: Yes, we will write to him explaining that this year we have not time to hear him but next year we will consider his request.

This might be our last meeting, because we do not know when the session will end—most probably in the middle of next week. With this in view the clerk has prepared a first draft of a report that might be presented this afternoon in the House of Commons. I will read it. It is not final but if any substantial changes are to be made to it, if it is agreeable to the committee we will correct the wording and present it to the House this afternoon. I will read it first:

Third Report

> Your committee has held five meetings in the course of which a number of matters relating to the Dominion Elections Act, 1938, came before it, namely, the suggested amendment by the Chief Electoral Officer and other suggestions mainly from the public. Your committee has already made certain recommendations in their second report to the House affecting Newfoundland and the voting in relation to Indians and Eskimos. These recommendations, the committee is pleased to note, have already been translated into legislation by the government. Your committee, however, feels that the short period between now and the close of the present session will not allow careful consideration of the matters before it. Therefore, it is recommended that a similar committee be set up early at the next session of parliament to continue to study the Dominion Elections Act, 1938, and the suggested amendments by the Chief Electoral Officer, and any other matters which have already and may be brought up for the consideration of such committee.

That will be the report. If we do not agree to the report today we might have no time next week to meet again and draft a final report for this year.

Mr. Pearkes: That is satisfactory. I was trying to follow you, Mr. Chairman. Did you say suggested amendments of the Chief Electoral Officer or suggested amendment?

The Chairman: The suggested amendments.

Mr. Browne: And when you say in regard to Newfoundland, the Indians and the Eskimos, the continuity there is not quite right.

The CHAIRMAN: I will read it again:

Your committee has already made certain recommendations in their second report to the House affecting Newfoundland, the voting of Indians and Eskimos.

Mr. BROWNE: Do you not think that Newfoundland was only a very minor consideration there because you considered the extension of time between nomination day and polling day for a good many other ridings in other provinces and you have not mentioned them at all. Really, the point was the extension of time between nomination day and polling day in all the provinces, not only Newfoundland.

The CHAIRMAN: Yes, we will revise that.

Mr. BROWNE: Put it in there between Newfoundland, Indians and the Eskimos.

The CHAIRMAN: We will make an addition there:

I will read it again:

"Your committee have made certain recommendations in their second report affecting Newfoundland and other electoral districts in other provinces and the voting of Indians and of Eskimos". I should say, "the extension of time between nomination day and polling day in Newfoundland and the other provinces".

Would someone propose that this report be accepted?

Mr. BOUCHER: I move that the report be accepted.

The CHAIRMAN: Now, Mr. Castonguay has prepared two amendments, one to section 6 and one to section 7. I will ask Mr. Castonguay to explain in a few words and read the suggested amendments.

Nelson Castonguay, Chief Electoral Officer, recalled:

The WITNESS: The first draft amendment has to do with section 6 of the Act. At the last meeting the committee asked me to draft a new section, and it reads as follows:

Section six of the said Act is repealed and the following substituted therefor:—

Staff—

6. The staff of the Chief Electoral Officer shall be appointed in the manner authorized by law.

I consulted the Civil Service Commission on this matter and prepared the draft amendment in consultation with them.

Mr. PEARKES: That is on page 221?

The CHAIRMAN: Yes, at the bottom of the page.

The WITNESS: The other draft amendment has to do with section 7. I will read it:

Section seven of the said Act is amended by adding thereto the following subsection:

(4) Where the Chief Electoral Officer certifies that by reason of a flood, fire, or other disaster, it is impracticable to carry out the provisions of this Act in any electoral district where a writ has been issued ordering a Dominion election, the Governor in Council may order the withdrawal of such writ, and a notice to that effect shall be published in a special edition of the *Canada Gazette* by the Chief Electoral Officer; in the event of such withdrawal, a new writ ordering an election shall be issued within .... months after

such publication in the *Canada Gazette*, and the procedure to be followed at such election shall be as prescribed in section one hundred and eight of this Act.

This amendment was drafted with the assistance of an official of the Department of Justice. The procedure provided for in this amendment is that which the committee outlined at the last meeting: first, I certify that there is a disaster, secondly, the Governor in Council may order the withdrawal of the writ, thirdly, the issuing of a new writ. I have left the blank space before the word "months" for the committee to decide what period should be provided, if they are agreeable to this amendment.

Section 108 of the Act would bring this new election under the by-election procedure. It is not feasible to hold it under the general election procedure because in the general election procedure there is the defence service voting regulations, and if an election is held six months after the general election, you would have to keep this whole machinery of the defence service regulations in operation just for one or two electoral districts.

Mr. FAIR: This is going to be for the affected areas only?

The WITNESS: Yes.

