

## Grenada: Electoral Law, 1958 House of Representatives (Elections)

### Ordinance Chapter 160 Revised

#### PART III

##### *Administrative Provisions*

**15.** The Governor-General shall appoint a Supervisor of Elections who shall:---

(a) exercise general direction and supervision over the administrative conduct of elections and enforce on the part of all election officers fairness, impartiality and compliance with the provisions of this Ordinance;

(b) issue to election officers such instructions as from time to time he may deem necessary to insure effective execution of provisions of the Ordinance;

(c) execute and perform all other powers and duties which by Section 35 of the Grenada Constitution 1973 and this Ordinance are conferred and imposed on him.

**16.** The Governor-General may from time to time on the recommendation of the Supervisor of Elections, appoint supervisors who shall receive such remuneration as may be prescribed. Such supervisors or enumerators shall perform such duties as the Governor-General or the Supervisor of Elections shall assign to them.

**17.**---(1)The Governor-General may from time to time on the recommendation of the Supervisor of Elections, appoint for each constituency a returning officer who shall receive such remuneration as may be prescribed.

(2) Forthwith upon his appointment each returning officer shall take and subscribe an oath in the form set out as Form No. 20 in the First Schedule, and shall transmit such oath to the Supervisor of Elections.

(3) Forthwith upon taking the oath referred to in the last preceding subsection, the returning officer shall establish an office in his constituency, or, where any person has been appointed returning officer for more than one Constituency, in one of such Constituencies or with the approval of the Supervisor of Elections as some convenient place outside of either of such districts, and shall cause an advertisement to be inserted in a daily newspaper specifying the place at which he has established his office.

(4) No returning officer or other election officer shall be entitled to nomination as a candidate for election at an election for which he is the returning officer or other election officer.

**18.**---(1) The Supervisor of Elections may appoint an election clerk to assist each returning officer. Such clerk shall receive such remuneration as may be prescribed.

(2) Forthwith upon his appointment, the election clerk shall take an oath in the form set out as Form No. 21 in the First Schedule and shall transmit such oath to the returning officer.

(3) If at any time between the issue of a writ for an election and the declaration of the result of that election the returning officer dies or becomes incapable of performing his duties as such, the election clerk shall forthwith report the fact to the Supervisor of Elections and shall discharge all the duties and exercise all the powers of the returning officer until some other returning officer is appointed or the returning officer ceases to be incapable of performing his duties as the case may be.

**19.**---(1) Forthwith upon commencing to discharge the duties of the returning officer in accordance with the provisions of the last section, the election clerk shall appoint a substitute election clerk who, unless sooner removed by the Supervisor of Elections, shall perform all the duties and exercise all the powers of the returning officer.

(2) Forthwith upon commencing to discharge the duties of the election clerk, the substitute election clerk shall take an oath required by the last preceding section to be taken by the election clerk.

(3) The substitute election clerk shall receive, in respect to his services as such, such sum as the Governor-General may in any particular case appoint.

**20.**---(1) The returning officer of every constituency shall, subject to the approval of the Governor-General, appoint a presiding officer for each polling station in such district who shall receive such remuneration as may be described.

(2) Forthwith upon his appointment each presiding officer shall take and subscribe an oath in the form set out as Form No. 22 in the First Schedule and shall transmit such oath to the returning officer.

**21.**---(1) The returning officer of every Constituency shall appoint a poll clerk for each polling station in such constituency who shall receive such remuneration as may be prescribed.

(2) Forthwith upon his appointment every poll clerk shall take and subscribe an oath in the form set out as Form No. 23 in the First Schedule and shall transmit such oath to the returning officer.

(3) If any presiding officer dies or becomes incapable of performing his duties during the taking of the poll, the poll clerk shall forthwith assume the office of presiding officer and shall appoint some other person to act as poll clerk.

(4) Every person appointed to act as poll clerk under the last preceding subsection shall forthwith take and subscribe the oath of a poll clerk.

**22.** Every election officer and every person who is required by this Ordinance to take an oath may take such oath either before a Justice of the Peace or before any registration officer, returning officer, presiding officer and poll clerk is hereby authorized and empowered to administer any oaths required by this Ordinance to be made by any election officer or other person.

## **PART VI**

### **ELECTIONS.**

#### *Arrangements for Elections.*

**23.**---(1) For the purposes of every general election of members of the House of Representatives, and for the purposes of the election of members to supply vacancies caused by death, resignation, or otherwise, the Governor-General shall issue writs under the Public Seal of the State, addressed to the returning officers of the respective Constituencies for which members are to be returned. Such writs shall be forwarded to the Supervisor of Elections for transmission to the several returning officers.

(2) Every such writ shall be in the form set out as Form No. 1 in the First Schedule and shall specify the day and place of the nomination of candidates, the day on which, if necessary, the polls shall be taken, being not less than fifteen and not more than twenty-one days thereafter, and the day on which such writ is returnable to the governor general.

(3) Upon receipt of such writ every returning officer shall proceed to hold election in the manner hereinafter provided.

**24.** Upon the issue by the Governor-General of a writ the Supervisor of Elections shall give notice thereof and of the day and place fixed for the nomination of candidates, by publication in the *Gazette* and one or more daily newspapers at least ten clear days before the day fixed for such nomination; and the returning officer shall give further notice of the issue of such writ and of the time and place fixed for the nomination of candidates by causing notices in the form set out as Form No. 24 in the First Schedule to be posted or affixed in some conspicuous place near the principal door of every Court House, Police Station and Revenue Office, and in any other place he may deem necessary.

**25.** Before the day fixed for the nomination of candidates, the returning officers shall obtain from the supervisor of elections the prescribed number of copies of the lists of electors for the time being in force by virtue of this Ordinance.

#### *Procedure at Elections*

**26.**---(1) On the day and at the place fixed for the nomination of candidates, the returning officer shall attend at nine o'clock in the morning to receive the nomination of candidates for the seat to be filled.

(2) Every candidate for election---

(i) must be nominated in writing by not less than six registered electors of the Constituency for which he seeks to be elected, and

(ii) must consent in writing to such nomination in the form set out as Form No. 25 in the First Schedule;

Provided that no candidate shall be deemed not to have been validly nominated by reason only of the fact that subsequent to the nomination day any person by whom his nomination paper was signed is struck off the list of electors for the relevant Constituency.

(3) The returning officer shall at the place aforesaid and within three hours thereafter receive such nomination papers as may be tendered to him.

(4) Every candidate shall at the time of his nomination deliver or cause to be delivered to the returning officer a statutory declaration of his qualifications made and subscribed by such candidate or, if the candidate is absent from the State on nomination day, by his duly authorized agent, in the form set out as Form No. 26 or No. 26a, as the case may be, in the First Schedule. If such statutory declaration is not delivered as aforesaid the nomination of such candidate shall be deemed to be void.

(5) Every candidate, or someone on his behalf shall at the time of his nomination deposit, or cause to be deposited, with the returning officer, the sum of three hundred dollars in cash and if he fails to do so, the nomination of such candidate shall be deemed to be void.

**27.**---(1) The full amount of every deposit made under subsection (5) of the last preceding section shall forthwith after its receipt be transmitted by the returning officer to the Permanent Secretary of the Ministry of Finance.

(2) The full amount of every such deposit shall be returned by the Permanent Secretary to the person who made such deposit or his personal representatives as the case may be, upon production by him or by them, within one month of the conclusion of the election in respect of which the deposit was made of a certificate from the Supervisor of Elections that the candidate was elected or polled not less than one eighth of the total number of votes counted at the election, or died before the close of the poll on polling day or withdrew in accordance with subsection (1) of section 31.

(3) For the purposes of this section the number of votes polled shall be deemed to be the number of ballot papers (other than rejected ballot papers and spoiled ballot papers) counted.

(4) Except as otherwise provided in this section, every such deposit shall, at the expiration of one

month from the conclusion of the election in respect of which it was made, be credited to general revenue.

**28.**---If at the expiration of three hours from the time appointed there shall be only one candidate duly nominated, the returning officer shall forthwith publicly declare such candidate to be elected, and shall immediately thereafter certify by indorsement of the writ of election in the form set out as Form No. 27 in the First Schedule the return of such candidate and shall return the writ so indorsed to the Supervisor of Elections for transmission to the Governor-General within the time for that purpose specified therein.

