

1905.

THE SENATE.

COMMONWEALTH ELECTORAL BILL 1905.

MEMORANDUM EXPLANATORY OF THE AMENDMENTS IN THE "COMMONWEALTH ELECTORAL ACT 1902" PROPOSED TO BE MADE BY THE "COMMONWEALTH ELECTORAL BILL 1905."

(Circulated by Senator Keating.)

Clause of Bill.	Section of Act Affected.	
PART I.—PRELIMINARY.		
1	..	(Short title and incorporation).
2	(1A)	(Incorporation.) These Acts are already incorporated with the Principal Act.
3	2	(Parts.) Consequential.
4	3	(Interpretation.) Definitions of "Electoral Registrar" and "subdivision" inserted. Definition of "officer" amended.
PART II.—ADMINISTRATION.		
5	5	(Chief Electoral Officer.) Duties to be as prescribed by Act or Regulations.
6	8	(Assistant Returning Officer.) Words excepting powers under Part X. are omitted.
7	9	(Electoral Registrars.) To be appointed by Minister. Consequential and drafting amendments.
8	10	(Keeping of forms.) Amended to apply to other prescribed forms.
PART III.—ELECTORAL DIVISIONS.		
9	15	(Quota.) Chief Electoral Officer to ascertain when necessary. Last paragraph omitted as being exhausted.
10	18	(Objections.) Verbal amendment.
11	19	(Report of Commissioner.) To show number of electors "as nearly as can be ascertained."
12	21	(Proclamation of Divisions.) Proviso added, that redistribution shall not affect by-elections before next general election.
13	22	(Fresh distribution.) New sub-clause, requiring Commissioner to propose fresh distribution.
14	23	(Redistribution.) New sub-clause, defining circumstances under which Governor-General may direct redistribution.
PART IV.—SUBDIVISIONS AND POLLING PLACES.		
15	24-26	The art is redrafted, empowering the Governor-General to proclaim <i>subdivisions</i> , and the Minister to appoint "polling-place areas" for specified polling places. These provisions are for the purpose of localizing the Rolls, to enable them to be utilized for State elections. The powers as to polling places are given to the Minister instead of the Governor-General; and the power to make exchanges of names from one Roll to another are extended.
PART V.—ELECTORAL ROLLS.		
16	27-54	Part V. is redrafted. The alterations in substance are as follows:— Rolls may be divided either according to polling places or according to subdivisions. Where a Roll is divided according to polling places, the Regulations may prescribe the polling places at which electors residing in a certain area or locality may be enrolled; except as prescribed, the elector may choose his own polling place. Where a Division is divided into subdivisions, an elector can only be enrolled on a Roll for the subdivision in which he lives (and see section 139, as proposed to be amended). A new clause—30—is inserted to enable the Commonwealth and State Governments to make joint arrangements for the preparation, alteration, and revision of the Rolls, consistently with the provisions of this Act. Sections 32 and 34-49, relating to the preparation of the first Rolls, are omitted as being exhausted.

MEMORANDUM EXPLANATORY OF THE AMENDMENTS IN THE COMMONWEALTH ELECTORAL ACT 1902, ETC.—*continued.*

Clause of Bill.	Section of Act Affected.	
PART VI.—ADDITIONS TO ROLLS, ALTERATIONS, AND TRANSFERS.		
17	55	(Additions of new names.) Provision for adding new names "according to lists prepared by the Returning Officer" omitted. Contained in a different form in section 62, as proposed to be amended.
18	56	(Forms of claims.) Claims to be witnessed by an elector. Consequential amendments.
19	57	(Registration of claims.) Drafting amendments.
20	60	(Method of transfer.) Electoral Registrar substituted for Returning Officer.
21	61	(Registration of transfer.) Consequential amendments.
22	(61A)	(Change to another polling place or subdivision.) More complete provision for application in cases of transfer within a Division is substituted for provision in section 62. See also new section 63A.
23	62	(Alteration of Rolls.) Power given to Divisional Returning Officer to add the names of any persons who he is satisfied are entitled to be enrolled. Consequential amendments. See new sections 61A, 63A.
24	(63A)	(Change to proper polling place or subdivision Rolls.) Provides for change to proper polling-place or subdivision roll without application by elector.
25	64	(Time for altering Rolls.) Consequential amendment.
26	66	(List of deaths to be forwarded.) Months of returns altered.
PART VII.—REMOVAL OF NAMES FROM ROLLS.		
27	67-85	The Part relating to "Revision Courts" is repealed, and in its place are substituted simple provisions— (1) For making objections to names on the Roll, notifying the objection to the elector, and the determination of the objection by the Returning Officer; (2) For Appeals to Courts of Summary Jurisdiction by persons whom the Returning Officer has struck off or has refused to register.
PART X.—VOTING BY POST.		
28	109	(Application for postal vote certificate.) "Five miles" altered to "ten," and reasons for belief of absence to be declared to. "Authorized witness" instead of persons named in Form K. Penalty for making false statement in application. Consequential amendments.
29	(109A)	(Authorized witnesses.) "Authorized witnesses"—both for (1) applications for postal vote certificates; and (2) postal ballot-papers—defined. Extended to include all Returning Officers, Electoral Registrars, Justices of the Peace, Customs Officers, Police, Mining Wardens, and Clerks, Medical Practitioners, &c.
29	(109B)	(Duty of authorized witness to applications.) Must personally know the elector and see him sign.
30	110	(Issue of certificates and ballot-papers.) Redrafted, with safe-guarding provisions, and a provision that the certificate may be printed on the back of the counterfoil.
31	111	(Returning Officer to initial ballot-paper.) Words "on the back" inserted, to conform with section 134.
32	112-116, 122	The sections repealed are in substance re-enacted in new sections 118A, 118B.
33	(118A)	(Directions for postal voting.) Re-enacts, in a clearer form, with minor alterations, the provisions of sections 112, 113, and 122.
33	(118B)	(Duty of authorized witness.) Re-enacts substantially sections 114-116, with penalty.
PART XI.—THE POLLING.		
34	125	(Presiding Officer.) Power given to Returning Officer to appoint another person to preside at principal polling place.
35	126	(Substitute.) Drafting amendment—to avoid necessity of using the words "or substitute" in sections 183, 184, &c.
36	129	(Ballot-boxes.) Amended to allow construction of ballot-box to be as prescribed.