The CHAIRMAN: It would be better perhaps to have this matter stand for further consideration, and when we reconvene next year we will take it up again. If some member desires any further explanation from Mr. Castonguay I understand that he has details of what happened in the postponements of other elections in 1917, 1911 and 1908. We have had past experiences in this.

Mr. BOISVERT: I would like to hear from Mr. Castonguay about this matter.

The WITNESS: The last deferred elections were held in 1917 and the provisions dealing with them were in section 90 of the Dominion Elections Act. It reads as follows:

> In the electoral districts of Chicoutimi and Saguenay, and Gaspé in the province of Quebec, and of Comox-Atlin, Kootenay and Yale-Cariboo, in the province of British Columbia, the returning officers shall fix the day for the nomination of candidates, and also the day and places for holding the polls; the nomination in the said electoral districts shall take place not less than eight days after the proclamation hereinbefore required has been posted up, neither the last day of posting it up nor the day of nomination being reckoned; and the day for holding the polls shall be at as early a date thereafter as possible, but not less than seven days after nomination, and at a general election it shall, if possible, be the same day as that fixed by the Governor General for the other electoral districts but not sooner.

In 1917, polling day was December 17, and in the electoral district of Nelson the election was held on the 31st of December. In the Yukon it was held on January 28.

Mr. WELBOURN: Why were they deferred?

The WITNESS: I have not any information on that matter. It may have been due to lack of communication or transportation. Yukon has always been a problem in that regard, and Nelson at that time might have been a problem because of limited communication and transportation facilities. There were four deferred elections in 1911: Chicoutimi and Saguenay, Gaspé, Thunder Bay-Rainy River, Yukon.

The CHAIRMAN: We will let the whole matter stand until next session.

Mr. DEWAR: Mr. Chairman, have you considered any of the details with respect to the returning officers? Has that been discussed at all?

The CHAIRMAN: Yes, we have adopted the section as it is now drafted.

Mr. DEWAR: I wonder if you would revert to that?

The CHAIRMAN: Yes, page 222.

Mr. DEWAR: I will tell you what I have in mind; it is the question of remuneration of enumerators and the like.

The CHAIRMAN: If you would permit me, sir, I understand that that comes under section 60 and when we reach that section it will be the proper time for you to make your suggestion. That is the order of procedure we decided on at the beginning.

Mr. BALCER: What has been decided about the amendment?

The CHAIRMAN: That stands, until we meet again next session. We will consider it then.

Section 12, page 224.

Mr. BROWNE: Does the Chief Electoral Officer have much difficulty in deciding on that question?

The WITNESS: The policy has been to use the population figures of the decennial census, so there has been no difficulty in deciding on that matter. There is an amendment on page 1 of the proposed amendments. We have received representations from returning officers and members of the House of Commons and from various organizations throughout the country asking that the minimum of population now prescribed for in the act be raised. The explanatory notes show the effect of raising the minimum population of 5,000. When the population of an incorporated town is over 3,500 it becomes urban for electoral purposes; which means a closed list, and after the sixteenth day before polling day there is no manner in which a person can vote if his name is not on the list. There are some isolated towns that have a population now of 5,000 or 6,000 which are classified as rural, in view of the fact that we use the 1941 population figure.

Now then, next year with the 1951 census figures it is most likely that such places will be over the present minimum of population. In such places, the electors have been in the habit of voting under the rural system which provides for the open list on polling day, and I think they would rather remain under the rural voting system. As shown in the explanatory notes, this minimum population has been raised several times since 1920. In 1920, every place over 1,000 population was urban; in 1921 it was changed to 2,500; in 1925 it was raised to 5,000; in 1929 it was raised to 10,000; in 1938, it was reduced to 3,500.

Mr. CARROLL: The idea now is to raise it to 5,000?

The WITNESS: There are three alternatives shown on page 1, which reads as follows: (*a*) if it is raised from 3,500 to 5,000, the number of places entitled to urban enumeration would be reduced from 205 to 148; (*b*) if it is raised from 3,500 to 6,000, the number of places entitled to urban enumeration would be reduced from 205 to 123; and (*c*) if it is raised from 3,500 to 7,500, the number of places entitled to urban enumeration would be reduced from 205 to 98. Naturally, there would be a saving if the present minimum of population is raised because urban enumeration requires two enumerators who are paid 8 cents each per name—a total of 16 cents per urban name, whereas in rural districts only one enumerator is required and he receives 10 cents per rural name.

The representations we have received are to the effect that the people in these places are anxious to remain on rural lists. They are not places adjoining large cities. We have the power under the Act, in the case of places adjoining large cities where the population is transient, to declare such places urban if it seems advisable, in order to provide a closed list.

I feel that the 1951 census population returns will indicate that a lot of towns now classed as rural will then be classed as urban for the purposes of this Act.