**29.**---(1) If there shall be more than one candidate duly nominated a poll of electors shall be taken, and in such case the returning officer shall adjourn the election to the day of specified in the writ, and a poll shall be taken on such day in the manner thereafter provided.

(2) The returning officer shall as soon as practicable after adjourning the election, give notice of the day and time on which and addresses of the polling stations at which the poll will be taken and of the names of the candidates nominated for election and of the place where and day and time when the number of votes given to the several candidates will be finally counted; by publication thereof in at least one daily newspaper; and by causing notices to be posted or affixed in some conspicuous place near the principal door of every Court House, Police Station, and Revenue Office and in any other place in the district as he may deem necessary in the form set out as No. 28. in the First Schedule.

**30.**---(1) Where at any time between the issue of a writ under subsection (1) of section 23 of this Ordinance and the day appointed by the writ for the holding of the poll at any election the Governor-General is satisfied that it is expedient to do by reason of ---

(a) Her Majesty's Government having become engaged or being likely to become engaged in any or; or

(b) the proclamation of any state of emergency under the Emergency Powers Order in Council, 1939, or

(c) the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or outbreak of infectious disease or other calamity whether similar to the foregoing or not; or

(d) the likelihood that the final electoral lists for all constituencies or for any particular constituency will not be printed before the day appointed under section 23 of this Ordinance for the holding of the poll or that any essential electoral supplies or materials will not be available in adequate quantities upon such day.

He may by proclamation adjourn the holding of the poll for some other day specified in such proclamation not being more than thirty days after the day specified in the writ issued under section 23 of this Ordinance.

(2) Any proclamation under subsection (1) of this section made pursuant to the provisions of paragraph (c) or (d) of subsection (1) of this section may be expressed to apply only to such Constituencies as are specified in such proclamation in which event the poll shall be taken in any constituency not so specified upon the day appointed for the taking of the poll under section 23 of this Ordinance.

(3) Where any proclamation is made under this section the writs for all Constituencies to which such proclamation applies shall be deemed to have been amended by the substitution for the day specified in such writs as being the day for the holding of the poll of the day so specified in such proclamation.

(4) Where any proclamation under this section is made before the day which would have been nomination day if such proclamation would not have been made, nomination day shall be deemed to have been adjourned to the twenty-third day next before the day to which the holding of the poll is adjourned by such proclamation: Provided that if such twenty-third day

is a Sunday or a public holiday nomination day shall be deemed to be the first day not being a Sunday or public holiday after such twenty-third day.

(5) Where any proclamation is made under this section after nomination day the adjournment by such proclamation of the day upon which the poll is taken shall in no way affect the validity of any nomination validly made upon nomination day and no other nomination shall be made.

**31.---**(1) Any candidate duly nominated may, not less than seven days before the day fixed for taking the poll, withdraw from his candidature by giving notice to the effect, signed by him, to the returning officer, provided that on such withdrawal there remains not less than one duly nominated candidate.

(2) If any such candidate withdraws from his candidature in accordance with subsection (1) of this section or dies, before the day fixed for taking of the poll, the returning officer shall forthwith give public notice of such withdrawal or death in the manner mentioned in the preceding section; and if on such withdrawal or death there remains only one duly nominated candidate the returning officer shall forthwith declare such candidate to have been elected, and shall immediately thereafter certify by indorsement on the writ of election the return of such candidate in the form set out as Form No. 29 in the First Schedule, and shall return the writ to the Supervisor of Elections for transmission to the Governor-General within the time for that purpose specified therein.

**32.---**(1) The poll shall be taken in each polling station be secret ballot in accordance with the provisions of sections 45, 46, and 47 of the Ordinance.

(2) The ballot of each voter shall be a printed paper, in this Ordinance called a ballot paper, on which the names, addresses and occupations of the candidates alphabetically arranged in the order of their surnames and numbered accordingly shall be printed exactly as they are set out in their respective nomination papers. Opposite to the name of the candidate there shall be a prescribed symbol. The ballot papers have a counterfoil and a stub, and there shall be a line of perforations between the ballot and the counterfoil and between the counterfoil and the stub, the whole as in the form set out as Form No. 30 in the First Schedule.

(3) The ballot papers shall be numbered on the top of the stub and the counterfoil, the same number being printed or written on the stub as on the counterfoil. The ballot papers shall be bound or stitched in books containing ten, twenty-five, fifty or one hundred ballots,

**33.---**(1) The returning officer shall establish for each polling division such number of polling stations as the Supervisor of Elections shall determine, each polling station being in premises of convenient access, with an outside door for the admission of electors, and where possible, with another door through which electors may leave after they have voted, and each presiding officer shall take care beforehand that his polling station is provided with proper doors, barriers, tables, chairs, and other conveniences, and that the same are properly arranged for carrying out the provisions of this Ordinance with respect to the taking of the poll.

**34.---**(1) The returning officer shall furnish to each presiding officer at least two clear days before polling day---

(a) a sufficient number of ballot papers for at least the number of electors of such presiding officer's polling station;

(b) a statement showing the number of ballot papers so supplied, with their serial numbers;

(c) the necessary materials for electors to mark their ballot papers;

(d) at least three copies of printed directions in the form set out as Form No. 31 in the First Schedule for the guidance of electors in voting;

(e) a copy or excerpts from this ordinance;

(f) three copies of the official list of electors for use at his polling station;

(g) a ballot box;

(h) a blank poll book;

(i) the several forms of oaths to be administered to electors printed together on a card; and

(j) the necessary envelopes and such other forms and supplies as may be authorized or furnished by the Supervisor of Elections.

(2) Until the opening of the poll the presiding officer shall keep the blank poll book, official lists of electors, forms of oaths, envelopes, ballot papers and election supplies carefully locked up in the ballot box, and shall take every precaution for the safe keeping and to prevent any person from having unlawful access to them.

(3) Before the hour fixed for the opening of the poll the presiding officer shall post up in each compartment of the polling place and in a conspicuous place outside of the polling section one copy of the directions referred to in paragraph (d) of subsection (1) of this section.

**35.** Each presiding officer shall, on or before the day fixed for taking the poll, visit his polling station and see that it is provided with proper conveniences as aforesaid for taking to poll.

**36.** The taking of the poll at each polling station shall be between six o'clock in the morning and five o'clock in the afternoon of the same day.

**37.**---(1) The Supervisor of Elections shall supply to each returning officer a number of ballot boxes equal to the number of polling stations in his Constituency.

(2) Every ballot box shall be made of some durable material with one lock and a key and a slit or narrow opening at the top, and so constructed that the ballot papers may be introduced therein but cannot be withdrawn therefrom unless the box is unlocked.

**38.**---(1) Subject to the provisions of section 41 and 42 of this Ordinance, no person shall be entitled to vote in any polling division unless his name appears on the official list of electors for that polling division. Provided that a person who has been nominated as a candidate for election in a Constituency, other than the Constituency in which his name appears on the official list of electors, may vote in any polling station of the Constituency for which he has

been nominated as a candidate: Provided also that no such candidate shall vote in more than one polling place or more than once on the same day.

(2) Every person whose name appears upon the official list of electors for any polling division shall be entitled to vote in that polling division notwithstanding that he is not resident in that polling division upon polling day: Provided however that no person shall vote in more than one (sic) Constituency at more than one polling station in the same Constituency or more than once in the same Constituency on the same day.

**39.** Any person contravening any of the provisions of the last paragraphs shall be liable, on summary conviction, to imprisonment for six months.

**40.** No person shall vote for the election of more than one candidate.

**41.**---(1) Where any person whose name appears upon the official list for any polling station is appointed as presiding officer or poll clerk for some other polling station in the same Constituency, the returning officer or poll clerk as the case may be, to the list for the polling station of which such person is appointed the presiding officer or clerk.

(2) The returning officer shall give notice in writing to every candidate in his Constituency of any transfer made under the last preceding subsection and to the presiding officer of the polling station at which the person whose name is so transferred would have been entitled to vote but for the provisions of the next succeeding section of this Ordinance.

