



**BILLE TOGHACHAN AN UACHTARAIN, 1937.
PRESIDENTIAL ELECTIONS BILL, 1937.**

*Mar do tugadh isteach.
As introduced.*

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SAORSTÁT EIREANN.

BILLE TOGHACHAN AN UACHTARAIN, 1937.

PRESIDENTIAL ELECTIONS BILL, 1937.

BILL

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entitled

AN ACT TO REGULATE, FOR THE PURPOSE OF THE
CONSTITUTION OF IRELAND LATELY ENACTED BY
THE PEOPLE, ELECTIONS FOR THE OFFICE OF
PRESIDENT OF IRELAND, AND TO PROVIDE FOR
10 MATTERS INCIDENTAL TO OR CONNECTED WITH
SUCH ELECTIONS.

BE IT ENACTED BY THE OIREACHTAS OF SAORSTÁT
EIREANN AS FOLLOWS:—

PART I.

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PRELIMINARY AND GENERAL.

1.—This Act may be cited as the Presidential Elections Act, Short title.
1937.

2.—This Act shall come into operation immediately after the Commencement.
coming into operation of the Constitution of Ireland lately
20 enacted by the People.

3.—In this Act—

Definitions.

the expression “ the Minister ” means the Minister for Local
Government and Public Health;

the expression “ presidential election ” means an election of a
25 person to the office of President of Ireland;

the expression “ the first presidential election ” means the first
presidential election held after the commencement of this Act;

the expression “ ordinary presidential election ” means a presi-
dential election held in contemplation of the expiration by
30 effluxion of time of the term of office of the President then hold-
ing office;

the expression “ extraordinary presidential election ” means a
presidential election rendered necessary by a vacancy in the
office of President occasioned otherwise than by the expiration
35 by effluxion of time of the term of office of a President;

the expression “ Dáil election ” means an election of members
of Dáil Eireann;

the expression “ register of electors ” means a register of the
persons entitled to vote at a Dáil election;

40 the word “ prescribed ” means prescribed by regulations made
by the Minister under this Act.

4.—The Minister may make regulations prescribing any Regulations.
matter or thing which is referred to in this Act as prescribed
or to be prescribed.

Expenses.

5.—All expenses incurred by the Minister in the execution of this Act shall, to such extent as shall be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

The order appointing days.

6.—(1) Before every presidential election the Minister shall 5
by order (in this Act referred to as the order appointing days)
appoint—

- (a) the day (in this Act referred to as the last day for receiving nominations) which shall be the last day on which the presidential returning officer may receive 10 nominations for such election, and
- (b) the place at which the presidential returning officer will sit to rule upon nominations on the last day for receiving nominations, and
- (c) the day (in this Act referred to as the polling day) on 15 which the poll (if any) at such election shall be taken.

(2) In the case of the first presidential election, the order appointing days shall be made under this section as soon as conveniently may be after the coming into operation of the Constitution, and the days thereby appointed shall be so selected 20 that the election will be completed at such time as will enable the president thereby elected to enter upon his office not later than one hundred and eighty days after the coming into operation of the Constitution.

(3) In the case of an ordinary presidential election, the order 25 appointing days shall be made under this section on or as soon as conveniently may be after the sixtieth day before the expiration of the term of office of the outgoing president, and the days thereby appointed shall be so selected that the election will be completed at such time as will enable the president thereby 30 elected to enter upon his office on the day following the expiration of the term of office of the outgoing president.

(4) In the case of an extraordinary presidential election, the order appointing days shall be made under this section as soon as conveniently may be after the cesser of office of the late presi- 35 dent, and the days thereby appointed shall be so selected that the election will be completed within sixty days after such cesser of office.

(5) Every order appointing days shall be published in the *Iris Oifigiúil* as soon as may be after it is made. 40

The presidential returning officer.

7.—(1) Before every presidential election and not later than the day on which the order appointing days in respect of such election is made, the Minister shall appoint a fit and proper person to be the returning officer (in this Act referred to as the presidential returning officer) for the purposes of such election. 45

(2) It shall be the duty of the presidential returning officer to conduct the presidential election for the purposes of which he is appointed, to count the votes cast thereat, and to ascertain and declare the result thereof in accordance with this Act, and to do such other things in respect of such election as he is 50 required by this Act to do.

(3) The Minister for Finance shall from time to time prepare a scale of maximum charges for presidential returning officers, and every presidential returning officer shall be paid by the said Minister out of the Central Fund or the growing produce thereof 55 his reasonable charges in respect of his services and expenses in relation to the presidential election for the purposes of which he was appointed, but not exceeding in any case the maximum charges specified in the said scale of maximum charges for the time being in force. 60

PART II.

NOMINATION OF CANDIDATES.

8.—(1) Every nomination of a candidate at a presidential election which is made by members of the Oireachtas shall be made in accordance with the following provisions, that is to say:—

Nominations by members of the Oireachtas.

- (a) such nomination shall be made in writing on a nomination paper in the form set out in the Second Schedule to this Act;
- 10 (b) every such nomination paper shall state the full name, address, and description of the person thereby nominated and shall also state all such matters as are required by the said form of nomination paper to be stated therein;
- 15 (c) every such nomination paper shall be signed by not less than twenty members of the Oireachtas as nominators;
- (d) every such nomination paper shall be signed by every of the twenty members of the Oireachtas making a nomination thereby;
- 20 (e) every such nomination paper shall be delivered or sent by post to the presidential returning officer.

25 (2) The presidential returning officer shall furnish free of charge on request a form of nomination paper to any member of the Oireachtas, and the presidential returning officer may also, if he so thinks proper, furnish to the Clerk of Dáil Éireann and to the Clerk of Seanad Éireann a supply of forms of nomination papers for the use of members of the Oireachtas.

30 (3) Where a particular member of the Oireachtas signs as a nominator two or more valid nomination papers sent to the presidential returning officer under this section, that one of such valid nomination papers which is first received by the presidential returning officer shall alone be regarded and the other or others of such valid nomination papers shall be disregarded.

35 9.—(1) Any council of a county or a county borough may, by resolution of the intention to propose which not less than three clear days notice has been given in writing to every person who, at the time when such notice is given, is a member of such council, resolve to nominate one named person to be a candidate at a presidential election then pending.

Nominations by county and county borough councils.

40 (2) No resolution under this section shall be passed before the date of the order appointing days made in respect of the presidential election to which such resolution relates, and no such resolution shall be rescinded.

45 (3) Every resolution passed under this section by the council of a county or a county borough shall be given effect to by means of a nomination paper in the form set out in the Second Schedule to this Act sealed with the seal of such council and delivered or sent by post to the presidential returning officer.

50 (4) Every nomination paper sent to the presidential returning officer under this section shall state the full name, address, and description of the person nominated thereby and shall also state all such matters as are required by the said form of nomination paper to be stated therein.

55 (5) Every nomination paper sent to the presidential returning officer under this section which is regular and valid on its face shall be conclusive evidence that the resolution mentioned in such nomination paper was duly proposed and passed in accordance with this section on the date stated in that behalf in such nomination paper at a meeting, properly convened and held, of the council whose seal is affixed to such nomination paper.

60 (6) The presidential returning officer shall furnish free of charge on request a form of nomination paper to any council of a county or a county borough.

(7) Where the presidential returning officer receives from the council of a county or a county borough two or more nomination papers, regular on their face and relating to the same election, all such nomination papers shall be invalid and shall be disregarded.

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(8) Four valid nomination papers nominating the same person and each sent to the presidential returning officer in accordance with this section by the council of a different county or county borough and received by the presidential returning officer before twelve o'clock noon on the last day for receiving nominations shall be necessary to constitute a valid and effective nomination by councils of counties or county boroughs of such person as a candidate at a presidential election.

(9) The exercise of the powers conferred by this section on the council of a county borough—

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- (a) shall, in the case of the county borough of Dublin, be a reserved function within the meaning of the Local Government (Dublin) Act, 1930 (No. 27 of 1930), and
- (b) shall, in the case of the county borough of Cork, be a reserved function within the meaning of the Cork City Management Act, 1929 (No. 1 of 1929), and
- (c) shall, in the case of the county borough of Limerick, be a reserved function within the meaning of the Limerick City Management Act, 1934 (No. 35 of 1934).

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Nominations by a former or the retiring president.

10.—(1) Every nomination of himself as a candidate which is made by a former or the retiring president shall be made in writing on a nomination paper in the form set out in the Second Schedule to this Act signed by such former or retiring president and delivered or sent by post to the presidential returning officer.

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(2) The presidential returning officer shall furnish free of charge on request a form of nomination paper to any former or the retiring president.

Consecutive numbering of nomination papers.