Mr. FAIR: I remember in 1936, 1937, and 1938, in the process of the revision, this question came up for a good deal of discussion. I can remember very distinctly making the 3,500 amendment to the amendment. There were some recommendations for figures above that and some below, but we settled on 3,500. There was a lot of discussion on it at the time.

The CHAIRMAN: Perhaps that section could stand and at the next session we might be better prepared to give it consideration.

Mr. BOISVERT: I would like to ask Mr. Castonguay about the Eskimo situation. We have granted them the right to vote now? I would like to know how that will work out according to section 12?

The CHAIRMAN: You mean in places where Eskimos are living?

Mr. BOISVERT: The member for Saguenay has a problem in connection with the granting of the vote to Eskimos.

The WITNESS: The Chief Electoral Officer will also have a problem too in Saguenay.

Mr. BOISVERT: There are 1,500 Eskimos in his constituency?

The WITNESS: I have made a study of that particular problem. I think there will be about 14 polling stations established from Ungava Bay down to James Bay. That is the maximum number, I understand. I was speaking to the chief of the Arctic Division of the Department of Resources and Development and he informed me that there are missionaries up there and trading posts, and that there is an airport at Fort Shimo. The maximum number of polling stations will be 14; supplies will all have to be sent in by aircraft—there is no other way. Apparently there is a commercial air line at Moose Factory and there is also one at Fort Shimo.

There will be some administrative difficulty but not any more than in Mackenzie and Labrador districts. In each one of those 14 places either there are missionaries or married couples at the trading posts in such places. There will be somebody to man the polling station.

Mr. WHITE: Would it be in order to discuss the details of some of the measures before us? I had in mind Mr. Castonguay's figures given a moment ago in regard to the remuneration of enumerators. I think he said it was 16 cents in urban districts and 10 cents in rural districts.

The WITNESS: I said 8 cents per urban enumerator. There are two enumerators in each urban polling division—they enumerate together, and they are paid 8 cents each per name. In the rural polling divisions there is only one enumerator who gets 10 cents per name plus pay for the day of revision. On the 18th day before polling day the rural enumerator revises the list, for which he is paid $6. The minimum that anyone can get under the tariff of fees as a rural enumerator is $16, regardless of the number of electors. In the urban electoral district, however, you have two enumerators in each polling division.

The CHAIRMAN: Shall we have the section stand?

Section 13, on page 225, Furnishing of Supplies by Chief Electoral Officer.

The revision referred to in paragraph (*c*) is the printing is it not?

The WITNESS: Yes, in the urban districts, there is a three day period of revision. These forms and material are sent to the returning officer for the revision.

Mr. WELBOURN: One article that is given to the returning officer is a map on which he is supposed to outline the boundaries in each polling division. Now,

in the rural areas, sometimes these boundaries are cut down to sections, and sometimes to half sections, but on this map a township is only about one-sixteenth of an inch square. It is very difficult to make a definite outline. Could consideration be given to providing larger scale maps?

The CHAIRMAN: I understand that does not fall under this Act.

The WITNESS: In the Representation Act such as was passed in 1947, there is a section dealing with the printing of maps. The whole question of maps was studied in 1947 and the difficulty was to get base maps. Also, we had to provide a compact map for the service voting. Representations have been made to our office to get larger scale maps. It is more of a problem from the point of view of the surveyor general, to get base maps and get them out on time. There is quite a change from the 1933 to 1947 maps. I will discuss this matter with the surveyor general with the view of meeting the committee's wishes in securing larger scale maps.

The CHAIRMAN: I hope we can do more than that. My constituency is in Montreal and it is quite a problem to work on these maps. It would require at least four times larger scale maps in order for us to work on them properly. I think we should take proper means to get larger maps.

I wonder if it would be possible to have an amendment to this section?

The WITNESS: Well it comes under the Representation Act. There is a definite section in the Representation Act dealing with the printing and supplying of maps.

Mr. BROWNE: It says in (*b*): "A statement setting forth what portion or portions of the electoral districts shall be deemed to be urban and rural polling divisions, respectively." That is not good enough. We have had difficulties.

The WITNESS: When our preliminary work is launched we advise the returning officers what parts of their electoral districts are rural and what parts are urban.

Mr. BROWNE: I was thinking perhaps of the division between St. John's east and St. John's west. I discovered that some of the people in the east end were voting in the west end, and some of those living in the west end were voting in the east end because they did not know where the boundary line was. It was quite a tangle for a while.

By Mr. Carroll:

Q. The returning officer has the power to designate where the polling sections are to be?—A. He has the complete responsibility.

Q. Do you find that when returning officers are appointed they have a pretty complete geographical view of the place that they have to look after.—A. Generally speaking, yes.

