

1909.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

REPRINT

OF THE

COMMONWEALTH ELECTORAL ACTS,

SHOWING THE

AMENDMENTS PROPOSED

BY

THE COMMONWEALTH ELECTORAL BILL 1909.

(CIRCULATED BY THE MINISTER FOR HOME AFFAIRS.)

By Authority:

J. KEMP, GOVERNMENT PRINTER, MELBOURNE.

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Note.—Type ruled through indicates the matter proposed to be omitted. Black type indicates matter proposed to be inserted.

An Act to regulate Parliamentary Elections.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Commonwealth Electoral Act* 1902. Short title.

1A. The *Commonwealth Franchise Act* 1902, the *Senate Elections Act* 1903, and the *Electoral Divisions Act* 1903 shall be incorporated and read as one with the *Commonwealth Electoral Acts* 1902–1905. Incorporation. Inserted by No. 26, 1905, s. 2.

2. This Act is divided into Parts as follows :—

- PART I.—Preliminary.
- PART II.—Administration.
- PART III.—Electoral Divisions.
- PART IV.—Subdivisions and Polling Places.
- PART V.—Electoral Rolls.
- PART VI.—Additions to Rolls, Transfers, and Alterations of Rolls.
- PART VII.—Removal of Names from Rolls.
 - Division 1.—Objections.
 - Division 2.—Appeals.
- PART VIII.—Writs for Elections
- PART IX.—The Nominations.
- PART X.—Voting by Post.
- PART XI.—The Polling.
- PART XII.—The Scrutiny.
- PART XIII.—The Return of the Writs.
- PART XIV.—Limitation of Electoral Expenses.
- PART XV.—Electoral Offences.
- PART XVI.—Court of Disputed Returns.
 - Division 1.—Disputed Elections and Returns.
 - Division 2.—Qualifications and Vacancies.
- PART XVII.—Miscellaneous.

Parts. Substituted by No. 26, 1905, s. 3.

Amended by No. 10, 1907, s. 3.

3. In this Act unless the contrary intention appears—

Interpretation.

“Candidate” in Parts II. XIV. and XV. includes any person who within three months before the day of election offers himself for election as a member of the Senate or the House of Representatives :

"Division" means an Electoral Division for the election of a member of the House of Representatives :

"Elector" means any person whose name appears on a Roll as an elector :

Inserted by
No. 26, 1905,
s. 4.

"Electoral Registrar" includes a Divisional Returning Officer acting as Registrar :

"Justice of the Peace" means a Justice of the Peace of the Commonwealth, or part of the Commonwealth, or of a State, or part of a State :

Amended by
No. 26, 1905,
s. 4.

"Minister" means the Minister of State administering the Act :

"Officer" includes the Chief Electoral Officer for the Commonwealth, any Commonwealth Electoral Officer for a State, Returning Officer, Assistant Returning Officer, Electoral Registrar, Presiding Officer, Assistant Presiding Officer, Doorkeeper, and Poll Clerk :

Amended by
No. 26, 1905,
s. 4.

"Prescribed" means prescribed by this Act or the regulations :

"Registrar-General of Deaths" means the chief official in any State, by whatever name he is called, who is charged with the duty of registering deaths occurring in that State :

"Returning Officer" includes Divisional Returning Officer and Assistant Returning Officer :

Inserted by
No. 26, 1905,
s. 4.

"Roll" means an Electoral Roll under this Act :

"Subdivision" means a subdivision of a Division.

* * * * *

S. 4 repealed
No. 26, 1905,
s. 5.

PART II.—ADMINISTRATION.

Chief Electoral
Officer.

Substituted
by No. 26, 1905,
s. 6.

5. There shall be a Chief Electoral Officer for the Commonwealth, who shall have such powers and functions as are conferred upon him by this Act or the Regulations.

Commonwealth
Electoral Officers
for the States.

6. There shall be a Commonwealth Electoral Officer for each State who shall subject to the directions of the Chief Electoral Officer for the Commonwealth be the principal electoral officer in the State.

Divisional
Returning
Officers.

7. There shall be a Divisional Returning Officer for each Division, who shall be charged with the duty of giving effect to this Act within or for his Division subject to the directions of the Commonwealth Electoral Officer for the State.

Assistant
Returning
Officers.

S. A. 1896, No
667 s. 24.

8. Assistant Returning Officers may be appointed to exercise within or for any portion of a Division, subject to the control of the Divisional Returning Officer, all the powers of the Divisional Returning Officer except the powers of that officer under Part X. of this Act but no Assistant Returning Officer shall be appointed in or for any portion of a Division in which less than one hundred electors are enrolled.

Electoral
Registrars.
Substituted
by No. 26, 1905,
s. 7.

9. The Minister may appoint Electoral Registrars to keep the rolls for specified polling places or Subdivisions. The Divisional Returning Officer shall act as Electoral Registrar to keep the rolls for all polling places for his Division, or Subdivisions of his Division, for which no Electoral Registrar has been appointed.

Clause 3.

9a. A person appointed to be a Divisional Returning Officer, an Assistant Returning Officer, or an Electoral Registrar, shall be deemed to have been appointed as from a date specified in his appointment or, if no such date is specified, as from the date of his appointment.

Date from which appointments are to take effect.

10. All Returning Officers and Electoral Registrars shall keep forms of claims and applications for transfer, and such other forms as are prescribed, and shall without fee supply them and assist the public in their proper use.

Keeping of forms.
Amended by No. 26, 1905, s. 8.

11. No candidate shall be appointed an officer, and if any officer becomes a candidate he shall thereby vacate his office.

Candidates not to be officers.
W.A. 1899, No. 20 s. 14.

PART III.—ELECTORAL DIVISIONS.

12. Each State shall be distributed into Electoral Divisions equal in number to the number of Members of the House of Representatives to be chosen therein, and one Member of the House of Representatives shall be chosen in each Division.

Divisions.

13. The Governor-General may appoint one person in each State to be the Commissioner for the purpose of distributing the State into Divisions in accordance with this Act.

Commissioner.
See N.S.W. 1893 No. 38 s. 5.

14. The Commissioner shall hold office during the pleasure of the Governor-General.

Term of office.

15. For the purposes of this Act the Chief Electoral Officer shall, whenever necessary, ascertain a quota for each State as follows:—

Quota.
N.S.W. ib. s. 17 sub-sec. (1).

The whole number of electors in each State, as nearly as can be ascertained, shall be divided by the number of Members of the House of Representatives to be chosen therein.

Amended by No. 26, 1905, s. 9.

* * * * *

Para. omitted; No. 26, 1905, s. 9.

16. In making any distribution of States into Divisions the Commissioner shall give due consideration to—

Matters to be considered in distribution of seats.
N.S.W. ib. s. 17 (iii.)

- (a) Community or diversity of interest,
- (b) Means of communication,
- (c) Physical features,
- (d) Existing boundaries of Divisions,
- (e) Boundaries of State Electorates;

and subject thereto the quota of electors shall be the basis for the distribution, and the Commissioner may adopt a margin of allowance, to be used whenever necessary, but in no case shall such quota be departed from to a greater extent than one-fifth more or one-fifth less.

Inserted by No. 26, 1905, s. 10.

17. Before reporting on the distribution of any State into Divisions the Commissioner shall cause a map with a description of the boundaries of each proposed Division to be exhibited at post-offices in the proposed Division, and shall invite public attention thereto by advertisement in the *Gazette*.

Notice of proposed distribution.
Amended by No. 26, 1905, s. 11.

Objections.
Amended by
No. 23, 1905,
s. 12.

18. Objections or suggestions in writing may be lodged with the Commissioner not later than thirty days after the first advertisement in the *Gazette* of the proposed distribution, and the Commissioner shall consider all objections and suggestions so lodged before making his report.

Report of
Commissioner.
Amended by
No. 9, 1903,
s. 3, and
No. 23, 1905,
s. 13.

19. The Commissioner shall forthwith, after the expiration of the thirty days above mentioned, forward to the Minister his report upon the distribution of the State into Divisions, and the number of electors residing in each proposed Division, as nearly as can be ascertained, together with a map signed by him showing the boundaries of each proposed Division.

Report to be laid
before
Parliament.
N.S.W. 1893,
No. 38 s. 15.

20. The report and map shall be laid before both Houses of Parliament within seven days after its receipt if the Parliament is in session, and if not then within seven days after the commencement of the next session.

Proclamation of
Divisions.
N.S.W. ib. s. 16.