**42.**---(1) Every person whose name is transferred, in accordance with the provisions of the last preceding section, from any official list to any other official list shall vote, is he shall vote at all, in the polling station of which he is appointed presiding officer or poll clerk, as the case may be.

(2) Every presiding officer who issues to any person whose name has been transferred from any official list to any other official list any ballot paper at any polling station other than the polling station of the polling division to which the person's name has been transferred shall be liable, on summary conviction, to a fine of twenty-five dollars or to imprisonment for one month.

**43.**---(1) At the hour fixed for opening the poll the presiding officer and the poll clerk shall, in the presence of the candidates, their agents, and such electors as are present, open the ballot box and ascertain that there are no ballot papers or other papers therein after which the box shall be locked, and the presiding officer shall keep the key thereof; the box shall be placed on a table in full view of all present and shall be maintained there until the close of the poll.

(2) Immediately after the ballot box is so locked, the presiding officer shall call upon the electors to vote.

(3) The presiding officer shall secure the admittance of every elector into the polling station, and shall see that they are not impeded or molested at or about the polling station.

(4) Each elector, upon entering the polling station shall declare his name, residence and occupation.



The poll clerk shall then ascertain if the name of the elector appears on the official list of electors used at the polling station. When it has been ascertained that the applicant elector is qualified to vote at the polling station, his name, address and occupation shall be entered in the poll book to be kept by the poll clerk in the form set out as Form No. 32 in the First Schedule, a number corresponding to the consecutive number allotted to the elector on the official list of electors being prefixed to the elector's name in the appropriate column of the poll book, and the elector shall be immediately allowed to vote, unless an election agent or any agent of a candidate present at the polling station desires that he first be sworn.

(5) The poll clerk shall---

(a) make such entries in the book as the presiding officer pursuant to any provision of this Ordinance directs; and

(b) enter in the poll book opposite the name of each voter as soon as the voter's ballot paper has been deposited in the ballot box, the word "Voted"; and

(c) enter in the poll book the word "Sworn" or "Affirmed" opposite the name of each elector, to whom any oath or affirmation has been administered indicating the nature of the oath or affirmation; and

(d) enter in the poll book the words "Refused to be sworn" or "Refused to answer", opposite the name of each elector who has refused to take an oath or to affirm, when he has been legally required so to do, or has refused to answer questions which he has been legally required to answer.

**44.**---(1) The presiding officer shall keep order at his polling station and shall regulate the number of voters to be admitted at a time, and shall exclude all other persons except his assistants, the candidate one agent for each candidate appointed by such candidate in writing in the form set out as Form No. 33 in the First Schedule, and the constables on duty.

(2) The agents aforesaid shall be posted in such a place that they can see each person who presents himself as an elector, and hear his name as given in by him, but so they cannot see how any voter votes. They shall not interfere in the proceedings save in so far as may be allowed by this Ordinance.

(3) If any person persists, after being warned, in disobeying the directions of the presiding officer or in acting in contravention of this section it shall be lawful for the presiding officer to cause him to be removed from the polling station.

**44A.**---(1) The presiding officer may and if required by the candidate or his agent shall, put to any person applying for a ballot paper at the time of his application, but not afterwards, the following questions or either of them---

(a) are you the same person whose name appears as AB in the register of this polling station?

(b) have you already voted here or elsewhere at this election?

(2) The presiding officer shall also request that person to produce his identification card.

(3) Subject to subsection (5) a ballot paper shall not be delivered to any person who---

(a) does not satisfactorily answer the above questions or any of them;

(b) does not produce his identification card when required to do so under subsection (2).

(4) If any person makes a false answer to any question asked pursuant to subsection (1)(a) or (1)(b) he shall be liable on summary conviction to imprisonment for six months.

(5) A ballot paper shall be issued to any person whose name appears on the register in use for that election and who is unable to produce his identification card, if he satisfies the presiding officer---

(a) that he has not been issued with an identification card; or

(b) that he has been issued with an identification card that is lost or destroyed.

(6) Save as by this section authorised, so enquiry shall be permitted as to the right of any person to vote.

(7) For the purpose of this section the expression "identification card" means an identification card issued under rule 18 of the Registration of electors Rules 1984.

**44B.**---(1) If between the time a person enters a polling station for the purpose of voting and before he has left the polling station---

(a) a candidate or his agent declares to the presiding officer that he has reasonable cause to believe that the person has committed an offence of personation and undertakes to substantiate the charge in Court; or

(b) the presiding officer has reasonable cause to believe that the person has committed the offence of personation.

the presiding officer may order a police officer to arrest that person and the order of the presiding officer shall be sufficient authority for the police to do so.

(2) Any person who is arrested under this section shall not by reason thereof be prevented from voting.

(3) A person arrested under this section shall be dealt with as a person taken into custody by a police officer for an offence without a warrant".

**45.**---(1) Each elector shall receive from the presiding officer a ballot paper on which such officer has previously put his initials so placed as to indicate in the form set out as Form No. 30 in the First Schedule that when the ballot paper is folded they can be seen without opening it, and on the counterfoil of which he has placed a number corresponding to the consecutive number on the official list of electors allotted to the elector in the poll book opposite the name of such elector.

(2) The presiding officer shall instruct the elector how to make his mark, and shall properly fold the elector's ballot paper, directing him to return it, when marked, folded as shown, but without inquiring or seeing for whom the elector intends to vote, except when the elector is unable to vote in the manner prescribed by this Ordinance on account of blindness or other physical incapacity".

"(3) The elector on receiving the ballot paper shall forthwith enter one of the polling compartments and there mark his ballot paper by marking with a black lead pencil and not otherwise a cross or any other mark within the space containing the name of the candidate for whom he intends to vote, so as to indicate clearly the candidate for whom he intends to vote, and he shall then fold the ballot paper as directed so that the initials and the numbers on the counterfoil can be seen without opening it. When the ballot is not so folded the presiding officer shall require the elector to fold the ballot as required by this subsection."

(3a) The presiding officer upon satisfying himself---

(a) that the ballot is the ballot he gave the elector,

(b) that the ballot is correctly folded,

> and after the provisions of section 46 have been complied with, he shall require the elector to immerse his appropriate digit in the electoral ink. When the elector immerses his appropriate digit the presiding officer shall allow the elector to insert he ballot into the ballot box.

(4) An elector who inadvertently so dealt with the ballot paper delivered to him that it cannot conveniently be used shall restore it to the presiding officer who shall cancel it by writing "Spoiled" across the face of the same. The presiding officer shall then deliver another ballot paper to the elector.

(5) Every elector shall vote without undue delay and shall leave the polling station as soon as his ballot paper has been put into the ballot box.

(6) If at the hour of closing of the poll station there are any electors inside the polling station who are qualified to vote and have not been able to do so since their arrival at the polling station, the poll shall be kept open a sufficient time to enable them to vote, but no on not actually present within the polling station at the hour of closing shall be allowed to vote.

**45A.**---(1) Subject to section 46C the presiding officer shall refuse to deliver a ballot paper to any elector unless he is satisfied that there does not appear---

(a) upon the appropriate digit of such elector, or

(b) in the case of an elector who the presiding officer is satisfied is suffering from any injury to the appropriate digit, upon any of the digits of such elector, any mark of electoral ink.

(2) For the purposes of satisfying himself in the manner required by subsection (1) the presiding officer shall in the presence of the poll clerk, and of the agents of the candidates of the candidates in the polling station, as the case may be, inspect the appropriate digit of each elector or all of the digits of each elector, as the case may require.

(3) Every presiding officer who refuses to deliver a ballot paper to any elector under the provisions of this section shall make an entry in the poll book setting out the facts in relation to such refusal.

(4) Every person who applies as an elector for a ballot at any time when there is a mark of electoral ink upon any of his digits shall be guilty of personation."