Q. You should not have any difficulty over them. I would think it would be a tremendous expense to start in making geographical maps of the whole country where the returning officers in ninety-nine cases out of a hundred would not need anything like that at all.—A. The map is only used to supplement the written description of the polling divisions.

Q. It is a guide to the polling sections in the divisions, yes.

By Mr. Ward:

Q. I have often thought, having had the misfortune of having gone through a number of elections, that perhaps the returning officer did not have enough time properly to deal with some sections of our constituencies and do the necessary laying out of polling subdivisions, and my thought has been that if they had a little more time it would be more accurate and more equitable, and they would be able to do a better job.—A. The question of time is always with us. We would like more time, we would always like more time. As I explained

at the last meeting, this Act was passed in 1948 and we had to prepare instructions for all returning officers as to the manner in which they were to proceed. This book came off the press in December of 1948 and the returning officers were only able to do certain preliminary work in December of 1948. In the rural constituencies the returning officers can't get around at that particular time of the year. You will notice that the Representation Act was only passed in 1947 and the maps were only received in July of 1948. That was the first delay we encountered. The second delay was the electoral legislation being passed less than a year prior to the general election and that made it very difficult. We always want time and never seem to be able to get very much of it; the circumstances are such that we never seem to get sufficient time to do things the way we would like to do them. As I outlined to the committee, if parliament brings down a further revision of this Act next year and if there is a Representation Act passed before the summer of 1952, we should then be able to launch the preliminary work of re-organizing and re-arranging polling divisions in every electoral district. If we are in the very happy position of having the Dominion Elections Act finalized next year by parliament, and also in having the Representation Act finalized before the summer of 1952, returning officers will get their instructions to begin their preliminary work in 1952 and they should have ample time to revise the polling division arrangements of their electoral district before the next general election. A fee of $2 is provided for the revision of each polling division, and the returning officer gets that fee whether any change is made in the district or not. So it is not a question of adequate remuneration, it is rather the fact that we do not always have the necessary time.

Q. I am glad to have Mr. Castonguay's assurances that the matter will be attended to in future.—A. Given the time, conditional on having the time to do it, we will. We are always open to receive and we are receiving, recommendations with respect to the change of the boundaries of polling divisions in various electoral districts. As a matter of fact, at the last general election due to the lack of time the boundaries of polling divisions in rural electoral districts were substantially the same as those established for the 1945 general election. Returning officers were unable to revise them in the time allowed.

Mr. FAIR: I think the returning officers are always ready to change boundaries.

The WITNESS: Our instructions to returning officers are very definite that in carrying out this work they are to keep in touch with the recognized political organizations and all interested parties, keeping them informed and asking them for suggestions as to changes in boundaries of polling divisions. It was not possible the last time to do that in most cases. We hope, however, that in 1952 there will be adequate time and opportunity to have this work carried out in a way that will be satisfactory to all concerned.

Mr. WARD: I have one further question, it is just a general question. I just wanted to ask Mr. Castonguay—I was speaking to him about this earlier—about two cases still outstanding in my constituency where men were employed by the returning officer in the capacity of constables at polls and they have never yet received their pay. I wonder what the answer to that is?

The WITNESS: We received a lot of complaints of that nature. There is an account form used at the polling station. On the back of the form is supposed to be entered the name of the constable. We always find it happening that after a poll closes the deputy returning officer in his anxiety to get the returns in quickly has forgotten or omitted to enter on the back of the form in the space provided for that purpose the name of the constable. We therefore receive complaints and letters of the kind to which you refer and in such cases we examine the poll book and if we find that the constable has been sworn

in then we pay him, but otherwise we have no knowledge of any constable who may have acted in a poll unless his name appears on the account form. I think there are about two or three hundred cases where the names of constables had not been included in the account forms. Looking through the poll book we can see where they had been sworn in, and in that way we were able to pay them. Until it is brought to our attention that there was a constable appointed at a polling station we have no way of knowing whether a constable acted or not, but if he was sworn in we can verify his claim and then we pay the account.

The CHAIRMAN: Perhaps you would look into that for Mr. Ward.

The WITNESS: I shall be glad to, if you will give me the particulars.

Mr. WARD: You have a letter from me on that.

The WITNESS: All right.

The CHAIRMAN: Is there anything else, gentlemen?

Mr. BALCER: Before proceeding any further may I suggest that when you come to the sections they be read before we proceed with our discussion of them, otherwise I do not think we will make very much headway.

The CHAIRMAN: Our procedure so far has been to call the sections one by one and if there is any question about them they are allowed to stand; that means that they will come before us again next year.

Mr. BALCER: No, I mean would you read the section before we deal with it?

Mr. WYLIE: Mr. Chairman, I think that is a waste of time. We can all read.