21. If both Houses of Parliament pass a resolution approving of any proposed distribution the Governor-General may by proclamation declare the names and boundaries of the Divisions, and such Divisions shall until altered be the Electoral Divisions for the State in which they are situated.

Proviso.
Added by
No. 23, 1905,
s. 14.

Provided that, until the then next ensuing dissolution or expiration of the House of Representatives, the redistribution shall not affect the election of a new member to fill a vacancy happening in the House of Representatives; but for the purposes of any such election the Electoral Divisions as theretofore existing, and the Rolls in respect of those Divisions, shall continue to have full force and effect, notwithstanding that new Rolls for the new Divisions have been prepared.

Fresh
distribution.

22.—(1.) If either House of Parliament passes a resolution disapproving of any proposed distribution, or negatives a motion for the approval of any proposed distribution, the Minister may direct the Commissioner to propose a fresh distribution of the State into Divisions.

Added by
No. 26, 1905,
s. 15.

(2.) The Commissioner shall thereupon propose a fresh distribution in the manner hereinbefore provided.

Redistribution.

23.—(1.) A redistribution of any State into Divisions shall be made in the manner hereinbefore provided whenever directed by the Governor-General by proclamation.

When
proclamation
may be made.
Added by
No. 26, 1905,
s. 16.

(2.) Such proclamation may be made—

(a) whenever an alteration is made in the number of Members of the House of Representatives to be elected for the State; and

(b) whenever in one-fourth of the Divisions in the State the number of electors differs from a quota ascertained in the manner provided in this Part by a greater extent than one-fifth more or one-fifth less; and

(c) notwithstanding anything in this section contained at such other times as the Governor-General thinks fit.

PART IV.—SUBDIVISIONS AND POLLING PLACES.*

24. The Governor-General may, in any case in which he thinks fit to do so, by proclamation divide any Division into Subdivisions.

Subdivisions.
No. 26, 1905,
s. 17.

25. The Minister may, by notice in the *Gazette*—

Polling places.
Cf. 1902, No. 19,
s. 24.

(a) appoint a chief polling place for each Division ;

(b) appoint such other polling places for each Division as he thinks necessary ;

No. 26, 1905,
s. 17.

(c) abolish any polling place ;

(d) establish a polling place area for any specified polling place and fix its boundaries.

Provided that no polling place shall be abolished or polling place area be established after the issue of the writ and before the time appointed for its return.

26. When—

(a) a polling place is appointed or abolished ; or

(b) a polling place area is established ; or

(c) a Division is divided into Subdivisions ; or

(d) the boundaries of a Division or Subdivision are altered,

Change of
electors from
one polling
place to
another.
Cf. ib. s. 26.
No. 26, 1905,
s. 17.

the Minister may by notice in the *Gazette* give such directions as are thereby rendered necessary or expedient for the change of electors from one Roll to another, and effect shall be given to those directions in the prescribed manner.

PART V.—ELECTORAL ROLLS.

27.—(1.) There shall be Rolls of the electors in each State.

Electoral Rolls.

(2.) Until new Rolls are prepared the Rolls in existence at the time when this section comes into operation shall, as altered from time to time, be the Rolls of electors.

Cf. ib. s. 27.
Substituted
by No. 26, 1905,
s. 18.

28.—(1.) There shall be a Roll for each Division.

(2.) There may be a separate Roll for each polling place (in this Act called a "Polling-place Roll").

Polling-place
Rolls, Subdivi-
sion Rolls,
Division Rolls,
and State Rolls.
Cf. ib. s. 29.

(3.) There may be a separate Roll for each Subdivision (in this Act called a "Subdivision Roll").

(4.) All the Polling-place or Subdivision Rolls for a Division shall together form the Roll for the Division (in this Act called a "Division Roll").

Substituted
by No. 26, 1905,
s. 18.

(5.) All the Division Rolls for a State shall together form the Roll for the State.

29. The Rolls may be in the prescribed form, and shall describe the surname, Christian names, sex, place of living, and occupation of each elector, and shall contain such other particulars as are prescribed.

Form of Rolls.
Cf. ib. s. 30.
Substituted
by No. 26, 1905,
s. 18.

30.—(1.) The Governor-General may arrange with the Governor of a State for the preparation, alteration, and revision of the Rolls, in any manner consistent with the provisions of this Act, jointly by

Arrangement
with States.
Substituted
by No. 26, 1905,
s. 18.

* The whole of Part IV. of Act No. 19, 1902, is repealed by No. 26, 1905; s. 17, and this Part is substituted in lieu thereof.

the Commonwealth and the State, to the intent that the Rolls may be used as Electoral Rolls for State elections as well as for Commonwealth elections.

(2.) When any such arrangement has been made, the Rolls may contain, for the purposes of such State elections—

- (a) the names and descriptions of persons who are not entitled to be enrolled thereon as electors of the Commonwealth, provided that it is clearly indicated in the prescribed manner that those persons are not enrolled thereon as Commonwealth electors;
 - (b) distinguishing marks against the names of persons enrolled as Commonwealth electors, to show that those persons are or are not also enrolled as State electors;
 - (c) other particulars in addition to the prescribed particulars;
- and for the purposes of this Act the names and descriptions, marks, and particulars so contained shall not be deemed part of the Roll.

Persons entitled to have their names on Roll.
Cf. 1902, No. 19 s. 31.
Substituted by No. 26, 1905, s. 18.

31.—(1.) Any person qualified to vote at an election for the Senate or House of Representatives, or who would be qualified so to vote if his name were upon a Roll, shall be entitled to have his name placed upon one Polling-place or Subdivision Roll for the Division in which he lives.

(2.) If the Division is divided into Subdivisions, he may only have his name placed upon a Roll for the Subdivision in which he lives.

(3.) Except as provided in this Section or as prescribed, he may have his name placed on any one Polling-place Roll for the Division.

(4.) The Regulations may prescribe the Polling-place Roll on which electors who live in any specified area or locality shall be entitled to have their names placed.

(5.) No person may have his name placed on more than one Roll, or upon any Roll other than a Roll for the Division or Subdivision in which he lives.

Provided that (notwithstanding anything in this Act) any senator shall if he so desires be entitled to have his name placed on or retained on the Roll for any one Division of the State he represents instead of the Roll for the Division in which he lives, and that any member of the House of Representatives shall if he so desires be entitled to have his name placed on and retained on the Roll for any Division he represents instead of the Roll for the Division in which he lives.

New Rolls.
Substituted by No. 26, 1905, s. 18.

32. New Rolls for any polling places, Subdivisions, Divisions, or States shall be prepared whenever directed by proclamation, and in the manner specified in the proclamation or prescribed by the regulations.

Printing of Rolls.
Substituted by No. 26, 1905, s. 18.

33. Rolls shall be printed whenever the Minister so directs.

Supplemental Rolls.
Substituted by No. 26, 1905, s. 18.

34. Supplemental Rolls, setting out additions since the last print, shall also be prepared, and wherever practicable printed, immediately previous to a General Election, and at such other times as the Minister directs.

35.—(1.) The last printed copies of each Division Roll shall be open for public inspection at the chief polling place for the Division without fee, and shall be obtainable thereat and at such post-offices in the Division, as the Divisional Returning Officer appoints on payment of the price prescribed.

Inspection.
Substituted
by No. 26, 1905,
s. 18.

(2.) Every Roll kept by an Electoral Registrar shall be open to public inspection without fee at such times and places as are prescribed.

36. All officers in the service of the Commonwealth, and all police, statistical, and electoral officers in the service of any State or local governing body, are hereby authorized and required to furnish to the Commonwealth Electoral Officer for the State all such information as he requires to enable him to prepare or revise the Rolls.

Statistical
officers to
furnish
information.
Substituted
by No. 26, 1905,
s. 18.

* * * * *

Sections
repealed;
No. 26, 1905,
s. 18.

PART VI.—ADDITIONS TO ROLLS, TRANSFERS, AND ALTERATIONS OF ROLLS.

55. New names may be added to Rolls pursuant to—

Addition of new
names.

- (a) Claims,
- (b) Applications to transfer,

* * * * *

Para. (c)
omitted;
No. 26, 1905,
s. 19.
Forms of claims.
Substituted
by No. 26, 1905,
s. 20.

Clause 4.

55. Claims may be in the Form B in the Schedule, and shall be signed by the claimant and shall be sent to the Electoral Registrar keeping the Polling-place or Subdivision Roll on which the elector claims to be enrolled.

Clause 4.