**46.**---(1) The presiding officer shall before permitting any elector to put his folded ballot paper in the ballot box in accordance with section 45(3a), if the elector has an appropriate digit, satisfy himself that there does not appear to be on such digit any substance which in his opinion is likely to prevent the adhesion of electoral ink and cause the elector to immerse such digit in the electoral ink:

Provided that where the presiding officer is satisfied that the elector is suffering from some injury to his appropriate digit which is of such nature as to render it undesirable for him to immerse such digit in electoral ink the presiding officer may require him to immerse in electoral ink any other digit upon which the presiding officer is satisfied that there is no substance which is likely to prevent the adhesion of electoral ink.

(2) If any elector on being required so to do fails or refuses to immerse his appropriate digit in electoral ink the presiding officer shall take possession of and destroy the ballot paper of such elector and make an entry in the poll book setting out the particulars in relation to the description of such ballot paper:

Provided that nothing in this section shall prohibit an elector that has failed or refused to immerse his appropriate digit in electoral ink from returning to the polling station in order to vote as an elector and to immerse his appropriate digit in electoral ink.

**46A.** In sections 45(3a) (b), and 45A and 46 "appropriate digit" means in the case of an elector---

(i) who has a right hand upon which there are any digits that finger of the right hand which is nearest the right thumb, or if the elector has no right thumb to the right thumb socket, or if the elector has a right thumb but has no fingers on the right hand, the right thumb and upon which there does not appear any sign of electoral ink.

(ii) who has no right hand or who has a right hand but no digits upon such hand, the finger of the left hand which is nearest the left thumb, or if the elector has no left thumb to the left thumb socket, or if the elector has a left thumb but has no fingers on the left hand, the left thumb and upon which there does not appear any sign of electoral ink.

"digit" includes both fingers and thumb;

"electoral ink" means the ink whether composite or consisting of two or more separate solutions, supplied by the Supervisor of elections for use in accordance with this Ordinance.

**46B.** Every presiding officer who fails or neglects to perform a duty imposed upon him by section 45(3a), 45A, and 46 shall be guilty of any offence and shall be liable on summary conviction to a fine of three hundred dollars or to imprisonment for six months.

**46C.** The provisions of section 45(3a) (b), 45A and 46 shall not apply to an elector who has no hands."

**47.**---(1) Subject to all other provisions of this Ordinance as to proof of qualification of an elector and as to the administration of oaths, if a person representing himself to be a particular elector applies for a ballot paper after another person has voted as such person he shall be entitled to receive a ballot paper and to vote after taking the oath of identity in the form set out as Form No. 34 in the First Schedule, and otherwise establishing his identity to the satisfaction of the presiding officer.

(2) In such a case, the presiding officer shall put on the ballot paper his initials together with a number corresponding to the consecutive number on the official list of electors allotted to the voter and entered in the poll book opposite the name of such voter, and the poll clerk shall enter in the poll book---

(a) the name of such voter;

(b) a note of his having voted on a second ballot paper issued under the same name;

(c) the fact of the oath of identity having been required and taken, and the fact of any other oaths being so required or taken; and

(d) any objections made on behalf of any and all of which of the candidates,

(3) The presiding officer, on the application of any elector who is incapacitated, from any physical cause other than blindness, from voting in the manner prescribed by this ordinance, shall require the elector making such application to make oath in the form set out as Form No. 35 in the First Schedule of his incapacitation to vote without assistance, and shall thereafter assist such elector by marking his ballot paper in the manner directed by such elector in the presence of the poll clerk and of the sworn agents of the candidates and of no other person, and shall place the ballot in the ballot box.

(4) The presiding officer shall either deal with a blind elector in the same manner as with an otherwise incapacitated elector, or, at the request of any blind elector who has taken the oath in the form set out as Form No. 36 in the First Schedule, and is accompanied by a friend who is an elector in the polling division, shall permit such friend to accompany the blind elector into the voting compartment and mark the voting paper for him. No person shall at any election be allowed to act as the friend of more than one blind elector.

(5) Any friend who is permitted to mark the ballot paper of a blind elector as aforesaid shall first be required to take an oath in the form set out as Form No. 37 in the First Schedule that he will keep secret the name of the candidate for whom the ballot of such blind elector is marked by him, and that he has not already acted as the friend of a blind elector as the pending election.

(6) Whenever any elector has had his ballot paper marked as provided in subsection (3) or (4) of this section, the poll clerk shall enter in the poll book opposite the elector's name, in addition to any other requisite entry, the reason why such ballot paper was so marked.

**48.**---(1) Where there is contained in the official list of electors a name, address and occupation which correspond so closely with the name, address and occupation of a person by whom a ballot paper is demanded as to suggest that the entry in such official list of electors was intended to refer to him, such person shall, upon taking the oath in the Form set out as Form No. 38 in the First Schedule and complying in all other respects with the provisions of this Ordinance be entitled to receive a ballot paper and to vote. In any such case the name, address and occupation shall be correctly entered in the poll book and the fact that the oath has been taken shall be entered into the proper column of the poll book.

(2) Any elector, if required by the presiding officer, the poll clerk, one of the candidates, or an agent of a candidate, or any elector present, shall before receiving his ballot paper take an oath in the form set out as Form No. 38 in the First Schedule, and if he refuses to take the same, erasing lines shall be drawn through his name on the list of electors and in the poll book if such name has been entered, and the words "Refused to be sworn" shall be written thereafter.

**49.**---(1) In addition to the presiding officer and the poll clerk, the candidates and one agent for each candidate in each polling station, the constables on duty, and no others, shall be permitted to remain in the polling station during the time the poll remains open: Provided that no candidate and his agent shall be in the same polling station at the same time for more than five consecutive minutes.

(2) The agent of each candidate, on being admitted to the polling station, shall take an oath in the form set out as Form No. 40 in the First Schedule to keep secret the name of the candidate for whom any of the voters has marked his ballot paper in his presence.

(3) Agents of the candidates may, with the permission of the presiding officer, absent themselves from the return to the polling station at any time before one hour previous to the close of the poll.

**50.**---(1) Forthwith upon the close of the poll in the presence and in full view of the poll clerk and the candidates or their agents, and if the candidates or any of them are absent then in the presence of such as are present, and of at least two electors if none of the candidates is represented, the presiding officer shall, in the following order---

(a) count the number of voters whose names appear in the poll book as having voted and make an entry thereof on the line immediately below the name of the voter who voted last, thus: "the number of voters who voted at this election in this polling station is ..." (stating the number), and sign his name hitherto;

(b) count the spoiled ballot papers, if any, place them in the special envelope supplied for that purpose and indicate thereon the number of such spoiled ballot papers and seal it up;

(c) count the unused ballot papers, place them with all the stubs of all the used ballot papers in the special envelope supplied for that purpose and indicate the number of unused ballot papers;

(d) check the number of ballot papers supplied by the returning officer against the number of spoiled ballot papers, if any, the number of unused ballot papers and the number of voters

whose names appear in the poll book as having voted, in order to ascertain that all ballot papers are accounted for;

(e) open the ballot box and empty its contents upon a table;

(f) record and count the number of votes given to each candidate on the tally sheets supplied, giving full opportunity to those present to examine each ballot paper.

The poll clerk and not less than two witnesses shall be supplied with tally sheets upon which they may keep their own score as each vote is called out by the presiding officer.

(2) In counting the votes, the presiding officer shall reject all ballot papers,---

(a) which have not been supplied by him; or

(b) which have not been marked for any candidate; or

(c) on which votes have been given for more than one candidate; or

(d) upon which there is any writing or mark by which the voter could be identified, but no ballot paper shall be rejected on account of any writing, number or mark placed thereon by any presiding officer.

(3) If, in the course of counting the votes any ballot paper is found with the counterfoil still attached thereto, the presiding officer shall (carefully concealing the numbers thereon from all persons present and without examining them himself) remove such counterfoil. He shall not reject the ballot paper merely by reason of his former failure to remove the counterfoil.

(4) If, in the course of counting the votes the presiding officer discovers that he has omitted to affix his initials to any ballot paper, as provided by subsection (1) of section 45 of this Ordinance, and as indicated in the form set out as Form No. 30 in the First Schedule to this Ordinance, he shall in the presence of the poll clerk and the agents of the candidates, affix his initials to such ballot paper and shall count such ballot paper as if it had been initialed by him in the first place, provided that he is satisfied that the ballot paper is one provided by him and that such omission has really been made, and also that every ballot paper supplied to him by the returning officer has been accounted for as provided by paragraph (d) of subsection (1) of this section.