11.—(1) The presidential returning officer shall number consecutively in the order in which they are received by him all nomination papers received by him before twelve o'clock noon on the last day for receiving nominations, and for that purpose he shall, immediately after receiving any such nomination paper, endorse thereon the said consecutive number thereof.

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(2) The numbers endorsed on nomination papers by the presidential returning officer in pursuance of this section shall be conclusive evidence of the order in which such papers were received by him.

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(3) Whenever the presidential returning officer receives under this Act a nomination paper, he shall forthwith send by post to the candidate named in such nomination paper at the address stated in such nomination paper a notice in writing stating that the presidential returning officer has received a document purporting to be a nomination paper whereby such candidate is nominated (as the case may be) by a named council or by members (who need not be named) of the Oireachtas to be a candidate, but the omission of the presidential returning officer to send such notice or the failure of such candidate to receive such notice shall not relieve such candidate from the obligation imposed on him by this Act to attend, either in person or by an authorised representative, during the whole of the ruling upon nominations.

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The ruling upon nominations.

12.—(1) At twelve o'clock noon on the last day for receiving nominations at a presidential election, the presidential returning officer shall attend at the place appointed in that behalf by the order appointing days and shall there and then do the following things, that is to say:—

- (a) produce all nomination papers received by him before twelve o'clock noon on the last day for receiving nominations;

- (b) examine and rule upon all such nomination papers in the order in which they were received by him, and ascertain therefrom the persons who are validly nominated and declare such persons to stand nominated as candidates at such election;
- (c) if only one person is so declared to stand nominated, declare such person to have been elected as the President and send to the Taoiseach and publish in the *Iris Oifigiúil* a certificate in the form set out in the Second Schedule to this Act of such election of such person;
- (d) if two or more persons are so declared to stand nominated, adjourn the election for the purpose of taking a poll in accordance with this Act.

(2) No nomination paper shall be received by the presidential returning officer after twelve o'clock noon on the last day for receiving nominations.

(3) Every question in relation to any nomination paper or the nomination of any candidate or any other matter connected with the nomination of candidates shall either be decided by the presidential returning officer or be referred by him to the judicial assessor under the next following section of this Act, and whenever any such question is decided by the presidential returning officer his decision thereon shall be final, subject only to a reference to the judicial assessor under the said next following section.

(4) The proceedings under this section are in this Act referred to as the ruling upon nominations.

13.—(1) The President of the High Court or some other judge of the High Court nominated by him shall attend at the ruling upon nominations and there sit with and act as judicial assessor to the presidential returning officer.

(2) The presidential returning officer may, on his own motion, and shall, if so requested by a candidate or the representative of a candidate, refer to the judicial assessor any question arising during the ruling upon nominations in relation to any nomination paper or the nomination of any candidate or any other matter connected with the nomination of candidates.

(3) The judicial assessor shall there and then decide and announce his decision on every question referred to him under this section by the presidential returning officer.

(4) The decision of the judicial assessor on any question referred to him under this section by the presidential returning officer shall be final and shall not be open to review by any court.

(5) A question may be referred to the judicial assessor under this section whether the presidential returning officer has or has not himself given a decision thereon.

14.—(1) At the ruling upon nominations every question relevant to the nomination of a candidate (including in particular his eligibility for election) shall be open and may be raised by the presidential returning officer or by any other person then present and entitled to take part in the proceedings.

(2) During the ruling upon nominations it shall be lawful for the presidential returning officer or any other person then present to question the sufficiency or the correctness of the name, address, or description of any candidate as stated on a nomination paper and it shall be lawful for the presidential returning officer or, where the question is referred to the judicial assessor, for the judicial assessor to reject as invalid any nomination paper in which the statement of the name, address, or description of the candidate is, in the opinion of the presidential returning officer or the judicial assessor (as the case may be), misleading, whether by reason of insufficiency or incorrectness.

(3) The presidential returning officer or the judicial assessor (as the case may be) may, for the purpose of deciding any question at issue during the ruling upon nominations receive and act upon evidence, whether oral or written, tendered to him by or on behalf of any party interested in such question, and may, if he so thinks proper, require such evidence to be given on oath and may for that purpose administer an oath.

Attendance of candidates at the ruling upon nominations.

15.—(1) Every candidate shall attend, either in person or by an authorised representative, during the whole of the ruling upon nominations and shall furnish (either personally or by his authorised representative) all such information relevant to himself or any nomination paper purporting to nominate him as shall be within his knowledge and shall be reasonably required of him by the presidential returning officer or the judicial assessor.

(2) The judicial assessor may, if on the application of the presidential returning officer he so thinks proper, disallow the nomination of a candidate on the ground that such candidate has not attended at the ruling upon nominations as required by this section or on the ground that such candidate or his authorised representative has failed to furnish to the presidential returning officer or to the judicial assessor information required of him under this section by the presidential returning officer or the judicial assessor, as the case may be.

(3) In this section the expression " authorised representative " means a person authorised by a candidate in writing in the form set out in the Second Schedule to this Act to represent such candidate at the ruling upon nominations.

Withdrawal of candidates.

16.—(1) Any candidate may withdraw from his candidature at any time during the ruling upon nominations, either before or after he has been declared to be duly nominated.

(2) The withdrawal of a candidate under this section shall be effected by such candidate or his authorised representative delivering to the presidential returning officer during the ruling upon nominations notice in writing of such withdrawal signed by such candidate or by his authorised representative.

(3) Save as is authorised by this section, it shall not be lawful for a candidate to withdraw from his candidature.

Persons permitted to attend the ruling upon nominations.

17.—(1) No person shall be present at the ruling upon nominations save only—

- (a) the presidential returning officer and his assistants, and
- (b) the judicial assessor and one person brought by him to attend upon him, and
- (c) the candidates, and
- (d) the authorised representatives (if any) of candidates, and
- (e) such assistants of candidates or their authorised representatives as are permitted by the subsequent sub-sections of this section.

(2) Each candidate who does not send an authorised representative may bring to the ruling upon nominations not more than two persons to assist him.

(3) Where a candidate sends an authorised representative to the ruling upon nominations, such authorised representative may bring not more than two persons to assist him.

(4) A candidate who sends an authorised representative to the

ruling upon nominations may himself be present thereat but shall not bring any person with him and shall not take any part in the proceedings.

(5) No candidate may send more than one authorised representative to the ruling upon nominations.

18.—(1) Whenever the ruling upon nominations at a presidential election or any adjourned such ruling upon nominations is wholly prevented or is interrupted or obstructed by any riot or open violence, the presidential returning officer shall adjourn such ruling upon nominations to twelve o'clock noon on such subsequent day as he shall think proper.

Proceedings in case of riot at ruling upon nominations.

(2) Whenever a ruling upon nominations is adjourned under this section, the Minister, if he so thinks proper, may by order amend the order appointing days by appointing a new day to be the polling day in lieu of the polling day appointed by such order appointing days.

PART III.

THE POLL.

19.—The following provisions shall have effect in relation to the taking of the poll (if any) at a presidential election, that is to say:—

Method of taking the poll.

(a) the poll shall be held on one day only and that day shall be the same throughout Ireland and shall be the day appointed under this Act to be the polling day at such election;

(b) the poll shall commence at nine o'clock in the forenoon and shall be kept open until nine o'clock in the afternoon and no longer;

(c) for the purpose of taking the poll Ireland shall be deemed to be divided into the same constituencies as those into which it is for the time being divided for the purpose of the election of members of Dáil Eireann and the poll shall be taken separately in each such constituency;

(d) the person who would be the returning officer at a Dáil election in any such constituency shall be the returning officer (in this Act referred to as the local returning officer) in such constituency for the purposes of the poll;

(e) each voter at the poll shall record his vote in the constituency in which he would be entitled to vote at a general election of members of Dáil Eireann;

(f) each such constituency shall be deemed to be divided for the purpose of the poll into the same polling districts as those into which it is for the time being divided for the purpose of a Dáil election, and the places which are for the time being appointed as polling places in each such polling district for the purpose of a Dáil election shall be the polling places for the purpose of taking the poll;

(g) it shall be the duty of every local returning officer to conduct the taking of the poll in his constituency in accordance with this Act, and for that purpose to provide such polling stations, ballot boxes, ballot papers, stamping instruments, copies of the register of electors, and other things, appoint and pay such officers, and do such other acts and things as may be necessary for effectually taking the poll in his constituency in accordance with this Act;

(h) every local returning officer shall, in relation to the taking of the poll in his constituency, comply with the provisions of this Act, the rules contained in the Schedules to this Act, and the orders made by the Minister under this Act.

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Local returning officers' expenses.

20.—(1) Every local returning officer at the taking of a poll at a presidential election shall be entitled to his reasonable charges, not exceeding the sums specified in the scale of maximum charges framed under this section, in respect of services and expenses of the several kinds mentioned in the said scale which have been properly rendered or incurred by him for the purposes of or in connection with the taking of the poll.