56.—(1.) Where a Division is divided into Subdivisions, any person who would be qualified to vote if his name were upon a Roll, and who lives in a Subdivision of the Division, and has so lived for a period of one month, may claim to have his name placed on the Subdivision Roll for the subdivision.

Claims for
enrolment.

(2.) Where a Division is not divided into Subdivisions, any person who would be qualified to vote if his name were upon a Roll, and who lives in the Division, and has so lived for a period of one month, may claim to have his name placed on any one Polling-place Roll for the Division.

(3.) A claim may be in the prescribed form, and shall be signed by the claimant and witnessed by a prescribed person, and shall be sent to the Electoral Registrar keeping the Subdivision Roll or Polling-place Roll (as the case may be) on which the claimant claims to be enrolled.

(4.) The validity of the enrolment shall not in any case be questioned on the ground that the person enrolled has not in fact lived in the Division or Subdivision for a period of one month.

(5.) Where an arrangement has been entered into under section thirty of this Act for the preparation alteration and revision of the Rolls jointly by the Commonwealth and a State, and the law of the State contains no provision requiring a person to have lived or resided in any Division or Subdivision for any specified period before being enrolled therefor, the regulations may dispense with the period of one month under this section as regards persons claiming to be enrolled in that State.

Registration of
claims.
Amended by
No. 26, 1905,
s. 21.

57. If the claim is in order and the Electoral Registrar is satisfied that the claimant is entitled to be enrolled, he shall pursuant to the claim immediately enter the claimant's name and the particulars relating to him on the Roll and shall file the claim.

Clause 5.

Right to
transfer.

58. Any elector whose name is on the Roll for any Division and who has lived in any other Division for one month may transfer his name to the Roll for the Division in which he lives.

Form of
transfer.

59. Every transfer shall be made by application to transfer in the Form C in the Schedule prescribed Form.

Clause 6.

Method of
transfer.
Amended by
No. 26, 1905,
s. 22.

60. The application to transfer shall be signed by the elector and witnessed by an elector or a prescribed person and sent to the Electoral Registrar keeping the Polling-place or Subdivision Roll to which the elector's name is to be transferred.

Clause 7.

Registration of
transfer.
Substituted
by No. 26, 1905,
s. 23.

61. The Electoral Registrar shall note on the application to transfer the date of its receipt by him, and shall file it in his office, and shall if it appears that the applicant is entitled to the transfer register it by placing the elector's name on the Roll, and shall give notice of the transfer to the Electoral Registrar keeping the Polling-place or Subdivision Roll from which the elector's name has been transferred, who shall thereupon remove the elector's name from the Roll.

Clause 8.

Change to
another Polling-
place or
Subdivision
Roll.
Inserted by
No. 26, 1905,
s. 24.

61A.—(1.) Any elector whose name is on a Polling-place Roll may make application in the prescribed form to be changed to another Polling-place Roll, for the same Division, on which he is entitled to have his name placed.

(2.) Any elector whose name is on a Subdivision Roll and who lives in another Subdivision of the same Division may make application in the prescribed form to be changed to the Roll of the latter Subdivision.

(3.) The application to change shall be signed by the elector and witnessed by an elector or a prescribed person and sent to the Electoral Registrar keeping the Polling-place or Subdivision Roll to which the elector's name is to be changed.

Clause 9.

(4.) The Electoral Registrar shall note on the application to change the date of its receipt by him, and shall file it in his office, and shall if it appears that the applicant is entitled to the change register it by placing the elector's name on the Roll, and shall give notice of the change to the Electoral Registrar keeping the Polling-place or Subdivision Roll from which the elector's name has been changed, who shall thereupon remove the elector's name from the Roll.

Clause 9.

Time for
making
applications to
change.

61B.—(1.) An elector shall not be entitled to make application to be changed from the Roll for one Subdivision to the Roll for another Subdivision of the same Division until he has lived in the latter Subdivision for a period of one month.

Clause 10.

(2.) The validity of any enrolment pursuant to any application under this section shall not in any case be questioned on the ground that the person enrolled has not in fact lived in the Subdivision for which he is enrolled for a period of one month.

(3.) Where an arrangement has been entered into under section thirty of this Act for the preparation alteration and revision of the Rolls jointly by the Commonwealth and a State, and the law of the State contains no provision requiring an elector to have lived or resided in a Subdivision for any specified period before his name can be changed to the Roll for that Subdivision, the regulations may dispense with the period of one month under this section as regards electors enrolled in that State.

62.—(1.) In addition to other powers of alteration conferred by this Act, Rolls may be altered by the Electoral Registrar as follows:—

Alteration of
Rolls.
Substituted
by No. 26, 1905,
s. 25.

- (a) By correcting any obvious mistake or omission;
- (b) By changing on the written application of an elector the original name or address of the elector to an altered name or address;
- (c) By striking out the names of dead persons;
- (d) By reinstating any name struck out by mistake as the name of a dead person.

(2.) Rolls may be altered by the Divisional Returning Officer by adding the names of any persons who he is satisfied are entitled to be enrolled.

63. Where an elector's name is on a Polling-place or Subdivision Roll on which he is not entitled to have his name placed the Divisional Returning Officer may change the elector's name to another Polling-place or Subdivision Roll for the same Division on which he is entitled to have his name placed, and shall forthwith notify the elector of the change.

Change to
proper Polling-
place or Subdi-
vision Roll.
Substituted
by No. 26, 1905,
s. 26.

64. Claims and applications to transfer or change received by the Returning Officer or Registrar before the issue of the writ may be registered after the issue of the writ but otherwise no addition to or alteration of the Roll for any Division shall be made during the period between the issue of the writ for an election in the Division and the close of the polling at the election.

Time for altering
Rolls.
See W.A. 1899,
No. 20 s. 44.
Amended by
No. 26, 1905,
s. 27.

Clause 11.

(2.) For the purposes of this section a writ shall be deemed to have been issued at six o'clock in the afternoon of the day on which the writ was issued.

Time at which
writs deemed to
be issued.

65. All alterations shall be made in such a manner that the original entry shall not be obliterated, and the reason for the alteration and the date thereof shall be set against the alteration, together with the initials of the officer making the alteration.

Alterations to
be initialed.
W.A. ib. s. 45.

Lists of deaths
to be forwarded.
S.A. 1896,
No. 667 s. 59.
See W.A. 1899,
No. 20 s. 46.
Amended by
No. 23, 1905,
s. 28.

66. The Registrar-General of Deaths in each State shall in the months of January, April, July, and October in each year forward to each Divisional Returning Officer in the State a list of the names addresses and occupations of all persons of the age of twenty-one years or upwards whose deaths have been registered in the Division during the preceding three months, and the Divisional Returning Officer shall cause the names of the persons specified in the list to be struck off the Roll.

PART VII.—REMOVAL OF NAMES FROM ROLLS.

DIVISION I.—OBJECTIONS.

Names on Roll
may be
objected to.
No. 26, 1905,
s. 29.

67. Any name on a Roll may be objected to by objection in writing lodged with or made by the Returning Officer.

Provided that a sum of Five shillings shall be deposited in respect of each objection lodged by any person other than an officer, to be forfeited to the King if the objection is held by the Returning Officer to be frivolous.

Objection.
No. 26, 1905,
s. 29.

68. The objection may be in the Form D in the Schedule Clause 12. prescribed form and shall be signed by an elector registered on the same Division Roll, or by the Returning Officer or Registrar.

Duty to object.
No. 26, 1905,
s. 29.

69. It is the duty of the Returning Officer and of each Registrar to lodge or make an objection in writing setting forth the grounds of such objection in respect of any name which he has reason to believe ought not to be retained on the Roll.

Notice of
objection.
No. 26, 1905,
s. 29.

70. The Returning Officer shall forthwith give notice of the objection to the person objected to. The notice may be in the prescribed form and be served by posting it to the last-known place of abode of the person objected to, or if that is not known then to the place of living appearing on the Roll.

Action where
objection by
officer is bad.

(2.) Where the Returning Officer is satisfied that the ground of objection Clause 13. stated in any objection lodged by an officer is not a good ground of objection, he may dismiss the objection, in which case no notice of the objection need be given to the person objected to.

(3.) An objection on the ground that a person does not live in a Division for which he is enrolled shall be deemed not to be good unless—

- (a) it alleges that the person objected to does not live in the Division, and has not so lived for at least one month, or
- (b) it alleges that the person objected to does not live in the Division, and has obtained enrolment for some other Division.

