Local Elections (Single Transferable Vote Option) Bill

Member's Bill

Explanatory note

General policy statement

The purpose of this Bill is to establish an optional alternative voting procedure to the first-past-the-post (FPP) system provided by the Local Elections and Polls Act 1976. It enables the single transferable vote (STV) system to be used for elections of members of local authorities.

There has been a growing level of interest in alternative voting systems to FPP since the Royal Commission on the Electoral System reported in December, 1986. Some local authorities and lobby groups have expressed support for the use of the STV electoral system in local elections. Local Government New Zealand has indicated that it generally supports the objective of the Bill.

The Bill provides for the use of STV to be optional, by resolution of a territorial authority, regional council, or licensing trust, but also makes provision for not less than 5% of the number of electors of a territorial authority, regional council, or licensing trust to demand a public poll be held on the voting system to be used at the next 2 triennial general elections of the local authority. A simple majority in favour of the proposal that is put to electors will be sufficient to ensure the adoption of a different voting system from the one used at the last election.

The STV System

STV is a form of proportional representation under which voters choose their representatives from a number of candidates in multi-member districts. (Where elections are conducted in single member

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districts, or for the office of Mayor of a territorial authority, STV reduces to the majority-preferential vote (PV).) The several members of a local authority may be elected at-large, or in multimember wards or constituencies, as the case may be.

The STV system operates in the following manner:

a   Each voter votes by listing some or all of the candidates in order of preference:

b   Each voter is treated as having one vote which is assigned initially to that voter's first-preference candidate:

c   A quota is calculated as the minimum number of votes needed by a candidate to secure election. The quota is reduced during the count, if the circumstances so dictate:

d   Any candidate whose votes equal or exceed the current quota is elected, and any surplus votes (above the quota) are transferred to other candidates in accordance with the later preferences of the relevant voters, as expressed on their voting papers:

e   If, at any point in the count, no surplus remains to be transferred, but the number of candidates elected so far falls short of the number of vacancies to be filled, then the candidate who currently has fewest votes is excluded from the count. Votes assigned to that candidate are then transferred to other candidates in accordance with the later preferences of the relevant voters:

f   Transfers of surpluses and exclusions continue until the desired number of candidates is elected.

Candidates must attain a quota of valid votes (or, where the election is to fill a single vacancy, an absolute majority of valid votes) in order to be elected. The quota is the smallest number of votes such that the number of candidates who achieve a quota cannot be greater than the number to be elected. The quota is found by dividing the total number of valid votes, less non-transferable votes (if any), by a number that is 1 greater than the number to be elected, and adding a tiny fraction to the quotient so obtained, even if the quotient is an exact whole number.

As alluded to above, the rationale for this formula is to ensure that the required number of candidates only are elected. When just 1 vacancy is being filled, for example, a candidate needs barely more than half the votes remaining in the count to be assured of election. If a candidate has more than half the votes, then no other candidate can

have as many votes. Similarly, if 2 vacancies are being filled, then any candidate with more than one-third of the votes remaining in the count ought to be assured of election on the basis that there can be at most 1 other candidate (who can fill the other vacancy) who will receive as many votes. If 3 vacancies are being filled, the total number of valid votes, less non-transferable votes, is divided by 4 and a tiny fraction added to the quotient so obtained, thereby ensuring that only 3 candidates can attain the requisite number of votes, and so on.

STV ensures that all votes have equal value, and that nearly all voters have an equal effect on the election outcome. The system gives effective representation to all significant points of view within the electorate and, because votes are transferable, it allows voters to vote for their preferred candidates without fear of wasting their votes. This means that as many votes as possible will count towards the election of local authority members. STV eliminates safe seats for individual members, thereby ensuring the accountability of all elected members to the voters.

STV is neutral in terms of whether voters support candidates because of their personal attributes, or because of their party or opinion-group affiliation. Because of this neutrality, STV is an appropriate form of proportional representation to apply to local authority elections where many candidates in some local authority areas belong to political parties and to other, less formal, groupings, while such party and opinion-group affiliations are entirely absent in other areas. STV is a more appropriate system to afford voters fair and proportional representation at the local authority level than is the mixed member proportional (MMP) system, because MMP's use of list candidates is suited only to elections centred around formal political parties.