The CHAIRMAN: The best thing would be for the members to read the sections before they come to the committee and to prepare notes with respect to any matters they want to bring up for discussion. This year we are following the same procedure as was followed two or three years ago and it proved quite satisfactory in the past.

By Mr. Carter:

Q. Before you leave this particular section, section 13; is the remuneration of these constables set out in the Act?—A. Yes, their remuneration is set out in the tariff of fees. The tariff of fees is established by section 60 of the Act, and the tariff of fees is printed here (indicating schedule) in the instruction book. The manner in which this tariff of fees is drawn up is prescribed for in section 60 of the Act.

Q. Has there been any suggestion about revising that tariff of fees—A. Yes. Representations have been made.

Mr. BROWNE: Mr. Chairman, referring to paragraph 2 of section 13, I wonder if the Chief Electoral Officer would explain to the committee what is meant by the term "stereotype or printer's blocks"?

The WITNESS: The stereotype block is a block that is supplied to the printer. We supply eight of them; and if you will refer to page 332 you will see the details that appears on that block. A new one is prepared, for each election. It is used in the printing of the ballot paper.

The CHAIRMAN: Shall section 13 carry?

Carried.

Section 14, Qualifications and Disqualifications of Electors:

Mr. HERRIDGE: This section is of great interest to me in my constituency, section 14, clause (i). I am speaking of this because I represent a constituency in British Columbia which contains a great block of Doukhobors, some 10,000

Doukhobors. I am not going to take up the time of the committee to go into the situation as it has been in the past or as it is at present, but it can be a very serious situation as far as my constituency is concerned. Now, Mr. Chairman, the Doukhobors at one time had the vote, in fact they had it until I think it was during a certain regime—I think it was Mr. Bennett who brought about a change and took the vote away from them. At the present time the Doukhobors still vote in Saskatchewan but they cannot vote in British Columbia because of the British Columbia law. I have given a great deal of attention to this question because I have lived in the district for a long period of time and I know hundreds of these people. The present situation is most confused and in my opinion and in the opinion of responsible people of all parties in my riding it is most unjust to many Doukhobors who wish to become full fledged Canadian citizens and to accept their responsibilities.

Some of these men—to illustrate their willingness to become Canadian citizens—served in the forces on the Pacific coast. Some have been active in various communities in my constituency. For many years, businessmen and farmers have been living independently of the community. They are respected and their abilities are recognized as a whole. I have in one community a jeweller who for 40 years has had nothing whatever to do with the Doukhobor community. He is a well respected businessman, but because of the provincial and the federal law he is denied the right to exercise the franchise as a Canadian citizen. In addition, we have hundreds of these young men growing up who want to be Canadian citizens. People are hoping to win them away from those who are committing these various acts of violence at the present time. Many, however, are hanging back because they do not have the opportunity, when they become 21, under the present law, of exercising the franchise.

Our section 14 (i) reads as follows:

> in any province, every person exempted or entitled to claim exemption or who on production of any certificate might have become or would now be entitled to claim exemption from military service by reason of the Order in Council of December 6, 1898, because the doctrines of his religion make him averse to bearing arms, and who is by the law of that province disqualified from voting at an election of a member of the Legislative Assembly of that province;—

I might say that in my opinion it is a particularly harsh type of legislation because we have respected Canadian citizens who are Quakers who also object to bearing arms, but who served in other ways, just as some of these men did voluntarily.

A remarkable thing about this whole situation is that the larger proportion of the Doukhobors who volunteered and served in the Armed Forces in the recent war were members of the Sons of Freedom sect. It is almost incredible. There were others of the regular community who served in various voluntary capacities. Then again I think it is a most unfair distinction in view of the fact that many other people have objection to military service and some not on such high ground or principle.

Now, Mr. Chairman, I want to deal with the provincial legislation so that the committee will understand the situation. Section 3 of the British Columbia Election Act reads as follows:

> Section 3—Electors—Qualifications and Disqualifications
>
> Clause e:
>
> Every Doukhobor: Provided that the provisions of this clause shall not disqualify or render incompetent to vote any person who:
>
> (i) Has served in the Naval, Military, or Air Force of any member of the British Commonwealth of Nations in any war, and who produces a

discharge from such Naval, Military, or Air Force to the Registrar upon applying for registration under this Act and to the Deputy Returning Officer at the time of polling; or who

(ii) Is the wife or descendant of a person who comes within the scope of paragraph (i) of this clause:................

Pardon me, Mr. Chairman, the clause in the section which bars Doukhobors particularly reads as follows.

Definition of Doukhobor

Doukhobor means a person, male or female, exempted or entitled to claim exemption or who on production of any certificate might have become or would now be entitled to claim exemption from military service by reason of the Order of the Governor in Council of December sixth, 1898; and every descendant of any such person, whether born in the province or elsewhere:........