Answer to
objection.
No. 26, 1905,
s. 29.

71. The person objected to may, orally or in writing, in the prescribed manner, answer the objection.

Determination
of objection.
No. 26, 1905,
s. 29.

72.—(1.) On receipt of the answer of the person objected to, or after the expiration of twenty days from the posting of the notice, the Returning Officer shall determine the objection, and if it appears that the person objected to is not qualified or entitled to be enrolled on the Roll, shall strike out his name,

(2.) If any objection is held by the Returning Officer to be frivolous, the person objected to shall be entitled to a reasonable allowance not exceeding Five pounds, and the Returning Officer shall award such sum to be paid by the objector and in default of payment such sum may be recovered in any civil court as a debt due by the objector.

DIVISION 2.—APPEALS.

73.—(1.) Any person—

(a) who has made and sent in a claim to be enrolled upon a Roll, and who has not been enrolled pursuant to the claim ; Appeal to court of summary jurisdiction. No. 26, 1905, s. 29.
or

(b) whose name has been struck off a Roll by the Returning Officer upon an objection by any person,

may in manner prescribed make application to a court of summary jurisdiction, constituted by a Police, Stipendiary, or Special Magistrate, or by two or more Justices of the Peace authorized by the Governor-General to hear and determine electoral appeals, for an order directing that his name may be added or restored to the Roll.

(2.) Where an objection under Division 1 of this Part has been determined by the Returning Officer adversely to the person objecting, that person (not being an officer) may in manner prescribed apply to a court of summary jurisdiction, constituted as above-mentioned, for an order sustaining the objection.

(3.) Where the application has reference to the decision of the Returning Officer upon an objection, the applicant shall as prescribed serve the objector or the person objected to (as the case may be) with notice of the application, and the person so served may appear, or may in writing authorize any person to appear on his behalf, to resist the application.

(4.) The Court may hear and determine any application under this section, and make such order as it thinks fit as to the costs of the application, which may be recovered in the same manner as the costs of any other proceeding before the Court.

(5.) The Clerk or other proper officer of the Court shall send by post to the Divisional Returning Officer a certified copy of the order of the Court, and it shall be the duty of the Divisional Returning Officer to make such entries (if any) upon the Roll as are necessary to give effect to the order.

(6.) A Police, Stipendiary, or Special Magistrate, or two Justices of the Peace authorized as above-mentioned, though not sitting as a court of summary jurisdiction, shall for the purposes of this section be deemed to be, and shall have all the powers of, a court of summary jurisdiction ; and the Minister may appoint a Clerk to such Magistrate or Justices who shall for the purposes of this section have all the powers and functions of the Clerk or other public officer of a court of summary jurisdiction.

PART VIII.—WRITS FOR ELECTIONS.

Form of writs.
See W.A. 1899,
No. 20 s. 74.

86. Writs* for the election of Senators or Members of the House of Representatives may be in the Form G or H respectively in the Schedule, and shall fix the dates for—

- (a) The nomination,
- (b) The polling, and
- (c) The return of the writ.

Date of nomination.
S.A. 1896, No.
667 s. 88.
W.A. ib. s. 75.

87. The date fixed for the nomination of the candidates shall not be less than seven days nor more than twenty-one days after the date of the writ.

Date of polling.
S.A. ib. s. 89.
W.A. ib. s. 76.

88. The date fixed for the polling shall not be less than seven days or more than thirty days after the date of nomination.

Date of return of writ.

89. The date fixed for the return of the writ shall not be more than sixty days after the issue of the writ.

Address of writs for election of Senators.

90. Writs for the election of Senators shall be addressed to the Commonwealth Electoral Officer for the State in which the election is to be held.

General elections to be held on same day.

91. In the case of a general election for the House of Representatives the same day shall be fixed for the polling in each Division, and all writs shall be made returnable on the same day.

Address of writ for election of Members of House of Representatives.

92. Writs for the election of Members of the House of Representatives shall be addressed to the respective Divisional Returning Officers for the Divisions in which the elections are to be held.

Duty of Returning Officer on receipt of writ.

93. On the receipt of a writ the officer to whom it is directed shall—

W.A. ib. s. 79.
S.A. ib. s. 93.

- (i.) Indorse thereon the date of its receipt ;
- (ii.) In the case of a writ for an election for the Senate advertise its receipt and particulars in not less than two newspapers circulating in the State ;
- (iii.) In the case of a writ for an election for the House of Representatives advertise its receipt and particulars in not less than two newspapers circulating in the Division ;
- (iv.) In elections for the Senate forward a copy of the writ to each Divisional and Assistant Returning Officer ;
- (v.) In elections for the House of Representatives forward a copy of the writ to each Assistant Returning Officer in the Division.

Issue of writs.

* See sections 12, 32, and 33 of the Constitution :—
12. The Governor of any State may cause writs to be issued for elections of senators for the State. In case of the dissolution of the Senate the writs shall be issued within ten days from the proclamation of such dissolution.

Writs for general election.

32. The Governor-General in Council may cause writs to be issued for general elections of members of the House of Representatives. After the first general election, the writs shall be issued within ten days from the expiry of a House of Representatives, or from the proclamation of a dissolution thereof.

Writs for vacancies.

33. Whenever a vacancy happens in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or if there is no Speaker, or if he is absent from the Commonwealth, the Governor-General in Council may issue the writ.

PART IX.—THE NOMINATIONS.

94. No person shall be capable of being elected as a Senator or a Member of the House of Representatives unless duly nominated.

Candidates must be nominated.
S.A. 1896, No. 667 s. 94.

95. To entitle a person to be nominated as a Senator or a Member of the House of Representatives he must be qualified under the Constitution* to be elected as a Senator or a Member of the House of Representatives.

See W.A. 1899, No. 20 s. 80.
Qualification for nomination.

96. No person who is at the date of nomination or who was at any time within fourteen days prior to the date of nomination a Member of the Parliament of a State shall be capable of being nominated as a Senator, or as a Member of the House of Representatives.

State Members not entitled to be nominated.

97. No nomination shall be valid unless—

- (a) The person nominated consents to act if elected ;
- (b) The nomination paper is received after the issue of the writ and before the hour of nomination ;
- (c) The person nominated or some person on his behalf deposits with the Commonwealth Electoral Officer or Divisional Returning Officer at the time of the delivery of the nomination paper the sum of Twenty-five pounds in money or in bank notes or in a banker's cheque.

Requisites for nomination.
W.A. ib. s. 81.
S.A. ib. s. 95.

98. The consent of the person nominated to act if elected shall be sufficient if he signs the form of consent at the foot of the nomination paper, but the Commonwealth Electoral Officer or Divisional Returning Officer receiving the nomination may accept any other form of consent accompanying the nomination paper or received by him from the candidate that he may deem satisfactory and his decision shall be final.

Form of consent to act.

* Section 16. The qualifications of a senator shall be the same as those of a member of the House of Representatives.

Section 34. Until the Parliament otherwise provides, the qualifications of a member of the House of Representatives shall be as follows:—

- (i.) He must be of the full age of twenty-one years, and must be an elector entitled to vote at the election of members of the House of Representatives, or a person qualified to become such elector, and must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen ;
- (ii.) He must be a subject of the Queen, either natural-born or for at least five years naturalized under a law of the United Kingdom, or of a Colony which has become or becomes a State, or of the Commonwealth, or of a State.

Section 43. A member of either House of the Parliament shall be incapable of being chosen or of sitting as a member of the other House.

Section 44. Any person who—

- (i.) Is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power ; or
- (ii.) Is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer ; or
- (iii.) Is an undischarged bankrupt or insolvent ; or
- (iv.) Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth ; or
- (v.) Has any direct or indirect pecuniary interest in any agreement with the public service of the Commonwealth otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons ;

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

But sub-section (iv.) does not apply to the office of any of the Queen's Ministers of State for the Commonwealth, or of any of the Queen's Ministers for a State, or to the receipt of pay, half-pay, or a pension, by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

Qualifications of senator.
Qualifications of members.

Member of one House ineligible for other.

Disqualification.

Mode of
nomination.
W.A. 1899, No.
20 s. 81.
S.A. 1896, No.
607 s. 95.

99. Nominations may be in the Form I or J in the Schedule applicable to the case and shall—

(a) Name the candidate his place of residence and occupation, and

(b) Be signed by not less than six persons entitled to vote at the election, for which the candidate is nominated.

Clause 14.

To whom
nominations
made.