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(2) The amount of such charges shall be paid by the Minister for Finance out of the Central Fund or the growing produce thereof on an account to be submitted to him in accordance with regulations to be made by him under this section, but the said Minister may, if he thinks fit, before payment of the charges of any local returning officer, apply to a judge of the Circuit Court having jurisdiction in the constituency of such returning officer for the taxation of such account and thereupon such judge shall cause such account to be taxed and the amount payable thereunder to be determined by the county registrar.

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(3) The Minister for Finance may, if he so thinks fit, on the application of a local returning officer, make to such officer, on such terms as the said Minister shall think proper, an advance on account of the charges of such officer under this section.

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(4) The taxation under this section of the account of a local returning officer shall, if the judge so directs on the application of such returning officer, include the taxation and determination of the amount of any claim made by any person against such returning officer in respect of any matter charged for in such account.

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(5) The Minister for Finance shall prescribe for the purposes of this section a scale of maximum charges and may revise such scale as and when he thinks fit, and may also make regulations as to the time when and the manner and form in which accounts are to be rendered to him for the purpose of the payment of such charges.

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Appointment of principal and local agents by candidates.

21.—(1) Where a poll is taken at a presidential election, each candidate at such election may appoint—

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(a) one principal agent to assist him generally in relation to such election in like manner as is usually done by the election agent of a candidate at a Dáil election, and

(b) one local agent for each constituency to assist such candidate in relation to such election in such constituency in like manner as is usually done by the election agent of a candidate at a Dáil election, and also to act as deputy in such constituency for the principal agent of such candidate.

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(2) Whenever a principal agent or a local agent appointed under this section by a candidate dies or becomes incapable of acting before the completion of the election, such candidate may appoint another person to be his principal agent or local agent (as the case may be) in place of the agent so dying or becoming incapable.

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(3) The name of every agent appointed under this section (whether originally or substitutionally) by a candidate and the address of his office shall, immediately after the adjournment of

the election or the appointment of such agent, whichever is the later, be communicated—

(a) in the case of the principal agent, by such candidate to the presidential returning officer, or

5 (b) in the case of a local agent, by the principal agent of such candidate to the local returning officer in the constituency for which such local agent is appointed.

(4) Every agent appointed by a candidate under this section shall have an office which shall, in the case of a principal agent, 10 be situate in the city of Dublin or, in the case of a local agent, be situate in the constituency for which he is appointed or in a city or town adjoining such constituency, and every document addressed to any such agent and delivered at his said office shall be deemed to have been served on such agent.

15 **22.**—(1) Every local returning officer at a presidential election shall appoint, in respect of every polling station in his constituency, a fit and proper person to be the presiding officer in such polling station. Appointment of presiding officers.

(2) Every presiding officer appointed under this section shall 20 have in his polling station all the powers and duties conferred or imposed by this Act on a presiding officer.

23.—(1) The local agent in any constituency of a candidate at a presidential election may appoint, for each polling station in each polling place in such constituency, one person (in this Act 25 referred to as a personation agent) to attend at such polling station on behalf of such candidate for the purpose of assisting in the detection of persons committing or attempting to commit the offence of personation. Appointment of personation agents for candidates.

(2) The local agent of a candidate in any constituency shall, 30 not less than twelve hours before the commencement of the poll, furnish in writing to the local returning officer in such constituency the names of all personation agents appointed under this section by such local agent together with the name or description of the polling station to which each such personation agent is 35 allotted.

(3) Every personation agent duly appointed under this section and of whose appointment notice is duly given in accordance with the next preceding sub-section of this section shall be 40 entitled to attend in the polling station to which he is allotted during the whole of the time for which the poll is open and during half an hour before and half an hour after that time.

(4) No personation agent shall, while the poll remains open, leave the polling station to which he is allotted without previously obtaining the permission of the presiding officer or without 45 depositing with the presiding officer for the duration of his absence all registers, books, and documents in which he has made any note, writing, or mark during the poll.

(5) Any personation agent who leaves a polling station in contravention of this section shall not be permitted to return to 50 such polling station until after the close of the poll and shall also be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds or, at the discretion of the Court, to imprisonment for a term not exceeding three months.

55 **24.**—If any person misconducts himself in a polling station, or fails to obey the lawful orders of the presiding officer, he may immediately by order of the presiding officer be removed from Keeping of order in polling stations.

such polling station by any member of the *Gárda Síochána* or by any person authorised in writing by the presiding officer to remove him, and the person so removed shall not, unless with the permission of the presiding officer, again be allowed to enter such polling station during the poll.

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Persons entitled to vote at the poll.

25.—(1) No person shall be entitled to vote in any constituency at the poll at a presidential election unless he is registered as an elector in the register of electors for the time being in force for such constituency.

(2) No person who has not attained the age of twenty-one years shall be entitled to vote at a presidential election.

(3) No person shall be entitled to vote more than once (whether in the same constituency or in different constituencies) at the poll at a presidential election but, subject to that limitation, every person who is registered as an elector in the register of electors for the time being in force for a constituency shall (save as is otherwise provided by this section) be entitled to demand and receive a ballot paper and to vote in such constituency at such poll.

(4) No person who is for the time being prohibited by law from voting at a *Dáil* election shall be entitled to receive a ballot paper or to vote at the poll at a presidential election and every person who votes at any such poll while he is so prohibited shall be liable to the same penalties as those for which he would be liable if he voted at a *Dáil* election.

The ballot papers.

26.—(1) The votes at the poll at a presidential election shall be given by ballot and the ballot of each voter shall consist of a paper (in this Act called a ballot paper) in the form, as near as may be, set out in the Second Schedule to this Act and containing a list of the candidates described by their names, addresses, and particulars as stated in their respective nomination papers.

(2) Every ballot paper shall have a number printed on the back thereof and shall have attached a counterfoil with the same number printed on the face thereof and shall be capable of being folded up.

(3) Every ballot paper shall, at the time of the issue thereof, be marked on both sides with an official mark either stamped or perforated.

(4) The names of the candidates shall be arranged on the ballot papers in the alphabetical order of their surnames and, in the case of identity of surnames, of their other names, and the surname of each candidate shall be printed on the ballot papers in large characters and their other names and their addresses and descriptions shall be printed in small characters, save that whenever the surnames of two or more candidates are the same there shall be printed in large characters (in addition to their surnames) the other names of such candidates and so much of the address or the description or of both the address and the description of each such candidate as will, in the opinion of the presidential returning officer, effectively distinguish such candidate.

(5) The presidential returning officer shall be responsible for the printing and procuring of a sufficient quantity of ballot papers.

Method of marking a vote on a ballot paper.

27.—(1) An elector in giving his vote must place on his ballot paper the figure 1 opposite the name of the candidate for whom he votes and may in addition place on his ballot paper the figures 2 and 3, or 2, 3, and 4, and so on opposite the names of other candidates in the order of his preference.

(2) Any ballot paper—

(a) which does not bear the official mark, or

- (b) on which the figure 1 standing alone is not placed at all or is not so placed as to indicate a first preference for some candidate, or
- 5 (c) on which the figure 1 standing alone indicating a first preference is placed opposite the name of more than one candidate, or
- (d) on which the figure 1 standing alone indicating a first preference and some other number is placed opposite the name of the same candidate, or
- 10 (e) on which anything except the number on the back is written or marked by which the voter can be identified,

shall be invalid and shall not be counted.

28.—(1) Every elector whose name is, at the time of a presidential election, on the postal voters' list for a constituency shall be entitled to vote in that constituency at the poll at such election by sending his ballot paper by post to the local returning officer for the said constituency and shall not be entitled to vote at such election in any other manner. Postal voters.

20 (2) Every local returning officer shall, as soon as practicable after he receives from the presidential returning officer notice of the adjournment of a presidential election for the purpose of taking a poll, send to every elector who is on the postal voters' list for his constituency a ballot paper and a declaration of identity in the prescribed form.

30 (3) If a ballot paper sent to an elector under the next preceding sub-section of this section is returned to the local returning officer duly marked by the said elector and is accompanied by the declaration of identity duly signed and authenticated and is received by such returning officer before the close of the poll, such ballot paper shall be treated and counted by such returning officer in the same manner as a ballot paper placed in the ballot box in the ordinary way.

35 (4) In sending out, receiving, and otherwise dealing with the ballot papers of postal voters, every local returning officer shall observe and comply with the law (so far as it is not inconsistent with this Act) for the time being regulating the sending out, receiving, and otherwise dealing with the ballot papers of postal voters at a Dáil election.