(5) Nothing in subsection (2) or subsection (3) or subsection (4) of this section shall relieve the presiding officer from any penalty to which he may have become liable by reason of his having placed any writing, number or mark other than his initials, on any ballot paper, or of his failure to remove the counterfoil at the time of the casting of the vote to which it relates or to affix his initials to any ballot paper before handing it to any elector.

(6) The presiding officer shall keep a record on the special form printed in the poll book of every objection made by any candidate, or his agent or any elector present, to any ballot paper found in the ballot box, and shall decide every question arising out of the objection. The decision shall be final, subject to reversal on the final count by the returning officer or on petition questioning the election or return; and every such objection shall be numbered and a

corresponding number placed on the back of the ballot paper and initialed by the presiding officer.

(7) All the ballot papers not rejected by the presiding officer shall be counted and a list be kept of the number of votes given to each candidate and of the number of rejected ballot papers. The ballot papers which respectively indicate the votes given for each candidate shall be put into separate envelopes: all rejected ballot papers shall be put into a special envelope and all such envelopes shall be indorsed so as to indicate their contents, and shall be sealed by the presiding officer, and by such agents or witnesses present as may desire to seal them or sign their names thereon in addition or instead.

(8) The presiding officer and the poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe respectively to the oaths in the forms set out as Forms Nos. 41 and 42 in the First Schedule which shall remain attached to the poll book.

(9) The presiding officer shall make the necessary number of copies of the statement of the poll in the form set out as Form No. 43 in the First Schedule one copy to remain attached to the poll book, one copy to be retained by the presiding officer and one copy for the returning officer which shall be enclosed in a special envelope supplied for that purpose, which envelope he shall seal and deliver personally or transmit to the returning officer.

(10) The poll book, the several envelopes containing the ballot papers unused, spoiled, rejected, or counter for each candidates---each lot in its proper envelope, the envelope containing the official list of electors and other documents used at the poll shall then be placed in the large envelope supplied for the purpose, and this envelope shall then be sealed and placed in the ballot box. The ballot box shall then be locked and sealed with the seal of the presiding officer and forthwith transmitted or delivered to the returning officer. The returning officer may specially appoint one or more persons for the purpose of collecting the ballot boxes from a given number of polling stations and such person or persons shall, on delivering the ballot boxes to the returning officer, take the oath in the form set out as Form No. 44 in the First Schedule.

(11) The presiding officer shall, with the ballot box, transmit or deliver to the returning officer, in the envelope provided for that purpose, the key of such ballot box, the preliminary statement of the poll in the form set out as Form No. 43 in the First Schedule and the polling station account furnished him in blank by the returning officer, having first caused it to be filled in and signed by the officials of his polling station entitled to fees, and by the landlord thereof, if any.

(12) The presiding officer shall transmit to the returning officer:---

(a) the ballot box;

(b) the envelope containing the key thereof;

(c) the preliminary statement of the poll; and

(d) the polling station account,

in such a manner as the Supervisor of Elections may direct.



(13) If any presiding officer shall omit to enclose within the ballot box, and in the proper envelopes provided for that purpose, any of the documents or things mentioned in this section, he shall, in addition to any other punishment to which he may be liable, forfeit all right to payment for his services as such officer.

**51.** Each candidate may appoint one agent to attend the preliminary and final counting of the votes by the presiding officer and the returning officer. Such appointment shall be in writing in the form set out as Form No. 33 in the First Schedule.

**51A.** Notwithstanding the provisions of this Part in relation to locking the ballot box by means of a key it shall be lawful for a ballot box to be used which is locked and secured by means of a special seal for the ballot box and the provisions relating to the locking and unlocking of a ballot box shall be construed accordingly.

## PART V.

### *Procedure Subsequent to Polling Day.*

**52.---**(1) The returning officer upon receipt by him of each of the ballot boxes, shall take every precaution for its safe-keeping and for preventing any person other than himself and his election clerk from having access thereto, sealing it under his own seal so that it cannot be opened without the seal being broken, but without effacing or covering any other seals thereto affixed.

(2) After all the ballot boxes have been received, they shall be opened at the place, date and time specified in the notice referred to in subsection (2) of section 29 of this Ordinance for the final count of the votes, and in the presence of such of the candidates or their representatives as are present by the returning officer, or, where the same person is returning officer for more than one electoral district, by him or the election clerk for the electoral district concerned, and the returning officer or such elections clerk, as the case may be shall:---

(a) count the votes contained therein case for each candidate (allowing the candidates and their representatives to see such votes) and determine whether any of the votes so cast should be rejected;

(b) count the votes rejected by the presiding officer (allowing the candidates and their representatives to see such votes) and determine whether any of such votes should be regarded as having been cast for any, and if so for which candidate;

(c) add up the total number of votes (including any votes rejected by the presiding officer but which he thinks should not have been so rejected) cast for each candidate;

(d) make and sign any necessary amendment to the statement of the poll.

(3) The provision of subsection (2) of section 50 of this Ordinance shall apply to the returning officer or election clerk, as the case may be, as they apply to the presiding officer except that paragraph (a) of that subsection shall take effect as if there were substituted for the word "him" the words "the presiding officer".

(4) The provisions of subsection (6) of section 50 of this Ordinance shall apply to the returning officer or election clerk as the case may be as they apply to the presiding officer except that for the references in the subsection to the presiding officer there shall be substituted references to the returning officer or election clerk as the case may be and that the words "the final count by the returning officer or" shall be deemed to be omitted from the subsection.

(5) The provision of subsection (7) of section 50 of this Ordinance shall apply to the returning officer or election clerk as the case may be, as they apply to the presiding officer except:---

(a) that the words "returning officer" shall be deemed to be substituted for the words "presiding officer"; and

(b) that the documents referred to in that subsection shall be replaced in the envelopes from which they were removed by the returning officer and such envelopes shall be fastened by a sheet of paper being pasted over the opening thereof.

(6) If at the final count of the votes none of the candidates or their representatives are present, it shall be the duty of the returning officer or election clerk to secure the presence of at least two electors who shall remain in attendance until such final count of the votes has been completed.

(7) The candidate who, on such final count of the votes, is found to have the largest number of votes shall then be declared elected in writing and a copy of such declaration shall be forthwith delivered to each candidate or his agent, if present at the final count of votes, or if any candidate is neither present nor represented thereat, shall be forthwith transmitted to such candidate by registered post.

(8) Whenever on such final count of votes, an equality of votes is found to exist between any two or more candidates and an additional vote would entitle one of the remaining candidates to be declared elected, the returning officer, or election clerk as the case may be if he is an elector of the electoral district for which the election is held, may file such additional vote; but the returning officer shall not in any other case be entitled to vote at an election for which he is the returning officer.

**53.---**(1) If the ballot boxes are not returned to the returning officer by the time specified in the notice referred to in subsection (2) of section 29 of this Ordinance, the returning officer shall adjourn the proceedings to a subsequent day, which shall not be more than a week later than the polling day.

(2) In case the statement of the poll cannot be found and the number of votes polled for the several candidates cannot be ascertained, or if, for any other cause, the returning officer cannot, at the day and hour appointed by him for that purpose, ascertain the exact number of votes given for each candidate, he may thereupon adjourn to a future day and hour the final count of votes given for each candidate, not being more than seventy-two hours after the time specified in the notice referred to in subsection (2) of section 29 of this Ordinance.

(3) At the time of which the proceedings are adjourned in accordance with the provisions of subsection (2) of this section, the returning officer shall ascertain by such evidence as he is

able to obtain the total number of votes cast for each candidate appearing to him to have the largest number of votes.

(4) For the purposes of this section the returning officer shall have all the powers of and be deemed to be a Commissioner appointed under the Commissions of Inquiry Ordinance and the provisions of section 11 of the said Ordinance shall apply to all persons required by the returning officer to give evidence or to produce documents before a commission of inquiry under the said Ordinance.