Regardless of the fact that the man may discontinue to recognize the Doukhobor people, because he is a descendant of a Doukhobor, and according to that legislation, he is denied the franchise in perpetuity. Our legislation denies him the franchise on account of this legislation. During the recent election—and before proceeding I must say that the work of the Returning Officer in Kootenay West was excellent under most difficult conditions. He had this problem before him almost every day for a month previous to the election. Various Doukhobors would come into his office and want to find out what the law was. I am sure that the Chief Electoral Officer is well informed and acquainted with the situation, but the provincial enumerators who make up the list of votors for the provincial elections vary. A man may have lived in a small community. His name may end with the letters "off" and he may be recognized as a small businessman, a respected businessman and his name is put on the list. There were numbers of Doukhobors on the provincial list who voted in the last provincial election just because of a more liberal attitude on the part of the enumerator in that poll. However, in other polls, the enumerator refused to put anybody on the list if his name ended in "off." In some cases these people are Russians and not Doukhobors.

I have seen men spending two or three hours trying to prove that they are Russians and not Doukhobors. The Doukhobor is a Russian. The word Doukhobor means simply a religious belief.

When the federal election came along some of those who voted in the provincial election were denied the right to vote in the federal election because according to the definition in the Act they were Doukhobors. I am not suggesting that we can settle the problem or deal with this question effectively at a meeting of the committee now. But knowing the situation we have in Kootenay West, I think we have got to do something positive if we are going to remedy it as well as give effect to the law.

Quite recently in British Columbia the provincial government appointed a committee headed by Dr. Mackenzie of the University of British Columbia. Included on that committee are prominent people in British Columbia of good standing, and prominent people from my own constituency who have been empowered to study this whole question and make recommendations to the provincial government.

Mr. MacDougall: And the secretary of the Quakers' Association in the United States is also a member of that committee.

Mr. Herridge: Oh, yes, the secretary of the Society of Friends is also a member of that committee. This group is the first committee to approach this very difficult problem in a thoroughly sound manner starting from A and going to Z.

I do not know what to propose, but I shall throw this out as a suggestion and possibly later I shall put it in the form of a motion: that this committee recommend that the Chief Electoral Officer and those concerned with the Department of Citizenship and Immigration—because the Department of Citizenship and Immigration is interested in doing something positive to improve the situation in my constituency—that this committee should recommend that the Chief Electoral Officer bring this matter to the attention of the Minister for Citizenship and Immigration and further recommend that consultations be held with the committee appointed by the province of British Columbia with a view to an amendment of this section 14 so far as Doukhobors are concerned.

Now, Mr. Chairman, before moving a resolution to that effect, I would like to hear an expression of opinion from some of the members of the committee and then, if the committee seems to think that it is a constructive step at this time, I would like to have the opportunity to make a motion.

Mr. MacDougall: The problem of the Doukhobor in British Columbia is a strange one. I have no hesitancy in going along with the suggestion of Mr. Herridge, but I think we would be damaging the cause rather than helping it by too precipitous action. We have a situation in British Columbia now which does not involve all the Doukhobors. It involves chiefly those of the sect known as the Sons of Freedom. But unfortunately the Sons of Freedom comprise some 2,000 to 2,500 of the general population of the Doukhobors in the Province of British Columbia. According to the latest report I received within the last 30 minutes a great number of those who were excluded previously to what might be termed the civil insurrection in British Columbia are now, in sympathy, joining the Sons of Freedom. It is a problem, I do not mind saying, to the honourable members, which is a most difficult one to solve because it is based entirely on a fanatical religious belief.

Under conditions there today strip-tease artists are being assembled in the jails and penitentiaries on the ground that they participated as arsonists. However, the practice still remains. They are not all arsonists. It is a problem of trying to solve the Doukhobor mentality in British Columbia. I do not mind saying that it is a most difficult problem.

I think that the committee which has been set up in British Columbia is doing everything in its power to get to the basis of why these people act in the way they do under certain circumstances. I quite agree with my good friend from Kootenay West that to hold the Doukhobor away from the ballot in perpetuity is not good business. I quite agree with that and I would ask him, in view of the fact that he has brought this problem up today and that he anticipates bringing in a motion with respect to it, just as we are talking about the Indian Act in the House, would he not consider delaying his motion for a time until we can find out in British Columbia if we can do something actually to help these people to become better citizens than they are today. Certainly the utilization of the ballot is one way. I support Mr. Herridge's remarks but I do feel that under the circumstances—and these very circumstances that we have in British Columbia are ones that you will probably be hearing about in the House of Commons before it is all over—it would be better if we waited before we moved any resolution of that kind. Whether or not this is the last meeting of this committee, I think we could very well allow that matter to stand over until we reconvene possibly for the third session.