MEMORANDUM EXPLANATORY OF THE AMENDMENTS IN THE COMMONWEALTH ELECTORAL ACT 1902, ETC.—continued.

Clause of Bill.	Section of Act Affected.	
PART XI.—THE POLLING—continued.		
37	130	(Lists of voters.) Consequential amendment in reference to "subdivisions" and lists to be "certified" instead of "signed."
38	135	(Scrutineers.) Powers of Returning Officer extended to presiding officer.
39	137	(The polling.) Provisions as to fastening ballot-boxes amended, consequentially on amendment to section 129.
40	139	(Where electors may vote.) First two sub-sections redrafted, consequentially on the provision for "subdivisions." Elector may vote, without Q declaration, at the polling place for which he is enrolled, or at a prescribed polling place for the subdivision for which he is enrolled. The words "if he is absent from the polling place" omitted as unnecessary and difficult to construe. See <i>Hirsch v. Phillips</i> , 1 C.L.R., 132. No other alteration in substance.
41	141	(Questions to be put if voter challenged.) First question amended to provide for the case where the elector is voting out of his Division.
42	149	(Spoilt ballot-papers.) To be cancelled and preserved, instead of being destroyed.
43	(153A)	(Voting at adjourned polling.) Sub-section (1) provides for such a contingency as arose at Ni-Ni polling place at the election of December, 1903. See <i>Hirsch v. Phillips</i> , 1 C.L.R., 132. Sub-section (2) makes it clear that at a by-election polling places in other Divisions need not be opened.
PART XII.—THE SCRUTINY.		
44	(161A)	(Recount at Senate elections.) New section enabling a partial or complete recount to be made.
45	(164A)	(Recount at House of Representatives election.) New section enabling a partial or complete recount to be made.
PART XIV.—LIMITATION OF ELECTORAL EXPENSES.		
46	172	(Return of candidates' expenses.) New sub-section providing that candidates' returns of expenses and bills of particulars shall be open for public inspection.
PART XV.—ELECTORAL OFFENCES.		
47	174	(Breach or neglect of duty.) Amendment penalizing disclosure by scrutineer of knowledge officially acquired as to vote of elector.
48	(182A)	(Prohibition of canvassing near polling booths.) New section.
48	(182B)	(Witness to claim or application must satisfy himself as to truth of statements.) New section, adapted from Queensland Act.
PART XVI.—COURT OF DISPUTED RETURNS.		
49	194	(Requisites of petition.) Amendment to give time for inspecting candidates' returns of expenses before filing a petition based on breach of Part XIV. See section 172.
50	197	(Powers of Court.) New sub-section to define the law as to the grounds on which the Court may exercise its powers—especially on the ground of illegal practices.
51	(198A)	(Voiding election for illegal practices.) New section to provide for voiding election where successful candidate is guilty of bribery or undue influence, and defining the powers of the Court in the case of other illegal practices, or illegal practices committed without the candidate's knowledge. See <i>Chanter v. Blackwood</i> , 1 C.L.R., 39.
PART XVII.—MISCELLANEOUS.		
52	(206A)	(Disqualification for bribery or undue influence.) New section disqualifying for two years a candidate convicted, or found by the Court of Disputed Returns to be guilty of bribery or undue influence, or attempting to commit same.
53	209	(Forms.) Making substantial compliance with forms in Schedule sufficient, and enabling the forms to be altered by the Regulations.
54	..	(Repeal and substitution of forms).
55	..	(Principal Act when reprinted to be altered as amended).

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Forms in Act.	Forms in Bill.	
THE SCHEDULE.		
A	..	(Electoral Roll.) Repealed and not re-enacted. Form to be prescribed by Regulations under new section 29.
B	B	(Electoral claim.) Altered consequentially on amendment of section 56.
C	C	(Application to transfer.) Altered by addition of certificate by witness, and note as to penalty. Consequential alterations.
E	..	(Summons.) Repealed, owing to abolition of Revision Court.
F	..	(List of persons objected to.) Repealed, owing to abolition of Revision Court.
G	G	(Writ for election of Senators.) Amended to make it applicable to election after dissolution of Senate.
J	J	(Nomination of Member of House of Representatives.) Amended by inserting name of Division.
K	K	(Application for postal vote certificate.) Amended consequentially on amendments in section 109.
M	M	(Postal ballot-papers.) Amended consequentially on amendment of section 110.
N	N	
O	O	
P	P	
R	R	(Return of electoral expenses.) Amended to conform closely with section 170.