The use of PV to elect the Mayors of territorial authorities, along with other local representatives in single member districts, will enable voters to vote for the candidate they really want, without fear of wasting their vote. Equally importantly, it will ensure that all candidates are elected at such contests with a majority of votes, or at least with majority acquiescence within the local government area. By contrast, at the 1998 local elections, 40 out of 54 city and district council Mayors, elected in contests where there were 3 or more candidates standing, were elected with less than 50% of the valid

votes cast, including 11 who were elected with less than one-third of the votes.

Counting of votes

The counting rules contained in *Schedule* 2, together comprise an algorithm commonly referred to as "Meek's method" of counting votes by the single transferable vote system. When STV was developed in the nineteenth century, it was thought right to observe certain rules such as ignoring preferences given for candidates who were already elected, and transferring only the last parcel of votes received when distributing a candidate's consequential surplus, rather than using all the voting papers credited to the candidate. Even if those features had not been thought right, they would have been necessary in those days to reduce as much as possible the number of voting papers that needed to be re-examined for later preferences, and to speed up the conduct of a count generally. With the now widespread availability and use of computers, and the consequent development of the Meek algorithm, however, arbitrary rules such as these are not only unnecessary, but can in fact be shown to be undesirable.

The Meek algorithm was devised by Brian Meek, M. Sc, FRAS, c. Eng, FBCS (1934–1997), and first proposed by him in two papers originally published in French in 1969 and 1970 when he was at Queen Elizabeth College, London. Following its initial invention in 1819, STV was developed and improved in various ways over the years but, by the late 1960s, it needed to be re-thought from scratch to take advantage of the computer age and to improve its mathematical basis. Meek's papers did this.

The Meek rules retain all the essential features and aims of STV, but use, of necessity, the power of modem computers to get a closer realisation of the voters' wishes, better meeting all the traditional STV virtues. The Meek rules differ from traditional hand-counting rules in four main respects—

a   Votes are transferred to the next preference in the exact order indicated by the voter on the voting paper, unless the candidate has already been excluded:

b   The total value of the surplus is shared equally across both transferable and non-transferable voting papers:

c   If a candidate is elected later in the count, or an elected candidate receives further votes, the surplus to be transferred

is shared across all voting papers credited to that candidate in appropriate proportions, not just across the voting papers which gave immediate rise to the surplus:

d   As votes are credited to the non-transferable total, the quota is recalculated to reflect the smaller total of votes remaining active.

Under the Meek rules, therefore, when a candidate attains the quota, that candidate retains a calculated proportion of every vote received, the total of which equals the quota. The remainder is transferred to the next non-excluded candidate indicated by the voter, including candidates who have previously attained the quota. The surplus votes of the one or more elected candidates are transferred away again in due proportion from all relevant votes, not just from those which gave immediate rise to the surplus or surpluses.

The procedure required to conduct a Meek count is based on each candidate being assigned a scaling factor representing the proportion of each vote that will actually be credited to each candidate, out of the votes that are potentially available to each candidate. Because the calculations necessary to produce these scaling factors (called "keep values") would be far too tedious for election staff to perform by hand, especially later in the count as progressively more candidates attain the quota, Meek counts must necessarily be carried out using computer technology.

The advantages of using the Meek rules are that the number of wasted votes are kept to an absolute minimum; as far as possible, the opinion of each voter is taken equally into account; and there is no incentive for voters to engage in tactical (insincere) voting.

Minimum number of members to be elected in each ward

STV is recognised as being a system of proportional representation in *multimember* districts. It ensures that any significant group of voters choosing candidates by the same criteria will secure representation roughly in proportion to their size within the multimember district/ward. If, for example, in a 7-member ward one-eighth, or 12.5%, of voters were to choose candidates of opinion group A as their leading preferences (in whatever order each voter chooses), then at least 1 candidate of opinion group A would be elected. If 25% were to give their leading preferences to candidates of opinion group B, then at least 2 candidates of that opinion group would be elected, and so on. As with any voting system that seeks to equate

seats with votes, however, there is a trade-off between the number of seats in a ward and the proportionality likely to be achieved; results will be more proportional in wards returning 6 or 7 members than in those returning 2 or 3.