Mr. Pearkes: I would ask, Mr. Chairman, that this matter be allowed to stand over because I have a number of Doukhobors in my riding.

The Chairman: Section 14 will stand.

Mr. Herridge: I brought the matter to the attention of the committee and I am quite in agreement with the suggestion made by Mr. MacDougall. But I

do suggest that the members of the committee follow this question closely. I am quite sure the situation will have gradually improved by the time the committee meets again.

The CHAIRMAN: Gentlemen, you have received a number of publications relating to the question of proportional representation. I hope every member will study them carefully before we meet again.

Mr. PEARKES: Is this from the Proportional Representation Society in England?

Mr. CARTER: Gentlemen, before we leave. If we are going to discuss that problem at our next session, is the committee in a position to let us have information on that problem to keep us informed?

The CHAIRMAN: You mean about the Doukhobors?

Mr. CARTER: Yes.

Mr. DEWAR: I suggest we call the committee from British Columbia, let them come down here and give us firsthand impressions of the evidence they collected in dealing with the subject in British Columbia. As far as I am concerned, if they are not prepared to abide by the law of the land let them be kicked out of it.

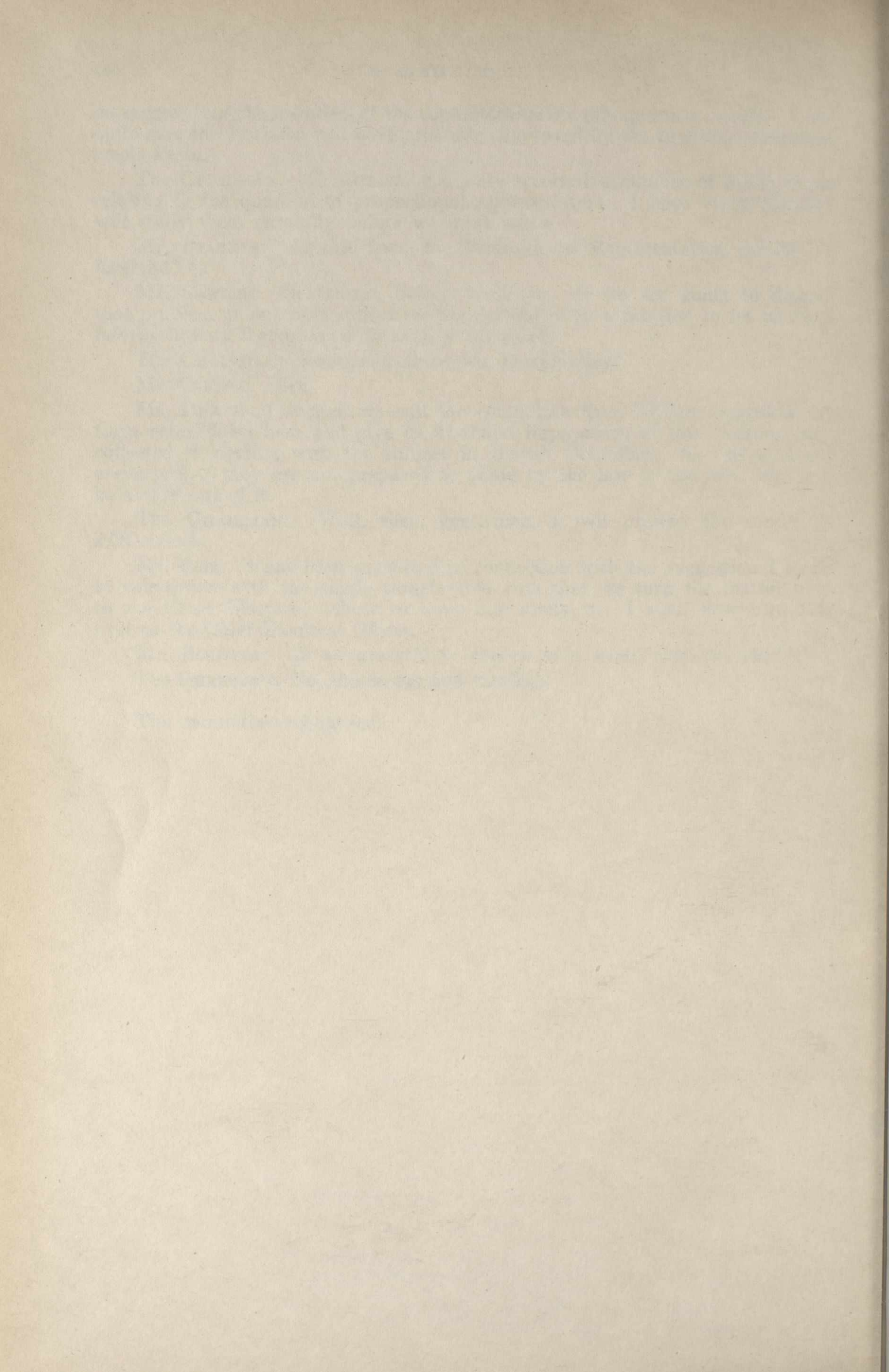
The CHAIRMAN: Well, then, gentlemen, I will present the report at 3.00 o'clock.