40 29.—(1) No question, inquiry, or objection shall be put, made, or permitted during the poll as to the right of any person to vote, and no objection thereto shall be made or received by any presiding officer save only that the presiding officer may, and, if so required on behalf of any candidate, shall put to any person at the time of his applying for a ballot paper and not afterwards the following questions, or any two or one of them, viz. :— Questions and oaths at elections.

- (i) Are you the same person as the person whose name appears as A B on the register of electors now in force for the constituency of.....
- 50 (ii) Have you already voted at this presidential election?
- (iii) Have you attained the age of twenty-one years?

55 And unless such of those questions as are put to such person are answered, in the case of the first and third of those questions, in the affirmative and, in the case of the second of those questions, in the negative that person shall not vote.

(2) The presiding officer may, and, if so required on behalf of any candidate, shall administer to any person at the time of his

applying for a ballot paper and not afterwards an oath or (in the case of any person who objects to take an oath on the ground that he has no religious belief or that the taking of an oath is contrary to his religious belief) an affirmation in the following form:—

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“ I swear by Almighty God (or I, A B, do solemnly, sincerely and truly declare and affirm—as the case may be) that I am the same person as the person whose name appears as A B on the register of electors now in force for the constituency of and that I have not already voted at this presidential election, and that I have attained the age of twenty-one years.”

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(3) Save as is mentioned in this section, it shall not be lawful to require any person to take any oath or affirmation either in respect of his right to vote or any other matter whatsoever.

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(4) It shall not be lawful to reject any vote tendered by any person whose name shall be upon the register of electors in force for the time being except by reason of its appearing to the presiding officer upon putting the questions aforesaid, or any two or one of them, that the person so claiming to vote is not the person whose name appears on such register as aforesaid, or that such person has already voted at that presidential election or that such person has not attained the age of twenty-one years or except by reason of such person refusing to answer the said questions, or any two or one of them, or to take the said oath or make the said affirmation.

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Infringement of
secrecy.

30.—(1) Every officer, clerk, and person employed or in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting in such station, and shall not, except for some purpose authorised by law, communicate before the poll is closed to any person any information as to the name or number on the register of electors of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark, and no such officer, clerk or person, and no other person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such station.

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(2) Every officer, clerk, and person employed or in attendance at the opening of the ballot boxes by a local returning officer and the proceedings consequent thereon or at the counting of the votes by the presidential returning officer shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such proceedings or counting the number on the back of any ballot paper, or communicate any information obtained at such proceedings or counting as to the candidate for whom any vote is given in any particular ballot paper.

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(3) Every officer, clerk, and person concerned in or present at the issue of ballot papers to postal voters or the receipt of ballot papers from postal voters shall maintain, and aid in maintaining, the secrecy of the voting by such voters, and shall not, except for some purpose authorised by law, communicate before the poll is closed to any person any information as to the name or number on the register of electors of any postal voter to or from whom any ballot paper has been sent or received, or as to the official mark, and no such officer, clerk, or person, and no other person whosoever shall interfere with, or attempt to interfere with, the receipt, marking, or return of his ballot paper by any

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postal voter, or attempt to obtain information as to the candidate for whom any such voter has voted, or communicate at any time to any person any information obtained in connection with the issue or receipt of ballot papers to or from postal voters as to the candidates for whom any such voter has voted or as to the number on the back of the ballot paper sent to any such voter.

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

(5) Every person who does any act (whether of commission or omission) which is a contravention of any of the provisions of this section shall be liable on summary conviction to imprisonment for a term not exceeding six months.

31.—(1) The following portions of the Prevention of Electoral Abuses Act, 1923 (No. 38 of 1923), shall apply and have effect in relation to presidential elections, that is to say:—

Application of
the Prevention of
Electoral Abuses
Act, 1923.

- (a) Part I, except section 7,
 - 20 (b) Part II, except sections 8, 16, 17, and 18,
 - (c) in Part III, sections 25 and 26,
 - (d) in Part VIII, sections 44, 45, 46, 49, 52, 53, and 56.
- (2) For the purpose of the application of the said portions of the Prevention of Electoral Abuses Act, 1923, to presidential elections in pursuance of the foregoing sub-section of this section—
- (a) the word “ election,” wherever it is used without qualification in the said portions of the said Act, shall be construed and have effect as including a presidential election;
 - 30 (b) the expression “ Dáil election ”, wherever it occurs in the said portions of the said Act, shall be construed and have effect as including a presidential election;
 - (c) the word “ candidate ”, wherever it similarly occurs, shall be construed and have effect as including a candidate at a presidential election;
 - 35 (d) the expression “ election agent ”, wherever it similarly occurs, shall be construed and have effect as including both a principal agent appointed under this Act and a local agent similarly appointed;
 - 40 (e) in sub-section (2) of section 2 of the said Prevention of Electoral Abuses Act, 1923, the words “ to be the President ” shall be substituted for the words “ to serve in the Oireachtas ”;
 - 45 (f) in sub-section (3) of section 10 of the said Act, the question “ Have you already voted at this presidential election?” shall be substituted for the question mentioned in the said sub-section;
 - (g) section 12 of the said Act shall apply to every lawful public meeting held by or on behalf of a candidate after the date of the order appointing days and before the polling day;
 - 50 (h) in section 46 of the said Act the expression “ returning officer ” shall be construed and have effect as including both the presidential returning officer and a local returning officer.
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32.—(1) If, after the adjournment of a presidential election for the purpose of taking a poll, the presidential returning officer

Death of candidate.

is satisfied before the opening of the poll that one of the candidates has died, the presidential returning officer shall forthwith countermand the poll and thereupon all the proceedings with reference to the election shall be commenced afresh and for that purpose the order appointing days shall be deemed to be cancelled and the Minister shall make a new order appointing days for the purposes of such fresh election. 5

(2) If, after the adjournment of a presidential election for the purpose of taking a poll, one of the candidates dies before the issue by the presidential returning officer of his certificate of the result of the poll and, owing to the time at which such death occurs or the time at which it comes to the knowledge of the presidential returning officer or for any other reason, the poll either could not be or is in fact not countermanded under the next preceding sub-section of this section, the following provisions shall have effect, that is to say:— 15

- (a) the poll shall be held, the votes shall be counted, and the result shall be declared and certified exactly as if such candidate had not died;
- (b) the death of such candidate shall not terminate or prejudice the authority of any agent appointed by or on behalf of such candidate in relation to the election or any part thereof;
- (c) if the deceased candidate is not elected, his death shall not invalidate or prejudicially affect the election of the candidate who is elected;
- (d) if the deceased candidate is elected, the Minister shall, immediately upon the issue by the presidential returning officer of his certificate of the result of the election or the death of such candidate coming to the knowledge of the Minister (whichever later happens) by order cancel such election and direct a fresh election to be held;
- (e) if the election is cancelled under the next preceding paragraph of this sub-section, a fresh election shall be held in accordance with this Act, and the Minister shall, simultaneously with or as soon as practicable after the order cancelling the election, make an order appointing days for the purposes of such fresh election. 35

(3) Whenever a fresh election is held under either of the preceding sub-sections of this section, any living candidate who stood nominated for the poll which was countermanded or the election which was cancelled shall, without any fresh nomination, be deemed to stand nominated for such fresh election, but without prejudice to his right to withdraw from his candidature during the ruling upon nominations at such fresh election. 45

(4) The appointment of a presidential returning officer for the purposes of a presidential election shall be deemed to extend to and include appointment for the purposes of any fresh election held under this section in relation to such presidential election. 50

Proceedings in case of riot at the poll.

33.—(1) If and whenever the polling at any polling place is wholly prevented or is interrupted or obstructed by riot or open violence or persons are prevented by riot or open violence from proceeding to a polling place, the local returning officer in the constituency in which such polling place is situate shall adjourn the polling at such polling place to the next following day which is not a Sunday, Good Friday, Christmas Day, or a bank holiday and shall, if necessary, further adjourn such polling until such riot or open violence has ceased. 55

(2) Whenever the polling at one or more polling places in a constituency is adjourned under this section, the local returning officer in such constituency shall not open any of the ballot boxes 60

used at any polling place in such constituency until the polling at all such places has been completed.

34.—If at the poll at a presidential election any ballot boxes or ballot papers are taken out of the custody of the local returning officer or a presiding officer or are in any way tampered with or are either accidentally or intentionally destroyed or (in the case of ballot papers) are maliciously torn or defaced, the following provisions shall have effect, that is to say:—

Destruction, etc., of ballot boxes or ballot papers.

- 10 (a) the polling at every polling place at which any of such ballot boxes or ballot papers were used shall be void;
- (b) the local returning officer for the constituency in which such ballot boxes or ballot papers were used shall forthwith inform the Minister of such polling having so become void;
- 15 (c) upon receipt of such information, the Minister shall forthwith take all such steps and give all such directions as he shall think proper for the taking of a fresh poll at every such polling place;
- 20 (d) a fresh poll shall be taken at every such polling place in accordance with the directions so given by the Minister;
- (e) this Act shall apply in respect of such fresh poll in like manner as it applies to the original poll.