STV, being a highly sophisticated and flexible voting system, can produce proportionality by whatever criterion voters choose to prioritise, e.g. gender, age, ethnicity, political philosophy, community of interest, local issues, personal qualities, etc. Because STV allows voters to express their preferences for candidates both within and across any of the criteria of importance to them, STV results will tend towards proportionality by whatever criteria significant numbers of voters prioritise.

It can be seen, therefore, that territorial authority wards need to elect several members together to ensure that a balance of representation between groups or viewpoints contesting the election, is achieved. On the other hand, it is recognised that wards in lesser populated districts cannot be so large that ongoing contact between citizens and their elected representatives is made unnecessarily difficult.

Consequently, the Bill contains provisions in *Schedule* 4 amending the Local Government Act 1974 to provide that the type of voting system used, will be considered in determining the size and membership of territorial authority wards and regional council constituencies; and that, so far as is practicable, the number of members to be elected in any territorial authority ward is no fewer than 3. This latter provision affords councils and, where appropriate, the Local Government Commission the latitude to establish wards in rural areas, for example, that return fewer than 3 members.

Filling of extraordinary vacancies

Under both the Local Government Act 1974 and the Sale of Liquor Act 1989, a local authority or licensing trust can resolve to fill an extraordinary vacancy in the office of an elected member, by appointment. Both Acts require that any person appointed to fill an extraordinary vacancy must be a person who is qualified to be elected to be a member of the territorial authority (or community board), or regional council, or licensing trust, as the case may be. In most cases where an appointment is made, the person appointed to the vacancy is the highest polling unsuccessful candidate at the original election.

In STV elections, however, the equivalent of the highest polling unsuccessful candidate, known as the runner-up candidate, is not necessarily the correct candidate to be appointed to fill the vacancy (see below). In order to determine which unsuccessful candidate is the correct candidate to appoint, it is necessary to conduct a recount of all the voting papers used in the original election.

In cases where a local authority resolves to fill an extraordinary vacancy by appointment, it is considered to be more democratic and transparent for the resolution to identify the person to be appointed, and for the public notice of that resolution also to state the basis on which he or she was selected. A further reason for the necessity of conducting a recount, therefore, is to determine which person is to be named in the resolution.

If a local authority resolves to fill an extraordinary vacancy in an office that was filled by an election held under *Part 2,* by appointment, a recount of all the voting papers used in the original election, as if to fill all vacancies originally filled, is the proper method of ascertaining the appropriate candidate to name in the resolution. Contrary to elections held under a first-past-the-post system, where there is a highest polling unsuccessful candidate, the obvious candidate to fill a vacancy in an office elected by STV is not necessarily the last formally excluded candidate. A natural corollary to this assertion is that there can be no case for arbitrarily appointing candidates who were excluded earlier in the count, and whose votes were used to help elect other candidates, either.

When the first preference votes of the vacating member (and of any unsuccessful candidates at the original election who are not consenting candidates in respect of the recount) are transferred to the second or subsequent preferences indicated on them, a sufficient number might well be transferred to a candidate who had been excluded early in the original election, to enable that candidate to remain in the count and receive transfers he or she would not otherwise have received, and thereby to attain the quota and be named in the resolution to fill the vacancy.

If the vacancy were to be filled by repeating the election count with the voting papers of only the vacating member, i.e. by conducting a PV count, the vacancy would be filled by a candidate attaining only half the original quota, and those voters who had voted for the last formally excluded candidate would almost certainly remain without

representation. By recounting all the voting papers cast at the original election, the entire electorate participates in determining which candidate should fill the vacancy, just as it did at the original election.

Rather than provide that the name of a candidate to be appointed to a vacancy be included in a resolution only in respect of vacancies in the office of members elected under *Part* 2, however, the Bill, in *clause* 29 and in *Schedule* 4, amends the appropriate sections of the principal Act, the Local Government Act 1974 and the Sale of Liquor Act 1989, respectively, to require a resolution in respect of a vacancy to identify the person to be appointed to fill the vacancy, regardless of which voting system was used at the original election.