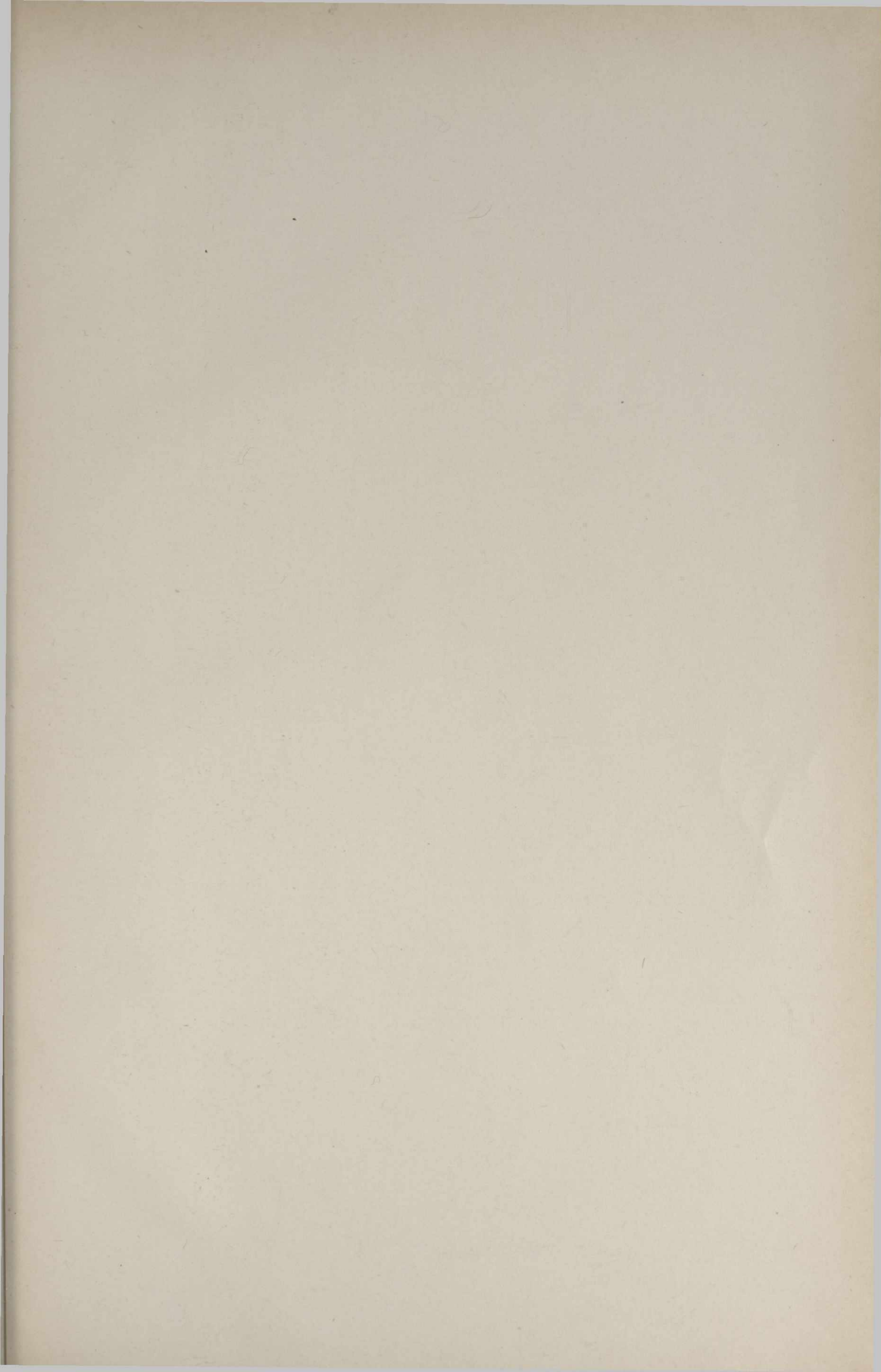
Mr. FAIR: It has been suggested in connection with the suggestion I made in connection with the single transferable vote that we turn the matter over to the Chief Electoral Officer to have him study it. I shall now turn this over to the Chief Electoral Officer.

Mr. BOISVERT: If we are still in session next week, shall we study—

The CHAIRMAN: No, this is our last meeting.

The committee adjourned.





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