100. Nominations of Senators may be made to the Commonwealth Electoral Officer for the State in which the election is to be held, and nominations of Members of the House of Representatives may be made to the Divisional Returning Officer for the Division in which the election is to be held.

Time for receipt.
W.A. ib. s. 81 (d).
S.A. ib. s. 95 (d).

101. Nominations may be received by the Commonwealth Electoral Officer or the Divisional Returning Officer at any time after the issue of the writ, and before the hour of nomination.

Formal defects.

102. No nomination shall be rejected by reason of any formal defect or error therein if the Commonwealth Electoral Officer or Divisional Returning Officer receiving the nomination is satisfied that the provisions of this Act have been substantially complied with.

Deposit to be
forfeited in
certain cases.
W.A. ib. s. 120.

103. The deposit made by or on behalf of a person nominated shall be retained pending the election, and after the election shall be returned unless the person on whose behalf it was made to him or to some person authorized by him in writing to receive it unless he fails to obtain at the election more than one-fifth of the number of votes polled by the successful candidate who obtained the smallest number of votes at the election in which case it shall be forfeited to the King.

Clause 15.

Place of
nomination.

104. In elections for the Senate the place of nomination shall be stated in the writ. In elections for the House of Representatives the chief polling place for the Division shall be the place of nomination therein.

Hour of
nomination.
W.A. ib. s. 82.
S.A. ib. s. 96.

105. Twelve o'clock noon on the day of nomination shall be the hour of nomination, and the Commonwealth Electoral Officer or Divisional Returning Officer shall then attend at the place of nomination and publicly produce all nomination papers received by him and declare the names and residences of all candidates nominated.

Clause 16.

Hour of
nomination.

105.—(1.) The hour of nomination shall be twelve o'clock noon on the day of nomination.

Clause 16.

(2.) In the case of a Senate election, the Commonwealth Electoral Officer for the State in which the election is being held shall, at the hour of nomination, attend at the place of nomination, and shall there publicly produce all nomination papers received by him, and declare the names and residences of all candidates nominated.

(3.) In the case of a House of Representatives election, the Divisional Returning Officer for the Division in which the election is being held shall, at the hour of nomination, attend at the place of nomination for the Division, and shall there publicly produce all nomination papers received by him, and declare the names and residences of all candidates nominated.

105A. A candidate may withdraw his consent to his nomination at any time before the hour of nomination by lodging with the Commonwealth Electoral Officer for the State in the case of a Senate election, or with the Divisional Returning Officer for the Division in the case of a House of Representatives election, a notice of withdrawal in the prescribed form, and thereupon the nomination shall be cancelled, and the deposit lodged shall be returned.

Withdrawal of consent to nomination.
Inserted by No. 26, 1905, s. 30.

105B. In the case of the death of any candidate before the date of election the deposit lodged by him shall be returned to his personal representatives.

Return of deposit in case of candidate's death.
Inserted by No. 26, 1905, s. 30.

106. The Commonwealth Electoral Officer or Divisional Returning Officer shall declare the candidates nominated duly elected if no greater number are nominated than are required to be elected; but otherwise the proceedings shall stand adjourned to polling day.

Proceedings on nomination day.
W.A. 1899 No. 20, s. 83.
S.A. 1896 No. 667, s. 97.

107. If after the nominations have been declared and before polling day any candidate dies and the candidates remaining are not greater in number than the candidates required to be elected they shall forthwith be declared to be elected and the writ returned.

Death of candidate after nomination.

108. Whenever an election wholly or partially fails a new writ shall forthwith be issued for a supplementary election.

Failure of election.

An election shall be deemed to have wholly failed if no candidate is nominated or returned as elected.

An election shall be deemed to have partially failed whenever one or more candidates is returned as elected, but not the full number required to be elected.

PART X.—VOTING BY POST.

Clause 17.

109. (1) Any elector—

- (a) who has reason to believe that he will not on polling day be within seven miles of the polling place for which he is enrolled, or a prescribed polling place for the subdivision for which he is enrolled; or
- (b) who being a woman will on account of ill-health be unable on polling day to attend the polling place to vote; or
- (c) who will be prevented by serious illness or infirmity from attending the polling place on polling day;

may after the issue of the writ and before polling day make application in the Form K in the Schedule to the Returning Officer for the Division in which he lives for a postal vote certificate.

Application for a postal vote certificate.
S.A. ib. s. 98.
W.A. ib. s. 84.
Amended by No. 26, 1905, s. 31.

(2.) In the case of an application under paragraph (a), the applicant shall state in the application the reason for his said belief. All such applications shall be filed by the Returning Officer, and after the declaration of the poll shall be open to inspection by the public during office hours until the election can no longer be questioned.

Added by No. 26, 1905, s. 31.

(3.) The application shall be signed by the elector in his own handwriting in the presence of an authorized witness.

(4.) Any elector making a false statement, or any person inducing an elector to make a false statement, in an application under this section, shall be guilty of an offence under this Act.

Penalty: Fifty pounds, or one month's imprisonment.

Authorized
witnesses.

Inserted by
No. 26, 1905,
s. 32.

109A. The following persons are authorized witnesses within the meaning of this Act:—

- (a) All Commonwealth Electoral Officers for States; all Returning Officers; all Electoral Registrars; all Postmasters or Postmistresses or persons in charge of Post-offices; all Police or Stipendiary or Special Magistrates of the Commonwealth or a State; all Justices of the Peace; all Head Teachers of State Schools; all officers of the Department of Trade and Customs; all members of the Police Force of the Commonwealth or of a State; all Mining Wardens and Mining Warden's Clerks in the Public Service of a State; all legally qualified medical practitioners; all officers in charge of quarantine stations; and
- (b) All persons or classes of persons, employed in the Public Service of the Commonwealth or of a State, who are declared by proclamation to be authorized witnesses within the meaning of this Act.

Duty of
authorized
witnesses as to
applications.

109B. No authorized witness shall—

- (a) witness the signature of any elector to an application for a postal vote certificate unless the elector is personally known to him; or
- (b) witness the signature of any elector to any application or form of application for a postal vote certificate, unless he has seen the elector sign the application or form of application in his own handwriting.

Penalty: Fifty pounds, or one month's imprisonment.

Issue of
certificates and
ballot-papers.
Substituted
by No. 26, 1905,
s. 33.

110.—(1.) The Returning Officer who receives the application, if he is satisfied that it is properly signed by an elector and is properly witnessed, and that no postal vote certificate for the same election has been previously issued to the applicant, shall deliver or post to the elector a postal vote certificate and one postal ballot-paper with a counterfoil attached for a Senate election, and one postal ballot-paper with a counterfoil attached for a House of Representatives election, or either as the case requires, together with an envelope addressed to the Returning Officer.

(2.) The postal vote certificate may be in Form L in the Schedule, and may be printed on the back of the counterfoil of the postal ballot-paper.

(3.) Postal ballot-papers for a Senate election may be in the Form M in the Schedule, and postal ballot-papers for a House of Representatives election may be in the Form N in the Schedule.

111. The Returning Officer shall initial on the back all postal ballot-papers issued, and shall keep and number the applications in consecutive order, writing the corresponding number on the counterfoil of the ballot-paper.

Returning Officer to initial ballot-paper.
S.A. 1896,
No. 667 s. 100.

Amended by
No. 26, 1905,
s. 34.

* * * * *

Ss. 112-116
repealed;
No. 26, 1905,
s. 35.

117. The Returning Officer shall note on the lists of voters all postal vote certificates issued, and no elector who has received any such certificate shall be entitled to vote at any polling booth unless he delivers up his certificate to the presiding officer before he votes.

Returning Officer to notify issue of certificate.
S.A. ib. s. 103.

118. If there is not time to conveniently note the issue of any postal vote certificate on any list of voters, the Returning Officer shall immediately advise the presiding officer at the polling place at which the elector is entitled to vote of the issue of the certificate.

Advice to presiding officer.
S.A. ib. s. 104.

118A. The following directions for regulating voting by means of postal ballot-papers shall be substantially observed:—

Directions for postal voting.
Cf. 1902, No. 19
s. 112.