Extraordinary vacancies will still be filled by means of by-elections (see *clause* *11 (d)*), if local authorities (or their electors) so wish. Moreover, by-elections must still, of course, be held in respect of vacancies in the office of Mayor of territorial authorities.

Timeline for changing voting method

The Bill provides for a local authority to adopt the STV electoral option by resolution (see *clause* 5 (I)). In order to allow an opportunity for electors to demand a poll on that decision (see clause *8*), and for that poll to be held (under *clause* 9 (3)) before the triennial review of ward/constituency boundaries and membership, the deadline for such resolutions must be 28 February in the year immediately preceding an election year. Unless a poll is held on the issue (see below), the resolution will be binding in respect of that election and, once adopted, STV will continue to be used unless or until there is a resolution (see *clause* 5 (2)) or poll (under clause 9 (4)) to change to FPP at a subsequent election.

Whether or not a local authority resolves to adopt STV, it is required, not later than 8 March in the year immediately preceding an election year, to give public notice of the right to demand (under *clause* 8) a poll on the voting method to be used for the next 2 triennial general elections of the local authority (see new *section 3B* (I) of the principal Act at *clause 28).*

Any local authority, not having resolved to adopt STV and not having received a public demand under *clause* 8 that a poll be held on the voting method to be used for the next 2 elections, or being a local authority which has used the voting method adopted at a poll

under *clause* 9 for two elections may, not later than 8 May in the year immediately preceding an election year, resolve that a poll be held under *clause* 9. The principal administrative officer must notify the Returning Officer pursuant to *clause* 6 *(2)*, as soon as is practicable, of any such resolution.

A notice under *clause* 8 demanding a poll, must be signed by at least 5% of electors and delivered at the principal office of the local authority not later than 22 working days after the date of the public notice required to be given by new *section 3B* (I) of the principal Act. In those years where Easter intervenes, the latest date for delivering the demand would be 11 April. Within 30 days of receiving a demand bearing the required number of signatures, the principal administrative officer must give notice to the Returning Officer that a poll is to be held (see *clause* 8 (6)). The latest date for giving this notice would be 11 May.

The Returning Officer then has 7 days from receipt of the notice (under *clause 6 (2) or clause 8 (6)*), i.e. usually not later than 18 May, to give public notice of the date of the poll, which must be a date not later than 75 days after the day on which the public notice of the poll was published (see **clause** 9). The latest possible date on which a poll could be held, therefore, would be 1 August. (The latest possible date on which a poll could be held in the year immediately preceding the next three election years would be 29 July 2000, 26 July 2003 and 29 July 2006.)

The proposal to be put to electors is that the next 2 general elections of the territorial authority, regional council, or licensing trust be held using either STV, or the method known as the PPP system, as the case may be. Where more than 50% of the valid votes at the poll support the adoption of a different voting system to the one used at the last election, that different system must be used (see *clause 10*).

The result of the poll overrides a resolution made by a local authority regarding the electoral system (see **clause** 5 (5)). In order to avoid the uncertainty and expense of conducting a poll prior to each election, the voting method adopted following a poll of electors cannot be changed until after two elections have been held using that method (see *clauses 7, 10 and 28*).

Clause by clause analysis

Clause 1 relates to the Title.

Clause 2 provides for the bill to come into force on the day after the date on which it receives the Royal assent.

Clause 3 is a purpose provision.

Clause 4 relates to interpretation. It contains the definitions of terms used in *Purr* 2 of the Bill that are peculiar to the STV and PV systems, such as "absolute majority of votes", "first preference", "keep value", "quota" and "transferred vote", and defines the term "total number of votes".

Part 1
Decision to use single transferable vote system

Part I contains provisions relating to a decision of a local authority to use STV at the next triennial general election. Such decision will be made either by resolution or by a poll of electors.