35.—(1) For the purpose of taking the poll at a presidential election, a local returning officer may use, free of charge, any room in a school receiving a grant out of moneys provided by the Oireachtas, and any room the expense of maintaining which is payable out of any local rate, and may, where no such room is available, hire a building or room.

Use of schools and other buildings.

30 (2) Whenever a local returning officer uses free of charge a room under the foregoing sub-section of this section, he may defray any expenses incurred by the person having control of such room on account of its being so used and shall pay for any damage done to such room while it is so used.

35 (3) The use or hire under this section by a local returning officer of a room in an unoccupied building shall not render any person liable to be rated or to pay any rate in respect of such building.

40 (4) A person having charge of a school adjoining or adjacent to or forming part of a church or a convent or other religious establishment may, within twenty-four hours after receiving from the local returning officer notice of such officer's intention to use such school or any part thereof under this section, object to such use by sending a written statement of such objection to such returning officer, and thereupon it shall not be lawful for such returning officer so to use such school or any part thereof unless or until such objection is over-ruled by the Minister on the application of such returning officer.

36.—Where any constituency comprises the whole or any part of any local government electoral area any ballot boxes, fittings for polling stations, and compartments provided for local government elections in such electoral area may be used for the poll at a presidential election in such constituency, and it shall be the duty of the local returning officer at any such poll in such constituency to make use so far as practicable of the ballot boxes, fittings, and compartments aforesaid, and the court upon taxation of his accounts shall have regard to the provisions of this section, and any damage other than reasonable wear and tear caused to any such ballot boxes, fittings, and compartments by such user at any such poll shall be paid as part of the expenses of such local returning officer.

Use of local government ballot boxes, etc.

Officers not to act as agents for candidates.

37.—No local returning officer at a presidential election, nor his deputy, nor any partner or clerk of either of them, shall act as agent for any candidate at that election in the management or conduct of his election, and if any such returning officer, his deputy, the partner or clerk of either of them, shall so act he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds.

Prohibition of disclosure of vote.

38.—No person who has voted at a presidential election shall be required in any legal proceeding to state for whom he has voted.

Issuing of instructions by the Minister.

39.—(1) The Minister may, whenever he thinks proper so to do, issue to all or any local returning officers such instructions in relation to the conduct of the poll (including the opening of the ballot boxes and proceedings consequent thereon) as he shall consider necessary or expedient in order to ensure the smooth and efficient holding of a presidential election and to secure uniformity of procedure in regard thereto in all constituencies.

(2) It shall be the duty of every local returning officer to observe and comply with all instructions given to him by the Minister under the next preceding sub-section of this section.

(3) If any difficulty shall arise in the holding of a presidential election, the Minister may by order provide for any matter or do any thing which appears to him to be necessary for the proper holding of such presidential election.

(4) No local returning officer shall be required or authorised by an instruction given to him or an order made by the Minister under this section to do any act (whether of commission or omission) which is contrary to this Act, or which would, directly or indirectly, infringe the secrecy of the ballot.

FIRST SCHEDULE.

RULES FOR TAKING A POLL.

PART I.

FUNCTIONS OF THE LOCAL RETURNING OFFICERS.

Deputy local returning officer.

1. It shall be lawful for any local returning officer with the consent of the Minister to appoint a deputy local returning officer for the discharge of all or any particular part of the duties of such local returning officer, and accordingly in this Schedule the expression "local returning officer" includes, in relation to any duties for which a deputy local returning officer is so appointed, the deputy local returning officer so appointed.

Notice to local returning officers.

2. As soon as practicable after adjourning a presidential election for the purpose of taking a poll, the presidential returning officer shall send to every local returning officer notice in writing of the adjournment of such election, the names, addresses, and other particulars of the candidates, and the date of the polling day.

3. Every local returning officer shall, immediately upon receiving from the presidential returning officer the notice mentioned in the next preceding rule, give public notice of the taking of the poll, the names, addresses, and other particulars of the candidates, the date of the polling day, and the time of the opening and of the closing of the poll. Publication of notice of the poll.
4. At every polling place the local returning officer shall provide a sufficient number of polling stations for the accommodation of the electors entitled to vote at such polling place, and shall distribute the polling stations amongst those electors in such manner as he thinks most convenient. Provision of polling stations.
5. Each polling station shall be furnished with such number of compartments, in which the voters can mark their votes screened from observation, as the local returning officer thinks necessary, but at least one compartment shall be provided for every one hundred and fifty electors entitled to vote at such polling station. Provision of compartments.
6. A separate room or separate booth may contain a separate polling station, or several polling stations may be constructed in the same room or booth. Position of polling station.
7. No person shall be admitted to vote at any polling station, except the one allotted to him. Voting at polling station.
8. The local returning officer shall give public notice of the situation of polling stations, and the description of electors entitled to vote at each station, and of the mode in which electors are to vote. Notice of situation of polling stations.
9. The local returning officer shall provide at each polling station materials wherewith voters may mark their ballot papers, instruments for stamping the official mark on the ballot papers, and copies of the register of electors or such part thereof as contains the names of the electors allotted to vote at such station. Local returning officer to provide materials, etc.
10. The local returning officer shall keep the official mark secret. Secrecy of the official mark.
11. (1) The local returning officer may appoint, for each polling station, such and so many clerks as he shall think proper to assist the presiding officer at such polling station. Appointment of clerks to assist presiding officers.
- (2) A presiding officer may do, by the clerks appointed under this rule to assist him, any act which he is required or authorised by this Act to do, except ordering the arrest of any person or the exclusion or ejection of any person from the polling station.
12. Every presiding officer shall keep order at his polling station, shall regulate the number of electors to be admitted at a time, and shall exclude all other persons except his clerks, the personation agents of the candidates, and the members of the *Gárda Síochána* on duty. Duties of presiding officers during the poll.
13. Every local returning officer and every officer, clerk, candidate, personation agent, and other person who is permitted to be present in a polling station (otherwise than for the purpose of voting at the poll) shall, before the opening of the poll, sign an undertaking in the prescribed form to preserve the secrecy of the ballot. Undertaking for secrecy at the poll.
14. (1) Every ballot box shall be so constructed that, without

the box being unlocked, the ballot papers can be introduced therein, but cannot be withdrawn therefrom.

(2) The presiding officer at each polling station, immediately before the commencement of the poll, shall show the ballot boxes empty to such persons, if any, as may then be present in such station, so that they may see that they are empty, and shall then lock each ballot box and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed. 5 10

Method of voting. 15. Immediately before a ballot paper is delivered to an elector it shall be marked on both sides with the official mark, either stamped or perforated, and the number, name, and description of the elector as stated in the copy of the register of electors shall be called out, and the number of such elector shall be marked on the counterfoil, and a mark shall be placed in the register against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received. 15

Method of voting continued. 16. The elector, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station, and there mark his paper, and fold it up so as to conceal his vote, and shall then put his ballot paper, so folded up, into the ballot box; he shall vote without undue delay, and shall quit the polling station as soon as he has put his ballot paper into the ballot box. 20

Incapacitated electors. 17. (1) If any elector satisfies the presiding officer that his sight is so impaired or he is otherwise so physically incapacitated or he is so illiterate that he is unable to vote without assistance the presiding officer shall, in the presence of the personation agents of the candidates, cause the vote of such elector to be marked on a ballot paper in the manner directed by such elector and shall place the ballot paper so marked in the ballot box. 25 30

(2) A request made by any elector within four hours before the hour fixed for closing the poll to have his ballot paper marked for him under this rule may be refused by the presiding officer, if in his opinion, having regard to the number of electors then coming in to vote or likely to come in to vote before the close of the poll, his acceding to such request would interfere with the proper discharge of his duties or would unduly obstruct the voting of other electors. 35

(3) In carrying out the provisions of this rule the presiding officer shall observe and comply with the following directions, that is to say:— 40

(a) the presiding officer shall ask the voter—"For which candidates do you desire to express a preference and in what order?", and the presiding officer shall then mark the ballot paper in accordance with the answer given by the voter; 45

(b) where a voter fails to understand the import of the said question, the presiding officer shall do the following things, that is to say:—

(i) he shall read out the names of all the candidates in the order in which they appear on the ballot paper and then ask the voter—"To which of these candidates do you wish to give your vote?"; 50

(ii) the presiding officer shall then place the figure 1 on the ballot paper so as to indicate a first preference for the candidate named by the voter in his answer to the said question, 55

(iii) the presiding officer shall then ask the voter—"Do you wish to express a second preference?", and if the answer is in the affirmative, he shall read out the names of all the remaining candidates in the 60

order in which they appear on the ballot paper, and shall then ask the voter—"For which of these candidates do you wish to express a second preference?"