**54.** The returning officer shall, as soon as he shall have ascertained the result of the poll, forthwith publicly declare the same and announce the candidate to whom the most vote have been given to be elected as the member for the constituency.

**55.**---(1) The returning officer upon the seventh day next following that upon which he has made the final count of or ascertained the number of votes given for each candidate, shall deliver personally or transmit by registered post to the Supervisor of Elections:---

(a) the writ with his return in the form set out as Form No. 45 in the First Schedule indorsed thereon that the candidate having the majority of votes has been elected;

(b) a report of his proceedings in the form prescribed by the Supervisor of Elections;

(c) the recapitulations sheets in the form prescribed by the Supervisor of Elections, showing the number of votes cast for each candidate at each polling station, and making such observations as the returning officer may think proper as to the state of the election papers as received from his presiding officers;

(d) the statement of the poll;

(e) the reserve supply of undistributed blank ballot papers;

(f) the enumerators' record books;

(g) the returns from the various polling stations enclosed in sealed envelopes, as prescribed by this Ordinance, and containing the poll book used at this poll, a packet containing the stubs and unused ballot papers, packets containing the ballot papers cast for the several candidates, a packet containing the spoiled ballot papers, a packet containing the rejected ballot papers and a packet containing the official list of electors used at the poll, and the written appointments of candidates' agents; and

(h) all other documents used for the election.

(2) The returning officer shall forward to each of the candidates a duplicate or copy of the return to the writ made by him.

(3) A premature return shall not be deemed to have reached the Supervisor of Elections until the same should have reached him in due course, and he shall, if circumstances so require, send back such return and any or all election documents connected therewith to the returning officer for completion or correction.

(4) The Supervisor of Elections shall, on receiving the return of any member elected to serve in the House of Representatives, transmit the writ with the return indorsed thereon to the Governor-General within the time for the purposes specified therein.

(5) The Supervisor of Elections shall, on receiving the return of any member elected to serve in the House of Representatives, enter it, in the order in which such return is received by him, in a book to be kept by him for such purpose and thereupon immediately give notice in the *Gazette* of the name of the candidate so elected and in the order on which it was received.

(6) The Supervisor of Elections shall, immediately after each general election, cause to be printed a report given by polling divisions, the number of votes polled for each candidate, the number of rejected ballots, the number of names on the lists of electors, together with any other information that he may deem fit to include; and shall also, at the end of each year, cause to be printed a similar report on the by-elections held during the year.

**56.** If any returning officer willfully delays, neglects or refuses to duly return any person who ought to be returned to serve in the House of Representatives for any constituency, and if it has been determined on the hearing of an election petition respecting the election for such district that such person was entitled to have been returned, the returning officer who has so willfully, delayed, neglected or refused duly to make such return of his election shall forfeit to the person aggrieved the sum of two thousand five hundred dollars and costs in addition to all damages sustained.

**57.** If in the case mentioned in subsection (8) of section 52 of this Ordinance the returning officer is not an elector, or if, being an elector he declines to vote, he shall make a special return of the result of the election, and the House of Representatives shall have the right by resolution to choose one of such candidates to be the member for that constituency.

**58.**---(1) The Supervisor of Elections shall keep the election documents referred to in subsection (1) of section 55 of this Ordinance in safe custody and shall allow no person to have access to them: Provided that if an election petition has been presented questioning the validity of any election or return, the said Supervisor shall, on the order of a Judge of the Supreme Court, deliver to the Registrar of the Supreme Court the documents relating to the election that is in dispute: Provided also that after the expiration of twelve months from the day of any election it shall be lawful for the Supervisor of Elections to cause the said documents used at such election to be burnt.

(2) No such election documents shall be inspected or produced except under the order of a Judge of the Supreme Court; and an order under this subsection may be made by any such Judge on his being satisfied by evidence on oath that the inspection or production of such elections documents is required for the purpose of instituting or maintaining a prosecution for an offence in relation to an election, or for the purpose of a petition which has been filed questioning an election or return.

(3) Any such order for inspection or production of election documents may be made subject to such conditions as to persons, time, place and mode of inspection or production as the Judge deems expedient.

(4) All other reports or statements received from election officers, all instructions issued by the Supervisor of Elections pursuant to the provisions of the Ordinance, all decisions or

rulings by him upon points arising thereunder, and all correspondence with election officers, or other in relation to any election shall be public records, and may be inspected by any person upon request during business hours.

(5) Any person may take extracts therefrom and shall be entitled to certified copies of the papers relating to any subject upon payment for the preparation of such certified copies at the prescribed rate.

(6) Any such copies purporting to be certified by the Supervisor of Elections under his hands shall be receivable in evidence without further proof thereof.

**59.**---(1) Forthwith upon making the return to the writ in accordance with the provisions of section 55 of this Ordinance, the returning officer shall cause the ballot boxes used thereat, with their locks and keys, to be deposited in the custody of the member of the Police Force in charge of a police station in the constituency.

(2) Upon delivery to him of such ballot boxes, lock, and keys, the custodian shall issue his receipt and shall at the next ensuing election, upon request, deliver said ballot boxes, locks and keys to the returning officer to whom the writ is directed, taking such returning officer's receipt.

## **PART VI**

### *Election Offences.*

**60.**---(1) No intoxicating liquor shall be sold, offered for sale, or given away, at any premises situate in any constituency in which an election is being held and to which a licence issued under the Liquor Dealer's Licences Ordinance applies, at any time between the opening and closing of the poll on polling day.

(2) No intoxicating liquor shall be supplied to any person at any premises situate in any constituency in which an election is being held and to which a licence issued under the Registration of Clubs Ordinance applies, at any time between the opening and closing of the poll on polling day.

(3) Any person who contravenes any of the provisions of either of the last two preceding subsections shall be liable on summary conviction to a fine of five hundred dollars or to imprisonment for six months.

(4) In this section, "Intoxicating liquor" has the same meaning as is assigned to the expression in the Registration of Clubs Ordinance.

**61.**---(1) Every employer shall, on polling day, allow to every elector in his employ the prescribed period for voting, and no employer shall make any deduction from the pay or other remuneration of any such elector or impose upon or exact from him any penalty by reason of his absence during such period.

(2) Any employer who, directly or indirectly refuses, or by intimidation, undue influence, or an any other way interferes with the granting to any elector in his employ, of the prescribed period for voting, as in this section provided, shall on summary conviction be liable to a fine

not exceeding five thousand dollars and, in default of payment, to imprisonment for a period not exceeding two years, or to both such fine and imprisonment.

**62.**Every election officer who---

(a) makes, in any record, return or other document which he is required to keep or make under this Ordinance, any entry which he knows or has reasonable cause to believe to be false, or does not believe to be true; or

(b) permits any person whom he knows or has reasonable cause to believe not to be a blind person or an otherwise incapacitated person to vote in the manner provided for blind persons or incapacitated persons, as the case may be; or

(c) refuses to permit any person whom he knows or has reasonable cause to believe to be a blind person or an otherwise incapacitated person to vote in the manner provided for blind persons or incapacitated persons, as the case may be; or

(d) willfully prevents any person from voting at the polling station at which he knows or has reasonable cause to believe such person is entitled to vote; or

(e) willfully rejects or refuses to count any ballot paper which he knows or has reasonable cause to believe is validly cast for any candidate in accordance with the provisions of this Ordinance; or

(f) willfully counts any ballot papers as being cast for any candidate, which he knows or has reasonable cause to believe was not validly cast for such candidate, shall be guilty of an offence against this section and, on conviction on indictment, shall be liable to imprisonment for any term not exceeding two years.

**63.**---(1) No person shall furnish or supply any loud speaker, bunting, ensign, standard, or set of colours, or any other flag, to any person with intent that it shall be carried, worn or used on motorcars, trucks or other vehicles, as political propaganda, on polling day, and no person shall, with any such intent, carry, wear or use on motor cars, trucks or other vehicles, any such loud speaker, bunting, ensign, banner, standard, or set of colours, or any other flag, on polling day.

(2) No person shall furnish or supply any flag, ribbon, label, or like favour to or for any person with intent that it should be worn or used on any person within any constituency on polling day, as a party badge to distinguish the wearer as the supporter of any candidate or of the political or other opinions entertained or supposed to be entertained by such candidate; and no person shall use or wear any flag, ribbon, label, or other favour as such badge, within any constituency on polling day.