- (a) The elector shall exhibit his postal ballot-paper (in blank) and his postal vote certificate to an authorized witness;
- (b) The elector shall then mark his vote by writing the name of the candidate or candidates for whom he votes on the ballot-paper in the presence of the authorized witness, but so that the witness cannot see the vote;
- (c) If the elector's sight is so impaired that he cannot vote without assistance, the authorized witness, if so requested by the elector, may mark his vote on the ballot-paper in the presence of a witness;
- (d) The elector shall then fold the ballot-paper and fasten margin to margin;
- (e) The elector shall then sign his name in his own handwriting on the counterfoil, in the place provided for the signature of the voter;
- (f) The authorized witness shall then sign his name in his own handwriting in the place provided for the signature of the witness, and shall add his occupation and place of living, and the date;
- (g) The elector shall then place the ballot-paper with the counterfoil attached into the envelope addressed to the Returning Officer, and fasten the envelope, and hand it to the authorized witness for posting.

Inserted by
No. 26, 1905,
s. 36.

118B. The authorized witness shall—

- (a) see that the directions in the last preceding section are substantially complied with;
- (b) refrain from looking at the vote given by the elector except where the elector's sight is so impaired that he cannot vote without assistance and the elector requests his assistance;

Duty of authorized witness.
Ib. ss. 114-115.

Inserted by
No. 26, 1905,
s. 36.

- (c) not disclose any knowledge officially acquired by him touching the vote of the elector; and
- (d) forthwith post the envelope containing the postal ballot-paper.

Penalty: One hundred pounds, or three months' imprisonment.

Letters to be
produced at
scrutiny.
S.A. 1896,
No. 667 s. 105.

119. At the scrutiny the Officer conducting the scrutiny shall produce, unopened, all envelopes containing postal votes received up to the close of the poll, and at the scrutiny the envelopes shall be opened in the presence of the scrutineers present, and shall be dealt with as follows:—

- (a) The Officer shall produce all applications for postal vote certificates:
- (b) The Officer, without unfolding the ballot-paper or allowing it to be inspected, shall compare the signature of the voter on the counterfoil with the signature to the application, and allow the scrutineers to inspect both signatures, and shall determine whether the signature on the ballot-paper is that of the applicant:
- (c) If the vote is allowed the Officer shall tear off the counterfoil and insert the ballot-paper in the ballot-box:
- (d) If the Officer rejects the ballot-paper, then the certificate and ballot-paper shall be preserved by him for production at any Court of Disputed Returns that may be held on or about the election, the ballot-paper being at once sealed up without being unfolded or inspected:
- (e) Ballot-papers so allowed shall be placed in a ballot-box by themselves, and, when they have all been inserted, the counting of the votes shall commence:
- (f) Postal ballot-papers which are not duly witnessed shall not be allowed at the scrutiny.

Officer to decide.
S.A. ib. s. 106.

120. The decision of the Officer conducting the scrutiny as to the allowance or disallowance of any postal vote shall be subject only to review by the Court of Disputed Returns.

Mistakes.
S.A. ib. s. 107.

121. No postal vote shall be rejected because the surname only of a candidate has been written thereon if no other candidate has the same surname nor by reason of any mistake in spelling where the elector's intention is clear.

* * * * *

PART X.—VOTING BY POST.

Clause 17.

109.—(1) An elector who—

- (a) has reason to believe that he will not during the hours of polling on polling day be within seven miles of any polling place for the Division for which he is enrolled; or
- (b) being a woman, will on account of ill-health be unable to attend the polling place on polling day to vote; or
- (c) will be prevented by serious illness or infirmity from attending the polling place on polling day to vote,

may make application for a postal vote certificate and postal ballot-paper.

(2) The application may be in the prescribed form and must be signed by the elector in his own handwriting in the presence of an authorized

Application for
a postal vote
certificate and
postal ballot-
paper.

Authorized
witnesses.

S. 122
repealed;
No. 26, 1905,
s. 35.

witness, and must be made and sent, after the issue of the writ for the election and before the polling day for the election, to the Returning Officer for the Division for which the applicant elector is enrolled.

(3.) In the case of an application under paragraph (a), the applicant must state in the application his reason for his belief.

(4.) An elector shall not make, and a person shall not induce an elector to make, any false statement in an application for a postal vote certificate and postal ballot-paper.

Penalty: Fifty pounds, or one month's imprisonment.]

Clause 17.

109a. The following persons are authorized witnesses within the meaning of this Act:—

- (a) All Commonwealth Electoral Officers for States; all Commonwealth Returning Officers; all Commonwealth Electoral Registrars; all Postmasters or Postmistresses or persons in charge of Post-offices; all Police or Stipendiary or Special Magistrates of the Commonwealth or of a State; all Justices of the Peace; all Head Teachers in the employment of a State Education Department; all officers of the Department of Trade and Customs; all members of the Police Force of the Commonwealth or of a State; all Mining Wardens and Mining Warden's Clerks in the Public Service of a State; all legally qualified Medical Practitioners; all Officers in charge of Quarantine Stations; all Officers in charge of Light-Houses; all Pilots in the service of the Commonwealth or of a State, or of any local governing body; all Telegraph line repairers permanently employed in the Public Service of the Commonwealth, who are in charge of working parties; all Railway Station Masters and Night Officers-in-charge who are permanently employed in the Railway Department in any of the States; and
- (b) All persons or classes of persons, employed in the Public Service of the Commonwealth or of a State, who are declared by proclamation to be authorized witnesses within the meaning of this Act.

Clause 17.

109b. An authorized witness shall not witness the signature of any elector to an application for a postal vote certificate and postal ballot-paper unless—

Duty of authorized witnesses.

- (a) he has satisfied himself as to the identity of the applicant,
- (b) he has seen the applicant sign the application in his the applicant's own handwriting; and
- (c) he is personally acquainted with the facts, or has satisfied himself by inquiry from the applicant that the statements contained in the application are true.

Penalty: Fifty pounds, or one month's imprisonment.

Clause 17.

110.—(1.) The Returning Officer who receives the application, if he is satisfied that it is properly signed by an elector and is properly witnessed, and that no postal vote certificate or postal ballot-paper for the same election has been previously issued to the applicant, shall deliver or post to the elector a postal vote certificate, and one postal ballot-paper for a Senate election, and one postal ballot-paper for a House of Representatives election, or either as the case requires, together with an envelope addressed to the Returning Officer.

Issue of certificates and ballot-papers.

(2.) The postal vote certificate, and postal ballot-papers for a Senate election and for a House of Representatives election respectively, may be in the prescribed forms.

Inspection of application.

110a. All applications for postal vote certificates and postal ballot-papers received by a Returning Officer shall be kept by him, and shall be open to public inspection at all convenient times during office hours, until the election can be no longer questioned. Clause 17.

Numbering of applications and certificates.

Cf. No. 19, 1902, s. 111.

111.—(1.) The Returning Officer shall number all applications for postal vote certificates and postal ballot-papers in consecutive order, and shall number each postal vote certificate with a number corresponding with the number on the application. Clause 17.

Initialing of postal ballot-papers.

(2.) The Returning Officer shall initial on the back all postal ballot-papers issued. The initials should be placed in such a position as to be easily seen when the ballot-paper is folded so as to conceal the vote.

Returning officer to notify issue of postal vote certificates and postal ballot-papers.

117.—(1.) The Returning Officer shall, if there is time conveniently to do so, note on the lists of voters all postal vote certificates and postal ballot-papers issued. Clause 17.

(2.) If there is not time conveniently to note on the proper list of voters the issue of a postal vote certificate and postal ballot-paper, the Returning Officer shall immediately advise the presiding officer to whom the list of voters has been furnished of the issue of the postal vote certificate and postal ballot-paper.

(3.) An elector to whom a postal vote certificate has been issued shall not be entitled to vote at any polling booth unless he first delivers to the presiding officer for cancellation his postal vote certificate and postal ballot-paper.

Directions for postal voting.
Cf. No. 21, 1905, s. 36.

118a. The following directions for regulating voting by means of postal ballot-papers are to be substantially observed:— Clause 17.

- (a) The elector shall exhibit his postal ballot-paper (in blank) and his postal vote certificate to an authorized witness:
- (b) The elector shall then, in the presence of the authorized witness but so that the authorized witness cannot see the vote, mark his vote on the ballot-paper in the prescribed manner, and shall fold and secure the ballot-paper so that the vote cannot be seen:
- (c) If the elector's sight is so impaired that he cannot vote without assistance, the authorized witness, if so requested by the elector, shall mark his vote on the ballot-paper in the presence of a witness and shall fold and secure the ballot-paper so that the vote cannot be seen:
- (d) The elector shall then, in the presence of the authorized witness, sign his name in his own handwriting on the postal vote certificate in the place provided for the signature of the voter:
- (e) The authorized witness shall then sign his name in his own handwriting on the postal vote certificate in the place provided for the signature of the authorized witness, and shall add the title under which he acts as an authorized witness and the date:
- (f) The ballot-paper shall then be placed in the envelope addressed to the Returning Officer, which must then be fastened and taken charge of by the authorized witness for posting:

- (g) The authorized witness shall not, unless the elector's sight is so impaired that he cannot vote without assistance, look at or make himself acquainted with the vote given by the elector, and, except as provided in paragraph (c) of this section, shall not suffer or permit any person (other than the elector) to see or become acquainted with the elector's vote, or to assist the elector to vote, or to interfere in any way with the elector in relation to his vote.