- 5 (iv) the presiding officer shall then place the figure 2 on the ballot paper so as to indicate a second preference for the candidate named by the voter in his answer to the last-mentioned question,
- 10 (v) the presiding officer shall repeat the operation if and so often as may be required in reference to a third or any subsequent preference so long as the voter wishes to express any such preference;
- 15 (c) the presiding officer shall not accept, consider, or act upon any paper or document purporting to show the manner in which the voter desires to give his vote or express a preference, and shall not mark the ballot paper of the voter otherwise than after compliance and in accordance with the foregoing provisions of this rule.

18. If a person, representing himself to be a particular elector named on the register, applies for a ballot paper after another person has voted as such elector, the applicant shall, upon duly answering the questions and taking the oath or affirmation permitted by this Act to be asked of and to be administered to voters at the time of polling, be entitled to mark a ballot paper in the same manner as any other elector, but the ballot paper (in this Act called a tendered ballot paper) shall be of a colour differing from the other ballot papers, and instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of electors, and set aside in a separate packet and shall not be counted by the returning officer, and the name of such elector and his number on the register shall be entered on the tendered votes list in the prescribed form.

Alleged personation.

19. A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper, may, on delivering to the presiding officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in this Act called a spoilt ballot paper), and the spoilt ballot paper shall be immediately cancelled.

Inadvertent destruction of ballot paper.

20. (1) As soon as practicable after the close of the poll, the presiding officer at each polling station shall, in the presence of the personation agents of the candidates, seal up with his own seal and the seals of such personation agents as desire to affix their seals the ballot boxes used at the poll in that polling station so as to prevent the introduction of additional ballot papers.

Sealing and disposal of ballot boxes.

20. (2) As soon as practicable after the close of the poll, the presiding officer at each polling station shall deliver the said ballot boxes, sealed up as directed by this rule, to the local returning officer who shall thereupon take charge of such ballot boxes.

21. The presiding officer at each polling station, as soon as practicable after the close of the poll, shall, in the presence of the personation agents of the candidates, make up into separate packets sealed with his own seal and the seals of such personation agents as desire to affix their seals—

Duty of presiding officer at close of poll.

- (a) the unused and spoilt ballot papers, placed together, and
- 60 (b) the tendered ballot papers; and

(c) the marked copies of the register of electors, and the counterfoils of the ballot papers; and

(d) the tendered votes list,

and shall deliver all such packets to the local returning officer.

Statement by presiding officer.

22. The packets mentioned in the next preceding rule shall be accompanied by a statement in the prescribed form made by the presiding officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of (a) ballot papers in the ballot box, (b) unused ballot papers, (c) spoilt ballot papers, and (d) tendered ballot papers, which statement is in this Act referred to as the ballot paper account. 10

Opening of the ballot boxes.

23. As soon as practicable after the close of the poll in each constituency the local returning officer for that constituency shall open each ballot box used at the poll in that constituency, take out the ballot papers therein, count and record the number thereof, and then mix together the whole of the ballot papers contained in the said ballot boxes. 15

Candidates' agents at opening of the ballot boxes.

24. Every local agent of a candidate may appoint agents to attend on behalf of such candidate the opening of the ballot boxes in his constituency by the local returning officer and the proceedings consequent on such opening, and the local returning officer shall give to every agent so appointed and of whose appointment he receives notice in accordance with the next following rule notice of the time and place at which he will begin the said opening of the ballot boxes. 20 25

Communication to local returning officers of names of local agents.

25. (1) The name and address of every agent appointed to attend on behalf of a candidate the opening of the ballot boxes and proceedings consequent thereon in any constituency shall be communicated in writing by the local agent of such candidate to the local returning officer for that constituency not later than the second day before the polling day. 30

(2) A local returning officer may refuse to admit to the opening of the ballot boxes and the proceedings consequent thereon any agent whose name and address has not been communicated to him in accordance with this rule. 35

(3) Any notice required to be given to any such agent as aforesaid by the local returning officer may be delivered at or sent to the address of such agent communicated to such local returning officer in pursuance of this rule.

Persons to be present at the opening of the ballot boxes.

26. (1) The local returning officer, his assistants and clerks, and the agents on behalf of the candidates, and no other person, except with the permission of the local returning officer, may be present at the opening of the ballot boxes by the local returning officer or any of the proceedings consequent on such opening. 40

(2) The local returning officer and every clerk, assistant, and agent who is permitted to be present at the opening of the ballot boxes or any of the proceedings consequent thereon shall, before the commencement of such opening, sign an undertaking in the prescribed form to preserve the secrecy of the ballot. 45

Continuity of proceedings on opening of ballot boxes.

27. The local returning officer shall, so far as practicable, proceed continuously with the opening of the ballot boxes and the proceedings consequent thereon, allowing only time for refreshment, and excluding (except so far as he and the agents on behalf of the candidates otherwise agree) the hours between seven o'clock at night and nine o'clock on the succeeding morning. During the excluded time the local returning officer shall place the ballot papers and other documents relating to the poll under his own seal and the seals of such of the said 50 55

agents as desire to affix their seals, and shall otherwise take proper precautions for the security of such papers and documents.

28. (1) When the local returning officer has mixed the ballot papers together in accordance with the preceding Rules, he shall cause the ballot papers to be arranged in parcels according to the first preferences recorded thereon for each candidate and shall, while so doing, reject any ballot papers which are invalid.

Arrangement of
ballot papers in
parcels.

(2) The local returning officer shall then count and record the number of ballot papers in each such parcel.

(3) The local returning officer shall, if so requested by an agent of a candidate, check the allocation of ballot papers to all or any of such parcels and recount the number of ballot papers therein, but it shall not be obligatory on him so to check or recount any such parcel more than once.

(4) The decision of the local returning officer as to the validity or invalidity of any ballot paper shall be final.

29. (1) The local returning officer shall endorse "rejected" on any ballot paper which he rejects as invalid, and shall add to the endorsement "rejection objected to," if an objection be in fact made by any agent to his decision.

Rejected ballot
papers.

(2) The local returning officer shall report to the presidential returning officer the number of ballot papers rejected and not counted by him under the several heads following, that is to say:—

(a) want of official mark,

(b) invalid under this Act on account of incorrect numbering of preferences,

(c) writing or mark by which voter could be identified,

(d) unmarked or void for uncertainty.

(3) The papers included under head (b) in the next preceding paragraph shall be divided into three sub-heads, viz., the figure 1 not placed, the figure 1 placed more than once, and the figure 1 placed along with another number.

30. The local returning officer, while counting and arranging the ballot papers and recording the numbers thereof in pursuance of the preceding rules, shall keep the ballot papers with their faces upwards and shall take all proper precautions for preventing any person from seeing the numbers printed on the backs of such ballot papers.

Precautions for
preservation of
secrecy.

31. (1) When the local returning officer has arranged the valid ballot papers in parcels in accordance with the preceding rules, he shall seal up in separate packets the said several parcels of valid ballot papers and shall endorse on each such packet a statement of the number of ballot papers in the packet and the name of the candidate for whom the first preferences are recorded on such ballot papers and shall send all such packets to the presidential returning officer.

Sending of ballot
papers to the
presidential
returning officer.

(2) The local returning officer shall show the endorsement on each such packet to the agents of the candidates and shall allow any such agent to copy it.

32. (1) Upon the completion of the opening of the ballot boxes and the proceedings consequent thereon, the local returning officer shall seal up in a separate packet the rejected ballot papers; he shall not open the sealed packets containing the tendered ballot papers and the marked copy of the register of electors and counterfoils, respectively, but shall proceed, in the presence of the agents of the candidates, to verify the ballot

Disposal of the
rejected ballot
papers and other
documents.

paper account given by each presiding officer by comparing it with the number of ballot papers recorded by him as aforesaid, and the unused and spoilt ballot papers in his possession and the tendered votes list, and shall reseal each sealed packet after examination.

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(2) The local returning officer shall report to the presidential returning officer the result of such verification, and shall, on request, allow the agent of any candidate, before such report is sent, to copy it.

Packets to be sent to the presidential returning officer.

33. Lastly, the local returning officer shall send to the presidential returning officer all the packets of ballot papers in his possession (other than any such packets the sending of which is provided for in the preceding Rules), together with the said reports, the ballot paper accounts, tendered votes lists, and packets of counterfoils, and marked copies of registers sent by each presiding officer, endorsing on each packet a description of its contents and the date of the election to which they relate, and the name of the constituency in which the poll was taken by him.

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PART II.

FUNCTIONS OF THE PRESIDENTIAL RETURNING OFFICER.