Clause 5 provides that a territorial authority, regional council, or licensing trust may, not later than 28 February in the year immediately preceding an election year, resolve whether or not to hold the next triennial general election under *Part* 2, and sets out the information to be included in the public notice required by the new **section 3B** (I) of the principal Act (see **clause 28)** in respect of the resolution.

Clause 6 provides that a territorial authority, regional council, or licensing trust may resolve, not later than 8 May in the year immediately preceding an election year, that a poll be held under *clause 9* on the proposal that the next 2 general elections be held using either the single transferable vote system or the first-past-the-post system.

Clause 7 provides that nothing in **clause 5 or clause 6** applies where a poll of electors was held under *clause 9* in respect of the voting method that was to be used at the immediately preceding triennial general election of members of the territorial authority, regional council, or licensing trust. The effect of this clause is to make it clear that the voting method adopted following a poll of electors must be used for the next 2 elections of members.

Clause 8 provides that not less than the specified number of electors (5% of those eligible to vote in the immediately preceding general election of the local authority) may demand a poll be held on the

voting method to be used for the next 2 triennial general elections of the territorial authority, regional council, or licensing trust. Such demand must be made by signed notice in writing and delivered at the principal office of the local authority not later than 22 working days after the date of the public notice required by the new section *3B* (I) of the principal Act. The principal administrative officer then has 30 days to give notice to the Returning Officer that a poll is to be held.

Clause 9 provides that within 7 days of receiving a notice from the principal administrative officer under *clause 6 (2) or clause 8 (6),* the Returning Officer must give public notice of the date of the poll of electors, which must be a date not later than 75 days from when the public notice is first published. Every poll under this clause must be held on the proposal that the next 2 general elections be held using either the single transferable vote system or the first-past-the-post system.

Clause 10 provides that where more than 50% of the valid votes cast at any poll held under *clause 9,* are cast for one or other of the 2 proposals, the voting method for which the majority voted must be the method to be used for the next 2 general elections of the local authority. The purpose of this clause is to avoid the uncertainty and expense of conducting a poll prior to each election.

Part 2
Single transferable vote system

Parr 2 relates to the application and use of STV by a territorial authority, regional council, or licensing trust.

Clause II provides that this Part applies to elections required to be held under this Part because of a resolution of a local authority, or as a result of a poll of electors, in favour of STV; to elections of community boards held in conjunction with the election of a territorial authority where STV is being used; to elections of any other local authority held in conjunction with the election of a territorial authority where STV is being used; and to elections to fill an extraordinary vacancy in an office that was filled by an election held under this Part.

Clause 12 provides that, except as provided by this Part, the provisions of the principal Act relating to the election of a member or

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members of a local authority apply in relation to any election held under this Part.

Clause 13 provides for the form of voting paper (set out in *Schedule* I) to be used at any election under this Part. The names of the candidates are required to be listed in computer-generated pseudo-random order of surnames to ensure that no candidate obtains an advantage by virtue of being placed at or near the top of the list of candidates. Randomising the names of candidates in this way is an effective, cost-free method of nullifying, as much as possible, the effects of "alphabetical" or "proximity" voting.

Under *subclause (2)*, the Returning Officer may combine the voting paper to be used at any election under this Part with the voting paper to be used at any other election or poll to be conducted simultaneously with an election held under this Part.

In recognition of the fact that situations are likely to arise where combined voting papers will apply to elections in respect of which different voting systems are being used, *subclause* (3) provides that, where the Returning Officer combines voting papers pursuant to *subclause (2)*, the combined voting paper must bear a prominent notice warning voters that different methods of voting are required for different voting papers on the combined voting paper.

Clause 14 provides for the method of voting, and states that each elector has a single transferable vote. The meaning of this term is set out in *subclause (I). Subclause* (2) provides that an elector must exercise his or her vote by placing on the voting paper the figure " 1" opposite the name of the candidate for whom he or she votes and in addition, if he or she wishes, by placing the figure "2" opposite the name of the candidate of his or her second choice, etc.