(3) Nothing contained in either of the preceding subsections of this section shall be deemed to extend to the furnishing or supplying of any banner bearing only the name of any candidate or only such name preceded by the words "Vote for," or of any rosette or of any favour bearing the symbol allotted to any candidate or to the use of such banner on any vehicle or of any such rosette or favour.

(4) Any person who contravenes any of the provisions of this section shall be liable on summary conviction to a fine of one thousand dollars or to imprisonment for one year.

**64.**---(1) Subject to the provisions of subsection (2) of this section during the hours when the poll is open upon election day no persons shall assemble or congregate within one hundred yards of any building which is situate any polling station.

(2) This section shall not apply---

(a) to any electors who are waiting to poll their votes at such polling station and who obey any instructions which may be given by the presiding officer or any constable for the purpose of forming a queue with other electors also so waiting; or

(b) to any person who may under the provisions of this Ordinance lawfully enter or remain in such polling station.

(3) Every person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence against this section and shall be liable to on summary conviction thereof to a fine of two hundred and forty dollars or to imprisonment for six months or to both such fine and such imprisonment.

**65.**---(1) During the hours that the poll is open upon election day no person shall upon any public road or in any public place within one hundred yards of any building in which a polling station is situate seek to influence any elector to vote for any candidate or to ascertain for what candidate any elector intends to vote or has voted.

(2) Every person who contravenes any of the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable on summary conviction thereof to a fine of two hundred forty dollars or to imprisonment for six months or to both such fine and such imprisonment.

**66.** The following persons shall be deemed guilty of bribery within the meaning of this Ordinance:---

(1) Every person who, directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavor to procure any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, or to or for any other person in order to induce any elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any elector having voted or refrained from voting at any election.

(2) Every person who, directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavor to procure, any office, place or employment to or for any elector, or to or for any person on behalf of any elector, or to or for any other person in order to induce any elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any elector having voted or refrained from voting at any election.

(3) Every person who, directly or indirectly, by himself or by any other person on his behalf makes any such gift, loan, offer, promise, procurement, or agreement as aforesaid to or for

any person, in order to induce such person to procure, or endeavor to procure, the return of any person as an elected member of the House of Representatives, or the vote of any elector at any election.

(4) Every person who, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procures or engages, promises or endeavors to procure the return of any person as an elected member of the House of Representatives or the vote of any elector at any election.

(5) Every person who advances or pays, or cause to be paid, any money to or to the use of any other person with the intent that such money, or any part thereof, shall be expended in bribery at any election, or who knowingly, pays or causes to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election.

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

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

**67.** The following persons shall be deemed guilty of treating within the meaning of this Ordinance:---

(1) Every person who corruptly, by himself or by any other person, either before, during, or after an election, directly or indirectly, gives, or provides or pays wholly or in part the expenses of giving or providing any food, drink, entertainment, or provision to or for any person for the purpose of corruptly influencing that person, or any other person, to vote or to refrain from voting at such election, or on account of such person or any other person having voted or refrained from voting at such election.

(2) Every voter who corruptly accepts or takes any such food, drink, entertainment or provision.

**68.** Every person who, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens to inflict, by himself or by any other person any temporal or spiritual injury, damage, harm, or loss upon or against any person, in order to induce or compel such person to vote or to refrain from voting or on account of such person having voted or refrained from voting at any election, or who by abduction, duress, or any fraudulent contrivance, impedes or prevents the free exercise of the franchise of any elector, or thereby compels, induces, or prevails upon any elector either to give or refrain from giving his vote at any election, shall be guilty of undue influence within the meaning of this Ordinance.



**69.** Every person who at an election applies for a ballot paper in the name of another person, whether that name be the name of a person living or dead or a fictitious person, or who, having once voted at any election, applies at the same election for a ballot paper in his own name, shall be guilty of personation within the meaning of this Ordinance.

**70.** Every person who is guilty of bribery, treating or undue influence, under the provisions of this Ordinance shall, on summary conviction thereof, be liable to imprisonment for six months or to a fine of four hundred and eighty dollars.

**71.** Every person who is guilty of personation or of aiding, abetting, counselling, or procuring the commission of the offence of personation, shall, on conviction thereof on indictment be liable to imprisonment for two years, with or without hard labour or be fined any sum not exceeding two thousand four hundred dollars.

**72.** Every person who is convicted of bribery, treating, undue influence, or personation or of aiding, counselling or procuring the commission of the offence of personation shall, in addition to any other punishment, be incapable during a period of seven years from the date of conviction---

(a) of being registered as an elector, or voting at any election of a member of the House of Representatives;

(b) of being elected a member of the House of Representatives or if elected before his conviction, of retaining his seat as such member.

**73.**---(1) Every person who---

(a) votes, or induces or procures any person to vote, at any election, knowing that he or such other person is prohibited by the Order in Council or this Ordinance or by any law, from voting at such election;

(b) before or during such election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate;

(c) between the date of notification by the Supervisor of Elections of the issue by the Governor-General of a writ for purposes of an election and the day after polling at such election, whether in a general election or in a by-election, acts in a disorderly manner with intent to prevent the transaction of the business of a public meeting called for the purposes of promoting the election of a candidate as a member to serve in the House of Representatives,

shall be guilty of an illegal practice, and shall, on summary conviction thereof, be liable to a fine of four hundred dollars and be incapable, during a period of five years from the date of conviction, of being registered as an elector or voting at any election.

(1A) Every person who, between the date of the notification by the Supervisor of Elections of the issue by the Governor-General of a Writ for the holding of a general election or a by-election and the day before polling at that election, intends to hold a meeting in any public place or road, shall give at least three hours notice in writing of his intention to the nearest police station on the Central Police station, and in the event that any other person gives notice

of intention to hold a meeting in the same place or within three hundred yards thereof at or about the same time, the person who first gave notice shall be entitled to hold the meeting, and the police shall inform that other person accordingly.

(2) Every person who between the date of the notification by the Supervisor of Elections of the issue by the Governor-General of a writ for the holding of an election and the day after polling at such election, whether in a general election or in a by-election, acts or, incites, combines or conspires with others to act in a disorderly manner with intent to prevent the transaction of the business of a public meeting called for the purpose of promoting the election of a candidate as a member of the House of Representatives, shall be guilty of an illegal practice and shall, on conviction on indictment thereof, be liable to imprisonment for two years, and be incapable, during a period of five years from the date of conviction, of being registered as an elector, or voting at any election.

(3) Any person who, before or during, an election, for the purpose of affecting the return of any candidate or prospective candidate at such election, makes or publishes any false statement in relation to the personal character or conduct of such candidate or prospective candidate shall be guilty of an illegal practice and shall be liable on summary conviction thereof to a fine not exceeding five hundred dollars, or to imprisonment not exceeding one year, or to both such fine and such imprisonment.

(4) Any person who is convicted of any offence declared to be an illegal practice under this section of the Ordinance, shall, in addition to any other penalty for such offence, be incapable during a period of five years from the date of his conviction---

(a) of being registered as an elector, or voting at any election of a member of the House of Representatives;

(b) of being elected a member of the House of Representatives or if elected before his conviction, of retaining his seat as such member:

Provided that in the event of any appeal the incapacity shall continue until the appeal is determined and thereafter unless the conviction is quashed remain in force for a period of five years from the determination of the appeal except the Court hearing the appeal shall direct that the period of five years shall run from the date of conviction.

(5) The Magistrate shall certify to the Governor-General any convictions as aforesaid and shall also notify him of the lodging of any appeal and the determination of such appeal.

**74.** Every person who---

(a) forges or counterfeits, or fraudulently defaces or destroys, any ballot paper; or

(b) without due authority supplies a ballot paper to any person; or

(c) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in; or

(d) fraudulently takes out of the polling station any ballot paper; or

(e) without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of any election; or

(f) not being duly registered as an elector, votes in an election,

shall be liable, on summary conviction, if he is returning officer or presiding officer, or clerk employed at a polling station, to imprisonment for one year or to a fine of four hundred and eighty dollars, and, if he is any other person, to imprisonment for six months or to a fine of two hundred and forty dollars.