Time and place for counting the votes.

34. As soon as the presidential returning officer has received from all the local returning officers all the packets, reports, and other matters which such officers are required by these rules to send to him, the presidential returning officer shall appoint the time and place at which he will count the votes.

Counting of the votes by the presidential returning officer.

35. The presidential returning officer shall, at the time and place appointed by him under the next preceding rule, count the votes in accordance with the Rules contained in the Third Schedule to this Act and shall, on the completion of such counting, send to the Taoiseach a certificate in the form set forth in the Second Schedule to this Act stating the name of the candidate elected, the total number of votes given for each candidate (whether he is or is not elected), any transfer of votes made under the said Rules and the total number of votes credited to each candidate at the end of the count at which such transfer took place, and shall publish in the *Iris Oifigiúil* a copy of such certificate.

Candidates' agents at the counting of the votes.

36. The principal agent of a candidate may appoint agents to attend on behalf of such candidate the counting of the votes by the presidential returning officer, and the presidential returning officer shall give to every agent so appointed and of whose name and address he receives notice in accordance with the next following rule notice of the time and place at which he will begin the counting of the votes.

Communication of names of agents to the presidential returning officer.

37. (1) The name and address of every agent appointed to attend on behalf of a candidate the counting of the votes shall be communicated in writing to the presidential returning officer not later than twelve o'clock noon on the polling day.

(2) The presidential returning officer may refuse to admit to the counting of the votes any agent whose name and address has not been communicated to him in accordance with this rule.

(3) Any notice required to be given to any such agent as aforesaid by the presidential returning officer may be delivered at or sent to the address of such agent communicated to the presidential returning officer in pursuance of this rule.

38. (1) The presidential returning officer, his assistants and clerks, and the agents on behalf of the candidates and no other person, except with the permission of the presidential returning officer, may be present at the counting of the votes. Persons present at the counting of the votes.
- 5 (2) Every officer, clerk, candidate, agent, and other person who is present at the counting of the votes shall, before he is admitted thereto, sign an undertaking in the prescribed form to preserve the secrecy of the ballot.
- 10 39. The presidential returning officer shall, so far as practicable, proceed continuously with the counting of the votes, allowing only time for refreshment, and excluding (except in so far as he and the agents on behalf of the candidates otherwise agree) the hours between seven o'clock at night and nine o'clock on the succeeding morning; during the excluded time the presidential returning officer shall place the ballot papers and other documents relating to the election under his own seal and the seals of such of the said agents as desire to affix their seals, and shall otherwise take proper precautions for the security of such papers and documents. Continuity of proceedings for counting the votes.
- 15 40. The presidential returning officer shall retain for six months all documents relating to an election sent to him in pursuance of these Rules by a local returning officer, and shall then destroy such documents; during the said period of six months, any such document may (save as is otherwise provided by the next following rule) be inspected by any person on a written permission given by the Minister or on an order of the High Court; no such permission shall be given and no such order shall be made unless or until the Minister or the High Court (as the case may be) is satisfied that the inspection is required for a reasonable and proper purpose. Disposal of documents by the presidential returning officer.
- 20 41. Notwithstanding anything contained in the next preceding rule, no sealed packet of counterfoils shall at any time be opened and no counterfoil and no counted ballot paper shall at any time be inspected save under and in accordance with an order of the High Court; no such order shall be made unless or until the High Court is satisfied that such opening or such inspection (as the case may be) is necessary and proper for a reason which appears to the High Court to be sufficient; any such order may contain such conditions and restrictions in respect of the opening or inspection authorised thereby as the High Court shall think proper to insert therein. Non-inspection of counterfoils and counted ballot papers.
- 30 35

PART III.

40

GENERAL.

42. Where the presidential returning officer or a local returning officer is required or authorised by this Act to give any public notice, he shall give such notice by such advertisements, placards, handbills, or other means as he thinks best calculated to afford information to the electors. Method of giving public notice.
- 45 43. Where in this Act expressions are used requiring or authorising 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 authorised to attend and do in fact attend at the time and place at which such act or thing is done, and the non-attendance of any agents or agent at such time and place shall not of itself invalidate the act or thing so done. Non-attendance of agents.
- 50 44. If any person appointed under these Rules to be an agent on behalf of a candidate for any purpose dies or becomes incapable of acting (whether before or during the proceedings Death of agent.

Right of candidate to act personally.

Restrictions on
persons to be
employed by
returning officers.

1.

..... day of....., 19.....

We, the undersigned members of the Oireachtas hereby nominate

* Insert here the full name of the candidate, surname first.

† Insert here the full postal address of the candidate.

‡ Insert here the rank, profession, or occupation of the candidate.

Each nominator must sign his name in the first column and state in the second column the House of which he is a member.

as a proper person to be a candidate at the above-mentioned election.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. A vertical margin line is present on the right side of the page. The paper appears slightly aged or off-white. There are some faint, illegible marks scattered across the surface, possibly from scanning or previous writing.

FORM OF NOMINATION PAPER FOR NOMINATIONS BY COUNTY OR
COUNTY BOROUGH COUNCILS.

PRESIDENTIAL ELECTION.

..... day of....., 19....

The Council of the County (County Borough) of.....
in pursuance of a resolution passed on the..... day of.....

*Insert here the
full name of the
candidate, surname
first.

.....19....., hereby nominates*

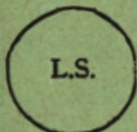
†Insert here the
full postal address
of the candidate.

of†.....

‡Insert here the
rank, profession, or
occupation of the
candidate.

‡.....

as a proper person to be a candidate at the above-mentioned election.



Sealed with the common seal of the.....

.....
in the presence of.....

(Signed).....
County Secretary or Town Clerk.

FORM OF NOMINATION PAPER FOR A NOMINATION OF HIMSELF
BY A FORMER PRESIDENT.

PRESIDENTIAL ELECTION.

..... day of....., 19....

*Insert here the
full name of
the nominator,
surname last.

I*.....

†Insert here the
full postal address
of the nominator.

of†.....

‡Insert here the
rank, profession, or
occupation of the
nominator.

‡.....

a former President of Ireland hereby nominate myself to be a candidate at the

Note: This form
must be signed by
the candidate.

above-mentioned election.

(Signed)

FORM OF NOMINATION PAPER FOR A NOMINATION OF HIMSELF
BY THE RETIRING PRESIDENT.

PRESIDENTIAL ELECTION.

..... day of, 19....

*Insert here the
full name of
the nominator,
surname last.

I*.....

†Insert here the
official residence of
the nominator.

of†.....

President of Ireland hereby nominate myself to be a candidate at the above-
mentioned election.

Note: This form
must be signed by
the candidate.

(Signed)

FORM OF APPOINTMENT OF AUTHORISED REPRESENTATIVE.
PRESIDENTIAL ELECTION.

..... day of, 19.....

* Insert here the full name, address, and description of the candidate.

I*

of

† Insert here the full name, address, and description of the representative.

a candidate at the above-mentioned election hereby authorise †.....

Note: This form must be signed by the candidate in the presence of a witness who must sign his name and add his address and description.

of

to represent me at the ruling upon nominations at the said election.

(Signed)

Signed by the above-named
in the presence of :

.....

.....

.....

.....

FORM OF CERTIFICATE OF THE RESULT OF THE ELECTION WHERE
A POLL IS NOT TAKEN.

PRESIDENTIAL ELECTION.

..... day of, 19.....

I hereby certify that.....

of

was the only candidate duly nominated at the above-mentioned election and

that I therefore declared him to have been elected President of Ireland.

.....
Presidential Returning Officer.

FORM OF BALLOT PAPER.

FORM OF FRONT OF BALLOT PAPER.

Marcáil ordú do roghna sna spáis seo síos. Mark order of preference in spaces below	Ainmneacha na n-Iarrthóirí Names of candidates
	de BURCA, SEAMUS (CUNTASOIR) : (Seamus de Burca, ó 10 an tSráid Ard, Cuntasoir).
	BURKE, HENRY (GROCER) : (Henry Burke of 14 Green Street, Grocer).
	LODER : (Wilfred Loder of Townparks, Greenfield, Farmer).
	NÍ LOINGSIGH, SIOBHÁN EIBHLÍN (GRÓSAER) : (Siobhán Eibhlín ní Loingsigh, ó 7 Sráid na Faiche, Grósaer).
	LYNCH, THOMAS (DENTIST) : (Thomas Lynch, of Ardnalee, the Crescent, Hilltown, Dentist).
	MAC LIAM, TOMÁS (BÓTHAR DARTRÁI) : (Tomás MacLiam, ó 22 Bóthar Dartrái, Chemist).
	MADDEN : (John Madden of Killeen, Solicitor).
	Ó DUBHGHAILL : (Seamus Ó Dubhghaill, ó 22 Plás Chlós an Tobair, Duine Uasal).
	WILSON, THOMÁS (ROCK ROAD) : (Thomas Wilson of 144 Rock Road, Chemist).