Clause 17.

118b. Every authorized witness shall—

- (a) comply with the preceding section in so far as it is to be complied with on his part;
- (b) see that the directions in the preceding section are complied with by every elector voting by post before him, and by every person present when the elector votes;
- (c) refrain from disclosing any knowledge of the vote of any elector voting by post before him; and
- (d) forthwith post each envelope containing a postal ballot-paper taken charge of by him for posting.

Duty of authorized witness.

Penalty: One hundred pounds or three months' imprisonment.

Clause 17.

118c. Any person present when an elector is before an authorized witness for the purpose of voting by post shall—

- (a) obey all directions of the authorized witness;
- (b) refrain from making any communication whatever to the elector in relation to his vote;
- (c) refrain from assisting the elector or in any manner interfering with him in relation to his vote; and
- (d) except as provided in paragraph (c) of section one hundred and eighteen A, refrain from looking at the elector's vote or from doing anything whereby he might become acquainted with the elector's vote.

Duty of persons present when an elector votes by post.

Penalty: One hundred pounds, or three months' imprisonment.

Clause 17.

119. At the scrutiny the Returning Officer shall produce all applications for postal vote certificates and postal ballot-papers, and shall produce unopened all envelopes containing postal votes received up to the close of the poll, and shall proceed as follows:—

Preliminary scrutiny of postal ballot-papers.

- (a) he shall compare the signature of the elector on each postal vote certificate with the signature of the same elector on the application for the certificate, and shall allow the scrutineers to inspect both signatures;
- (b) if he is not satisfied that the signature on the certificate is that of the elector who signed the application for the certificate and that the signature purports to be witnessed by an authorized witness, he shall disallow the ballot-paper without opening it or separating it from the certificate, but if he is so satisfied he shall accept the ballot-paper for further scrutiny;
- (c) he shall separate all postal ballot-papers accepted for further scrutiny from the postal vote certificates, and without unfolding the ballot-papers shall place them in a ballot-box by themselves; and
- (d) he shall seal up in separate parcels and preserve—
- (i.) all postal ballot-papers disallowed, with the certificates relating to them, and
- (ii.) all postal vote certificates relating to postal ballot-papers accepted for further scrutiny.

Counting of
postal ballot-
papers.

119a. When the postal ballot-papers and postal vote certificates have been dealt with as directed in the preceding section, the Returning Officer shall proceed with the scrutiny of the postal ballot-papers which have been accepted for further scrutiny. Clause 17.

Review of
decision
disallowing
postal ballot-
papers.
Mistakes.

120. The decision of the Returning Officer as to the acceptance for further scrutiny or disallowance of any postal ballot-paper may be reviewed at any recount of the votes, or by the Court of Disputed Returns. Clause 17.

121. No postal vote shall be rejected because the surname only of a candidate has been written thereon if no other candidate has the same surname, nor by reason of any mistake in spelling where the elector's intention is clear. Clause 17.

PART XI.—THE POLLING.

Polling.
W.A. 1899,
No. 20 s. 85.

123. If the proceedings on the day of nomination stand adjourned to polling day, the Returning Officer shall immediately make all necessary arrangements for taking the poll.

Duty of
Returning
Officer.
S.A. 1896,
No. 667 s. 100.

124. In particular he shall—

- (i.) Appoint a presiding officer to preside at each polling place at which he will not be continuously present :
- (ii.) Appoint all necessary poll clerks and doorkeepers :
- (iii.) Provide and furnish proper polling booths and ballot-boxes :
- (iv.) Provide ballot-papers and lists of voters.

Provision
to meet
emergencies.

(2.) If in an emergency on polling day in the absence of any assistant presiding officer, poll clerk, or doorkeeper, the presiding officer appoints any person to act as assistant presiding officer, poll clerk, or doorkeeper, the person so appointed or acting shall be deemed to have been duly appointed if the Returning Officer afterwards ratifies the appointment by appointing that person to be assistant presiding officer, poll clerk, or doorkeeper, as the case may be. Clause 18.

Presiding officer.
S.A. ib. s. 110.
W.A. ib. s. 88.
Amended by
No. 26, 1905,
s. 37.

125. The Returning Officer shall be the presiding officer at the chief polling place unless he appoints some other person to be the presiding officer thereat.

Substitute.
S.A. ib. s. 111.
W.A. ib. s. 89.
Amended by
No. 26, 1905,
s. 38.

126. Any presiding officer may appoint a substitute to perform his duties during his temporary absence and may, if authorized by the Returning Officer so to do, appoint one or more assistant presiding officers to assist him in presiding at any polling booth, and any assistant presiding officer may, subject to the direction of the presiding officer, exercise all or any of his powers, and shall, in respect of the exercise of those powers, be deemed to be the presiding officer.

No licensed
premises to be
used.

127. No part of any premises licensed for the sale of intoxicating liquor shall be used for the purposes of any polling booth.

S.A. ib. s. 112.
W.A. ib. s. 90.
Separate voting
compartments.
S.A. ib. s. 114.
W.A. ib. s. 92.

128. Polling booths shall have separate voting compartments, constructed so as to screen the voters from observation while they are marking their ballot-papers, and each voting compartment shall be furnished with a pencil for the use of voters.

Ballot-boxes.
Substituted
by No. 26, 1905,
s. 39.

129. Each polling-booth shall be provided with the necessary ballot-boxes, constructed and fitted as prescribed.

130. The Lists of voters shall be Lists of the electors on the Roll enrolled for the polling place (or enrolled for the Subdivision, and for whom the polling place is prescribed) and such Lists shall before the hour for commencing the poll be certified to by the Returning Officer and delivered to the presiding officers for their guidance during the polling.

Lists of voters.
S.A. 1896, No.
667 s. 116.
Amended by
No. 26, 1905,
s. 40.

131. Ballot-papers to be used in the election of Senators may be in the Form O in the Schedule.

Senate ballot-
paper.

132. Ballot-papers to be used in the election of Members of the House of Representatives may be in the Form P in the Schedule.

House of
Representatives
ballot-paper.

133. In printing the ballot-papers—

Ballot-papers.
W.A. 1899, No.
20 s. 94.
S.A. ib. s. 117.

- (i.) The names of all candidates duly nominated shall be printed in alphabetical order according to their surnames :
- (ii.) If there are two or more candidates of the same surname their names shall be printed according to the alphabetical order of their christian names, or if their christian names are the same, then according to the alphabetical order of their residences, arranged and stated on the ballot-paper :
- (iii.) Where similarity in the names of two or more candidates is likely to cause confusion, the Commonwealth Electoral Officer for the State or the Divisional Returning Officer conducting the election may arrange the names with such description or addition as will distinguish them from one another :
- (iv.) A square shall be printed opposite the name of each candidate.

134. No ballot-paper shall be delivered to any voter without being first initialed by the presiding officer, and an exact account shall be kept of all initialed ballot-papers. The initials of the presiding officer shall be placed on the back of the ballot-paper in such a position as to be easily seen when the ballot-paper is folded so as to conceal the names of the candidates.

Ballot-paper
initialed.
W.A. ib. s. 97
S.A. ib. s. 120.

135. Scrutineers may be appointed by candidates to represent them at polling places during the polling, but so that not more than one scrutineer shall be allowed to each candidate at each polling booth or subdivision of a polling booth, and appointments of scrutineers shall be made by notice to the Returning Officer or presiding officer, signed by the candidate, giving the name and address of the scrutineer, or without such notice by permission of the Returning Officer or presiding officer.

Scrutineers.
W.A. ib.
ss. 98-100.
S.A. ib.
ss. 121-123.
Amended by
No. 26, 1905,
s. 41.

136. No candidate shall in any way take part in the conduct of an election ; and no one, other than the presiding officer, the poll clerks, doorkeepers, and scrutineers, and the electors voting and about to vote, shall be permitted to enter or remain in the polling booth during the polling except by permission of the presiding officer.