In any information or prosecution for an offence in relation to the ballot boxes, ballot papers, and other things in use in an election, the property in such ballot boxes, ballot papers, or things may be stated to be in the returning officer at such election.

**75.**---(1) Every officer, clerk and agent, in attendance at a polling station shall maintain and aid in maintaining secrecy at the voting in such station, and shall not communicate except for some purpose authorized by law before the poll is closed, to any person any information as to the name or number on the list of electors of any elector who has or has not applied for a ballot paper or voted at that station, and no person shall interfere with or attempt to interfere with an elector when marking his vote or otherwise attempt to obtain in the polling station any information as to the candidate for whom any elector in such station is about to vote or has voted.

(2) Every officer, clerk and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting and shall not attempt to communicate any information obtained at such counting as to the candidate or candidates for whom any vote is given in any particular ballot paper.

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

(4) Every person who acts in contravention of any of the provisions of this section shall be liable, on summary conviction, to imprisonment for six months or to a fine of two hundred and forty dollars.

## **PART VII**

### *Election petitions.*

**76.** A petition of an undue return or undue election of a member of the House of Representatives in this Ordinance called an election petition may be presented to the Supreme Court by any one or more of the following persons, that is to say---

(1) some person who voted or had a right to vote at the election to which the petition relates;

(2) some person claiming to have had a right to be returned at such election;

(3) some person alleging himself to have been a candidate at such election.

**77.** Every election petition shall be tried before the Supreme Court in the same manner as a suit commenced by a writ of summons. At the conclusion of the trial, the Judge shall determine whether the member of Council whose return or election is complained of or any and what other person was duly returned or elected, or whether the election was void, and shall certify such determination to the Governor-General, and upon such certificate being given, such determination shall be final; and the return shall be confirmed or altered, or a writ for a new election shall be issued as the case may require, in accordance with such determination.

**78.** At the trial of an election petition the Judge shall, subject to the provisions of this Ordinance or of any Proclamation to be made by the Governor-General, have the same powers, jurisdiction and authority, and witnesses shall be subpoenaed and sworn in the same manner as nearly as circumstances will admit, as in a trial of civil action in the Supreme Court, and shall be subject to the same penalties for perjury.

**79.**---(1) The following provisions shall apply with respect to the presentation of an election petition--

(a) The petition shall be presented within twenty one days after the return made by the returning officer of the member to whose election the petition relates. unless it concerns an allegation of corrupt practices upon the making of the return of election and specifically alleges a payment of money or other reward to have been made by any other member, or on his account, or with his privity, since the time of such return, in pursuance or in furtherance of such corrupt practices, in which case the petition may be presented at any time within twenty-eight days after the date of such payment;

(b) at the time of the presentation of the petition, or within three days afterwards, security for the payment of all costs, charges and expenses that may become payable by the petitioner---

(i) to any person summoned as a witness on his behalf, or

(ii) to the member whose election or return is complained of, or to any other person named as a respondent in the petition,

shall be given to the petitioner;

(c) the security shall be an amount not exceeding twelve hundred dollars and shall be given by recognizance to be entered into by any number of sureties not exceeding four approved by the Registrar of the Supreme Court, or partly in one way and partly in the other.

(2) Rules, not inconsistent with the provisions of the Order in Council and this Ordinance, as to the deposit of security and the practice and procedure for the service and hearing of election petitions and matters incidental thereto, may be made by the Chief Justice.

## **PART VIII**

### *Miscellaneous Provisions.*

**80.** No person who has voted at an election shall, in any legal proceedings to a question the election or return, be required to state for whom he voted.

**81.** At any election a person shall not be entitled to vote unless his name is on the list of electors for the time being in force by virtue of this Ordinance, and every person whose name is on the list of electors shall, subject to the provisions of this Ordinance, be entitled to demand and receive a ballot paper and to vote: Provided that nothing in this section shall entitle any person to vote who is prohibited from voting by any Ordinance, or relieve such person from any penalties to which he may be liable for voting.

**82.** A candidate may himself undertake the duties which any agent of his if appointed might have undertaken, or may assist his agent in the performance of such duties and may, subject to the provisions of this Ordinance, be present at any place at which his agent may, in pursuance of this Ordinance, attend, except when an open vote is being cast.

**83.** The name and address of the agent of a candidate appointed to attend the final counting of the votes shall be transmitted to the returning officer on clear day at the least before the opening of the poll; and the returning officer may refuse to admit to the place where the votes are counted, any agent whose name and address has not been so transmitted, notwithstanding that his appointment may be otherwise valid.

**84.** Where in this Ordinance any expressions are used requiring or authorizing or inferring that any act or thing is to be done in the presence of the agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as may be authorized to attend, and as have in fact attended, at the time and place where such act or thing is to be done, and the non-attendance of any agents or agent at such time and place shall not, if such act or thing be otherwise duly done, in anywise invalidate the act or thing done.

**85.** The Governor-General may make regulations generally for giving effect to the provisions of this Ordinance and without prejudice to such general power may make regulations---

(a) prescribing the remuneration and travelling allowances to be paid to the election officers;

(b) prescribing the duties of the returning officers and the procedure to be followed in the performance of those duties;

(c) prescribing the symbols to be used on every ballot paper and the mode of allocation of such symbols to candidates;

(d) adding to, rescinding, varying or amending any of the forms or rules contained in the First or Second Schedules to this Ordinance;

(e) prescribing the number of copies of the lists of electors to be printed and the persons to whom and the terms upon which such lists shall be distributed;

(f) prescribing the period during which every employer shall permit his employees to be absent from work for the purpose of recording their votes;

(g) prescribing the charges for certified copies of any documents referred to in this Ordinance;

(h) prescribing penalties for any breach of any of the regulations made hereunder.

**86.** All expenses properly incurred by, and all remuneration and travelling allowances payable to, election officers shall be defrayed out of general revenue.

**87.**---(1) In reckoning time for the purposes of this Ordinance, Sunday, Christmas Day, and Good Friday shall be excluded.

(2) Where anything required by this Ordinance or any rules thereunder to be done on any day fails to be done on any such excluded day, or on a public holiday that thing may be done on the next day, not being one of such excluded days.

**88.**---(1) No elector who has refused to take any oath or affirmation or to answer any question, as required by this Ordinance, shall receive a ballot paper or be admitted to vote or to be again admitted to the polling station.

(2) Whenever the presiding officer does not understand the language spoken by an elector, he shall appoint and swear an interpreter who shall be the means of communication between him and the elector with reference to all matters required to enable such elector to vote, and in case no interpreter is found, such elector shall not be allowed to vote.

**89.** Notwithstanding anything to the contrary, no order shall be made by the Court postponing or prohibiting the taking of any step required to be taken under this Ordinance preparatory to or in course of any election or postponing or prohibiting the holding of the poll at any election or declaring any election to be void by reason of---

(a) any preliminary or final list of electors or any certificate or notice, required under this Ordinance to be published, supplied or given by any election officer at any time or place or for any period for which, or to the person to whom such list, certificate or notice ought lawfully to have been published, supplied or given, unless the Court is satisfied that in failing to publish, supply or give such list, certificate or notice in the manner required by this Ordinance such election officer acted otherwise than in good faith; or

(b) any irregularity in the appointment of any election officer; or

(c) the wrongful omission from or inclusion in any preliminary or final list of electors of the name of any person whose name ought or ought not to have been so omitted or included, as the case may be, unless the Court is satisfied that such wrongful omission or inclusion was due to the election officer by whom such list was prepared or revised having acted otherwise than in good faith; or

(d) any illegality or irregularity committed by any registration officer compiling or revising any list of electors unless the Court is satisfied that in committing such illegality or irregularity he acted otherwise than in good faith.

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How to cite this page:

**Political Database of the Americas** (1999) Grenada: Electoral Law, 1958. [Internet]. Georgetown University and the Organization of American States. In: <http://pdba.georgetown.edu/Electoral/Grenada/greley.html>. 16 October 2008.

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