Clause 15 provides that when applying sections 39 and 77 of the principal Act to any election held under this Part, the expression "number of votes" is to be read as "number of first preference votes". In STV/PV elections, an elector votes for a candidate by giving that candidate his or her first preference. Second and subsequent preferences are not votes, they are contingency choices, which come into play only if the first preference choice does not need all of the vote to attain the quota for election, or is excluded from the election for lack of support. The Returning Officer ascertains the number of votes recorded for each candidate by tallying the number of first preference votes received by each candidate.

Similarly, informal voting papers are not simply those that do not clearly indicate the candidate for whom the voter desired to vote. In STV/PV elections, voting papers are set aside as informal if the voter has not clearly indicated a first preference for one of the candidates. *Paragraph (b)* provides that section 39 (l)(c) and section 77 (6) of the principal Act are to be read accordingly, when those provisions are applied to any election held under this Part.

Clause 16 provides that, in cases where a person is a candidate for Mayor as well as being a candidate at an election of a member or members of a local authority held on the same day, and the Returning Officer is satisfied, after the close of voting, that the candidate will be declared to be elected to be the Mayor, the Returning Officer must deem the candidate to have withdrawn from the election of a member or members.

The purpose of this provision is to enable the first preference votes for the Mayoral winner in the election of a member or members, to be transferred under clause 17 to the second preferences indicated on them, instead of becoming void (as under the present FPP system), so that the voters who voted for the Mayoral winner are not, as a consequence, prevented from participating in the election of a member or members.

Clause 17 provides that first preference votes cast for candidates who retire or withdraw from an election must, instead of becoming void, be transferred to and counted as first preference votes for the candidate shown as the elector's next preference on the voting papers.

Under the present first-past-the-post system, most voters cast as many (or very nearly as many) votes as they are allowed to, and consequently, can still be represented by one or more candidates for whom they voted, even if one of their votes becomes void. Under the single transferable vote system, however, each voter has only one vote, which the voter exercises by giving the candidate for whom he or she votes, his or her first preference. If that vote were to be regarded as void if the candidate who receives it subsequently withdraws from the election, the voter has no possibility of being represented by someone whom he or she helped to elect. Furthermore, if the candidate who withdraws is a popular choice, a high proportion of voters could find themselves arbitrarily excluded from the electoral process. The purpose of this provision, therefore, is to ensure that voters who have voted for a candidate who subsequently withdraws

from the election, can still have an equal effect on the election result by having their vote transferred to, and counted for, their next preference.

This provision applies both to candidates who withdraw from an election during the polling period, and to persons who are candidates for council at a territorial authority election as well as for the office of Mayor of that territorial authority, and who win the Mayoral election. In this latter case, the Mayoral winner is deemed to have withdrawn from the council election (pursuant to clause *16*), requiring his or her first preference votes to be transferred to the next preference indicated on them.

Subclause (2) provides that first preference votes cast for retired or withdrawn candidates and on which no next preference has been given, are void.

Clause 18 sets out a number of procedures relating to the conduct of official counts at elections held under this Part by supervising Returning Officers pursuant to section 5C (1) of the principal Act and section 194 (5) of the Sale of Liquor Act *1989. Subclause (7)* provides that the official count at every election held under this Part must be conducted in accordance with the procedures set out in *Schedule 2.*

Clause 19 provides that, on completion of the official count, the Returning Officer must prepare and sign a certificate, essentially being the official result sheet of the election. A copy of the certificate must be sent to each candidate at the election; must be kept in every public office of the local authority; and must be available for public inspection.

Subclause (3) provides that, as soon as practicable after the completion of the official count, the Returning Officer must, by public notice, declare the result of the election. The public notice under this subclause essentially constitutes a summary of the result of the election.

Clause 20 provides for the immediate filling of a vacancy in cases where a candidate, other than a mayoral candidate, dies or becomes incapable of holding the office to which he or she would, but for his or her death or incapacity, have been declared to be elected, and the death or incapacity occurred before the result (or the amended result) of the election is declared.

Under the present first-past-the-post system, the death or incapacity of a candidate in these circumstances would mean that an extraordinary vacancy in that office had thereby occurred (pursuant to section 44 of the principal Act). Under the single transferable vote system, however, where each voter exercises his or her vote by ranking the candidates in preferential order, it is possible to fill the vacancy immediately by recounting the votes cast at the election to ascertain the candidate who would otherwise have been declared to be elected had the deceased or incapacitated candidate not stood at the election.