Counterfoil No.

Note: The counterfoil is to have a number to correspond with that on the back of the ballot paper.

FORM OF BACK OF BALLOT PAPER.

No.....

Presidential Election.....day of....., 19.....

NOTE.—The date on the back of the ballot paper is to be the date of the polling day.

FORM OF CERTIFICATE OF THE RESULT OF THE ELECTION WHERE A POLL IS TAKEN.

PRESIDENTIAL ELECTION.

..... day of....., 19.....

I hereby certify that.....candidates having been duly nominated I adjourned the election for the purpose of taking a poll, and I hereby further certify that.....
 of
 was elected at such poll and I therefore declared him to have been elected President of Ireland.

Particulars of the voting at the poll.

Number of candidates

Number of valid votes.....

Quota (number of votes sufficient to secure the election of a candidate).....

Names of candidates	First count	Second count		Third count		Name of candidate elected
	Votes	Trans-fer of	Result	Trans-fer of	Result	
.....						
.....						
.....						
.....						
.....						
Non-transferable papers not effective.						
TOTAL ...						

Dated this..... day of....., 19.....

.....
Presidential Returning Officer.

THIRD SCHEDULE.

RULES FOR COUNTING THE VOTES.

1. (1) The presidential returning officer shall take up each of the parcels of valid ballot papers received by him from the local returning officers and shall note and record the number of ballot papers 5 in each such parcel and the name of the candidate for whom the first preferences are recorded on such ballot papers as stated in the endorsements made on such parcels by the local returning officer.

(2) The presidential returning officer may, if he so thinks proper, recount the number of ballot papers in any such parcel, check the 10 allocation of ballot papers to such parcel, and make such (if any) alteration in the endorsement on such parcel as may be requisite in consequence of such recounting and checking.

(3) The presidential returning officer shall not inquire into or 15 consider the validity of any ballot paper in any such parcel.

2. When the presidential returning officer has complied with the next preceding rule, he shall credit each candidate with a number of votes equal to the total number of ballot papers in the said 20 parcels on which a first preference has been recorded for such candidate.

3. The presidential returning officer shall then ascertain the full aggregate number of the ballot papers in all the said parcels and shall divide such aggregate number by two; the result of such division, increased by one, shall be the number (in this Schedule 25 called the "quota") of votes sufficient to secure the election of a candidate.

4. If at the end of any count the number of votes credited to a candidate is equal to or greater than the quota, that candidate shall be deemed to be elected and no further transfer of votes 30 shall be made.

5. (1) If at the end of any count no candidate is elected the presidential returning officer shall exclude the candidate credited with the lowest number of votes, and shall examine all the papers of that candidate, and shall arrange the transfer-
5 able papers in sub-parcels according to the next available preferences recorded thereon for continuing candidates, and shall transfer each sub-parcel to the candidate for whom that preference is recorded, and shall make a separate sub-parcel of the non-transferable papers.

10 (2) The papers in the sub-parcel of non-transferable papers shall be set aside as finally dealt with and shall in the certificate of the result of the election be dealt with as non-transferable papers not effective.

(3) If the total of the votes of the two or more lowest
15 candidates is less than the number of votes credited to the next highest candidate, the presidential returning officer may in one operation exclude those candidates and transfer their votes in accordance with paragraph (1) of this rule.

(4) If, when a candidate has to be excluded under this Rule,
20 two or more candidates have each the same number of votes and are lowest, regard shall be had to the number of original votes credited to each of those candidates, and the candidate with the smallest number of original votes shall be excluded, and, where the number of the original votes are equal, regard
25 shall be had to the total numbers of votes credited to those candidates at the first count at which they had an unequal number of votes, and the candidate with the lowest number of votes at that count shall be excluded, and, where the number of votes credited to those candidates were equal at all counts, the
30 presidential returning officer shall determine by lot which shall be excluded.

6. Whenever any transfer of votes is made under the next preceding rule, the candidate to whom the transfer is made shall be credited with a number of votes equal to the number of
35 papers transferred to him.

7. When the votes of some one continuing candidate (in this rule referred to as the first-mentioned candidate) exceed the total of all the votes of the other continuing candidates or candidate, the first-mentioned candidate shall thereupon be deemed to be
40 elected and no further transfer of votes shall be made.

8. (1) Any agent on behalf of a candidate may, at the conclusion of any count, request the presidential returning officer to re-examine and recount all or any of the papers dealt with during that count, and upon being so requested the presidential
45 returning officer shall re-examine and recount accordingly the papers to which such request relates, but without making any alteration in the arrangement of the papers in the various parcels save where such alteration may be necessary in consequence of an error discovered in the recount.

50 (2) It shall not be obligatory on the presidential returning officer to re-examine or recount more than once any parcel of papers in pursuance of the next preceding paragraph of this rule.

(3) The presidential returning officer may, if he so thinks
55 proper at any stage of the counting of the votes, re-examine and recount all or any parcels of papers (including the parcels received by him from local returning officers) and may repeat such re-examination and recounting as often as he considers necessary for securing the accuracy of the count.

60 9. If any question shall arise in relation to the exclusion of any candidate or to the transfer of any votes, the decision of the

presidential returning officer, whether expressed or implied by his acts, shall be final.

10. A ballot paper shall be deemed to have become a non-transferable paper whenever—

- (a) the names of two or more candidates (whether continuing or not) are marked on such ballot paper with the same number and are next in order of preference, or
- (b) the name of the candidate next in order of preference (whether continuing or not) is marked on such ballot paper either by a number not following consecutively after some other number on the ballot paper or by two or more numbers, or
- (c) such ballot paper is void for uncertainty.

11. In these rules—

the expression "continuing candidate" means a candidate not deemed to be elected and not excluded;

the expression "first preference" means the figure "1" standing alone set opposite the name of the candidate in such manner as to indicate a first preference for that candidate;

the expression "second preference" means the figure "2" standing alone in succession to the figure "1" and set opposite the name of a candidate in such manner as to indicate a second preference for that candidate;

the expression "the next available preference" means a second or subsequent preference recorded in consecutive numerical order for a continuing candidate, preferences for candidates already excluded being ignored;

the expression "transferable paper" means a ballot paper on which, following a first preference, a second or subsequent preference is recorded in consecutive numerical order for a continuing candidate;

the expression "non-transferable paper" means a ballot paper on which no second or subsequent preference is recorded in consecutive numerical order for a continuing candidate, and includes a paper which is deemed by the next preceding rule to have become a non-transferable paper;

the expression "original vote" in regard to any candidate means a vote derived from a ballot paper on which a first preference is recorded for that candidate;

the expression "transferred vote" in regard to any candidate means a vote derived from a ballot paper on which a second or subsequent preference is recorded for that candidate;

the word "count" means all the operations involved in the transfer of the votes of an excluded candidate and also includes (where the context so permits) all the operations involved in the counting of the first preferences recorded for candidates so far as such operations are performed by the presidential returning officer;

the expression "deemed to be elected" means deemed to be elected for the purpose of the counting of the votes, but without prejudice to the declaration of the result of the poll;

the expression "determine by lot" means determine in accordance with the following direction, that is to say, the names of the candidates concerned having been written on similar slips of paper and such slips having been folded to so as to prevent identification and mixed and drawn at random, the candidate or candidates shall be excluded in the order in which their names are drawn.

Saorstát Éireann.

BILLE TOGHACHAN AN UACHTARAIN,
1937.

BILLE

dá ngairmtear

Acht chun rialála do dhéanamh, chun críche Bunreachta na hÉireann d'achtuigh an pobal le déanaí, ar thoghacháin chun oifige Uachtaráin na hÉireann, agus chun socruithe do dhéanamh i dtaobh nithe ghabhas no bhaineas leis na toghacháin sin.

*An tAire Rialtais Aitiúla agus Sláinte Puiblí
do thug isteach.*

*Do hordúodh, ag Dáil Éireann, do cló
bhualadh, 21adh Iúil, 1937.*

BAILE ATHA CLIATH:
FOILLSITHE AG OIFIG AN tSOLATHAIR.

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6 Oifig Díolta Foillseacháin Rialtais, 5 Sráid
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Saorstát Éireann.

PRESIDENTIAL ELECTIONS BILL, 1937.

BILL

entitled

An Act to regulate, for the purpose of the Constitution of Ireland lately enacted by the people, elections for the office of President of Ireland, and to provide for matters incidental to or connected with such elections.

Introduced by the Minister for Local Government and Public Health.

*Ordered, by Dáil Éireann, to be printed,
21st July, 1937.*

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