The transfer of first preferences for the deceased or incapacitated candidate to the second choices marked on his or her voting papers, ensures that any recount under this clause is carried out without excluding any voter from the electoral process who, by having marked a second (and perhaps, later) preference (or preferences), had thereby indicated a desire to participate in the election as fully as possible.

Clause 21 provides that deposits by candidates are forfeited if the total number of votes (as defined in *clause* 4) of a candidate in an election to fill a single vacancy is less than one-eighth of the number of valid votes at that election, or is less than one-quarter of the final quota in an election to fill multiple vacancies.

Where the election is to fill multiple vacancies, the forfeiture level has been set at one-quarter of the final quota, which is the STV equivalent of one-quarter of the total number of votes received by the successful candidate with the fewest votes of the candidates elected under the present FPP system. It is also equivalent to the level required at local elections in Northern Ireland and at elections for the Australian Senate, which are conducted by STV. With the average number of candidates elected in each ward of a territorial authority in elections held under this Part expected to be about four, the average final quota can be expected to be a little less than 20% of the votes cast.

Where the election is to fill a single vacancy, the forfeiture level has been set at one-eighth of the valid votes cast, rather than one-quarter of the votes given for the successful candidate, as for single-member elections under the present FPP system.

As stated earlier, when conducted in single-member districts, STV reduces to the majority-preferential vote (PV). As in STV elections, voters have a single vote, which is transferable. In PV elections, however, it is not sufficient for the successful candidate merely to obtain a plurality, or a relative majority, of valid votes cast (which could be as few as 20% of all votes) in order to win the election. He or she must obtain an absolute majority (equal to or greater than 50%) of the valid votes remaining in the election. As such, it is more meaningful to express the forfeiture level as a percentage of total valid votes, rather than as a fraction of a (percentage) figure it is known the successful candidate will attain. The forfeiture level of one-eighth of all valid votes cast, therefore, is the PV equivalent of one-quarter of the votes cast for the winning candidate in an PPP election, acknowledging that, in such elections, some winning candidates obtain more than 50% of the total votes, and some obtain less.

Clause 22 provides that any packets containing voting papers or other records used at an election held under this Part are to be kept until public notice is given of the next general election of members of the local authority. The retention of such packets beyond the current requirement of six months is necessary to ensure that the election records, especially the computer records, are available for the purpose of conducting an indicative recount under clause 24.

Clause 23 provides that preferential voting information pertaining to individual candidates or groups of candidates must be made available on request, for no more than a reasonable charge. The purpose of this clause is to ensure that candidates and other interested parties have access to non-private, non-sensitive information such as, but not limited to, the number of first, second, third, etc. preferences given for each candidate, and the distribution of the second preferences on each candidate's first preference voting papers.

Extraordinary vacancies

Clause 24 provides for local authorities to hold an indicative recount of the voting papers used in the election in respect of the office in which an extraordinary vacancy has occurred, in accordance with the procedures set out in *Schedule 3*. The purpose of an indicative recount is to ascertain which candidate would otherwise have been declared to be elected had the vacating member, and those unsuccessful candidates who do not consent to be appointed to the

extraordinary vacancy, not stood at the original election (see *clause 29).*

Subclause (3) provides that the Returning Officer must invite every unsuccessful candidate at that election to give his or her written consent to be appointed to the extraordinary vacancy if the local authority so wishes.

Part 3
Amendments to principal Act

Part 3 contains certain amendments to the principal Act to give effect to the provisions of this Bill. They relate particularly to a decision of a local authority to adopt the STV voting method; to the use of computer technology; and to the appointment of named persons, following indicative recounts, to fill extraordinary vacancies in the offices of elected members of local authorities.

Clause 2.5 amends section 2 of the principal Act by inserting a definition of the term "licensing trust". This amendment reflects the fact that licensing trusts are separate and independent local authorities, specifically empowered by this Bill to adopt STV independently of any territorial authority whose boundaries they may overlap.

Clause 26 amends the principal Act by repealing section 3 (relating to elections and polls to be held under that Act) and substituting new sections 3 *and 3AA.* New *section 3* provides that every local authority election must be held and taken in the manner provided by that Act or, where *clause* II applies, in the manner provided by *Part 2.* New *section 3AA* provides that every local authority poll on a proposal to be submitted to the vote of the electors must be held and taken in the manner provided by the principal Act.

Clause 27 amends the principal Act by adding two subsections to section 3A (relating to the method of conducting elections or polls in certain cases). New *subsection (3)* states that the term "method", as used in this section, relates solely to the matters dealt with in sections 32 to 34, i.e. the issuing of voting papers, the procedure when a second voting paper is applied for in the same name, and the method of voting (meaning what the voter actually does during the act of exercising his or her vote); section 66, to do with a resolution by any local authority that a specified election or poll must be conducted by postal vote; section 80, to do with a resolution by any local authority

that a specified election or poll must be conducted over a number of consecutive days, not exceeding 11; and section 88 of that Act, to do with a resolution by any local authority authorising the Returning Officer to use one or more mobile polling places at any specified election or poll, not being an election or poll conducted by postal vote.

For the avoidance of doubt, it is declared in the new *subsection (4)* that nothing in this section of that Act determines whether or not any election of any local authority is to be conducted in accordance with the provisions of this Bill.

Clause 28 amends the principal Act by inserting, after section 3A, a new *section 3B* relating to the giving of public notice of the right to demand a poll on the voting method. *Subclause* (I) provides that the local authority must give public notice by 8 March in the year immediately preceding an election year, of the right to demand a poll on the voting method to be used for the next 2 triennial general elections.

Subclause (2) provides that where the local authority has made a resolution under *clause* 5 to use STV at the next election, every public notice under *subsection* (I) must include notice of that resolution and a statement that a poll is required to countermand that resolution.

Subclause (3) provides that nothing in this clause applies where a poll of electors was held under *clause 9* in respect of the voting method to be used at the immediately preceding election of members of the territorial authority, regional council, or licensing trust.

Clause 29 amends section 51 of the principal Act to provide that where an extraordinary vacancy has occurred in the office of an elected member of the local authority, the local authority may, by resolution, determine that the vacancy is to be filled by the appointment of the person named in that resolution. The person named in the resolution will normally be the highest polling unsuccessful candidate at the original (first-past-the-post) election.

Clause 30 amends the principal Act by inserting a new *section I 16A,* specifically providing for the use of computer technology to facilitate the performance of any procedure or function required by that Act.

Clause 31 repeals section 123 of the principal Act and substitutes a new *section* 123, that provides for additional purposes for which the

Governor-General may make regulations. These additional purposes include prescribing forms and making additional provision for the use of computer technology.

Clause 32 amends the Third Schedule of the principal Act, dealing with modifications to that Act where elections are taken by postal vote, by inserting a new item pertaining to this Bill, that substitutes *clauses 7 to 10* of the Directions to Voter on the voting paper, for *clauses 7 to 9.*

Part 4
Amendments to other enactments

Part 4 contains consequential amendments to other Acts.

Clause 33 states that the Acts specified in *Schedule* 4, namely the Local Government Act 1974 and the Sale of Liquor Act 1989, are consequentially amended in the manner indicated in that schedule. The amendments specified in that schedule relate to the requirement that councils, when determining the size and membership of territorial authority wards or regional council constituencies, must have regard to the voting method to be used; to the minimum number of members to be elected in any territorial authority ward; and to the filling of an extraordinary vacancy by the appointment of the person named in the resolution to fill the vacancy. Local authorities elected under STV/PV will also be required to use these voting systems when electing the Chairperson and Deputy Chairperson of a regional council or committee, the Deputy Mayor, the president of a licensing trust, local authority representatives and, if necessary, committees or subcommittees.

Subclause (2) provides that where, before the commencement of this clause, a territorial authority or regional council is notified of an extraordinary vacancy, the provisions of sections 101ZC (1) and 101ZD of the Local Government Act 1974 apply to that extraordinary vacancy as if those sections had not been amended by *subclause (I).*