Persons present
at polling.
W.A. ib. s. 101.
S.A. ib. s. 124.

The polling.
W.A. 1899, No.
20 s. 103.
S.A. 1896, No.
667 s. 125.
Amended by
No. 26, 1905,
s. 42.

137. The polling shall be conducted as follows :—

- (i.) Before any vote is taken the presiding officer shall exhibit the ballot-box empty, and shall then securely fasten its cover :
- (ii.) The poll shall open at eight o'clock in the morning, and shall not close until all electors present in the polling booth at seven o'clock in the evening, and desiring to vote, have voted :
- (iii.) At the close of the poll the presiding officer shall publicly close, fasten, and seal and take charge of the ballot-box, and with the least possible delay forward it for the purposes of scrutiny ; and it shall on no account be opened except as allowed by this Act.

Electors to vote
for division in
which they live.

138. Subject to section thirty-one an elector shall only be entitled to vote for the Division in which he lives, and for which he is enrolled, provided that an elector who has changed his place of living may continue to vote for the Division for which his name is enrolled until his name is transferred to some other Roll, if he has taken all necessary steps to procure the transfer of his name to the Roll for the Division in which he lives, forthwith, after he has lived in such Division for one month. Clause 19.

Elections at
which electors
are entitled to
vote.

138.—(1.) In the case of an election for the House of Representatives, an elector shall only be admitted to vote for the election of a member for the Division for which he is enrolled. Clause 19.

(2.) In the case of an election for the Senate, an elector shall only be admitted to vote for the election of senators for the State for which he is enrolled.

(3.) For the purposes of this section, the electoral rolls in force at the time of the election shall be conclusive evidence of the right of each person enrolled thereon to vote as an elector, unless he shows by his answers to the questions prescribed by section one hundred and forty-one that he is not entitled to vote.

Where electors
may vote.
Amended by
No. 26, 1905,
s. 43.

139.—(1.) In an election, an elector may vote only—

- (a) at the polling place for which he is enrolled, or a prescribed polling place for the subdivision for which he is enrolled ;
- or

- (b) at any other polling place for the same Division, if he makes and signs before the presiding officer a declaration in the Form Q in the Schedule.

(2.) Provided always that the regulations under this Act may provide facilities for enabling electors to vote at elections for the Senate or for the House of Representatives at other polling places within the State in which the election is held, and may provide for all matters (not inconsistent with this Act) necessary or convenient to be prescribed for the purpose of carrying this part of this section into effect, and in particular for the following matters :—

- (a) The form of ballot-paper to be used ;
- (b) The method of dealing with the ballot-papers ; and
- (c) The allowance or disallowance and counting of the ballot-papers.

140. Every person claiming to vote at any polling booth shall state his christian name and surname, and, if so desired by the presiding officer, any other particulars necessary to be stated in the Roll for the purpose of identifying the name upon the Roll under which the vote is claimed.

Persons claiming to vote to give name and other particulars.

W.A. 1899, No. 20 s. 104 sub-s. (i.)

S.A. 1896, No. 667 s. 126 sub-s. (i.)

141. The presiding officer may, and at the request of any scrutineer shall, put to any person claiming to vote all or any of the following questions:—

Questions to be put if voter challenged.

Q. 1885, No. 13 s. 63.

Amended by No. 26, 1905, s. 44.

(i.) Are you the person whose name appears as [here state name under which the person claims to vote] on the Roll for this Division? (or the Division of ?—as the case may be);

(ii.) Are you of the full age of twenty-one years?

(iii.) Have you already voted, either here or elsewhere, at this election? (or these elections?—as the case may be);

(iv.) Are you disqualified from voting?

Clause 20.

142. If any person refuses to answer fully any question put to him by the presiding officer, or by his answer shows that he is not entitled to vote, his claim to vote shall be rejected.

Consequence of answers.

W.A. ib. s. 107.

S.A. ib. s. 129.

143. The voter's answer to the questions shall be conclusive, and the matter shall not be further inquired into during the polling.

Answer conclusive.

W.A. ib. s. 108.

S.A. ib. s. 130.

144. No omission of any christian name, or entry of a wrong christian name, or address, or occupation, and no mistake in the spelling of any surname, shall warrant the rejection at any polling of any claim to vote if the voter is sufficiently identified in the opinion of the presiding officer, and no female elector shall be disqualified from voting under the name appearing on the Roll because her surname has been changed by marriage.

Errors not to forfeit vote.

W.A. ib. s. 109.

S.A. ib. s. 131.

Clause 21.

145. If the name under which the person claims to vote is upon the List of voters for the polling place, and his right to vote is not challenged, or, if challenged, he answers the prescribed questions satisfactorily, the presiding officer or a poll clerk shall hand to him a ballot-paper duly initialed, but the presiding officer shall, at the request of any scrutineer, take note of any objection and keep a record thereof.

Ballot-paper to be handed to elector.

Provided that the fact that an elector's name is not on the List of voters for the polling place shall not prevent him from voting in cases where provision is made by regulation allowing electors to vote at polling places other than the polling places for which they are enrolled subject to section one hundred and thirty-nine.

Clause 21.

145.—(1.) The presiding officer or a poll clerk shall hand to each person claiming to vote a ballot-paper duly initialed by the presiding officer—

Right of elector to receive ballot-paper.

(a) if the name under which he claims to vote is on the List of Voters for the polling place and his right to vote is not challenged, or

(b) if the name under which he claims to vote is on the List of Voters for the polling place and his right to vote is challenged, and he

answers the prescribed questions satisfactorily, or

(c) if the name under which he claims to vote is on the Roll for the Division and he makes the declaration in Form Q in the Schedule, or

(d) in cases where the regulations provide facilities for voting by persons absent from the Division for which they are enrolled—if he claims to vote under and complies with those regulations; but in those cases the ballot-paper must be in accordance with the form prescribed by those regulations.

(2.) The presiding officer, at the request of a scrutineer, shall note any objection by the scrutineer to the right of any person to vote, and shall keep a record thereof.

(3.) If the presiding officer puts to any person all or any of the prescribed questions, his right to vote shall be deemed to have been challenged.

List of voters to be marked on voting-paper being issued.

146. Immediately upon handing the ballot-paper to the person claiming to vote, the presiding officer or a poll clerk shall place a mark against the person's name on the List of voters. Clause 22.

Vote to be marked in private.

W.A. 1899, No. 20 s. 104.
sub-s. (3.)
S.A. 1896, No. 667 s. 126
sub-s. (iii.)

147. Upon receipt of the ballot-paper the voter shall without delay—

(a) Retire alone to some unoccupied compartment of the booth, and there, in private, mark his vote on the ballot-paper in the manner hereafter described:

(b) Fold the ballot-paper so as to conceal the names of the candidates and to clearly show the initials of the presiding officer, and exhibit it so folded to the presiding officer, and then forthwith openly, and without unfolding it, deposit it in the ballot-box:

(c) Quit the booth.

Assistance to blind voters.

148. If any voter satisfies the presiding officer that his sight is so impaired or that he is so physically incapacitated or illiterate that he is unable to vote without assistance, the presiding officer in the presence of such scrutineers as may be present shall mark, fold, and deposit his ballot-paper for him. Clause 23.

Spoilt ballot-papers.

W.A. ib. s. 104
sub-s. (5.)
S.A. ib. s. 126
sub-s. (v.)
Amended by
No. 26, 1905,
s. 45.

149. If any voter satisfies the presiding officer, before his ballot-paper is deposited in the ballot-box, that he has spoilt it by mistake or accident, he may, on giving it up, receive a new ballot-paper from the presiding officer, who shall there and then cancel and preserve the spoilt ballot-paper.

How votes to be marked in Senate elections.
How votes to be marked in House of Representatives elections.

See Q. 1892,
No. 26 s. 22.

150. In elections for the Senate the voter shall mark his ballot paper by making a cross in the square opposite the name of each candidate for whom he votes. The voter shall vote for the full number of candidates to be elected.

151. In elections for members of the House of Representatives the voter shall mark his ballot-paper by making a cross in the square opposite the name of the candidate for whom he votes.

Adjournment of polling on account of riot.
W.A. ib. s. 119.
S.A. ib. s. 142

152. The presiding officer may adjourn the polling from day to day in any case where the polling is interrupted or obstructed by riot or open violence.

153. If from any cause any polling booth at a polling place is not opened on polling day the Returning Officer or the presiding officer may adjourn the polling for a period not to exceed twenty-one days, and shall forthwith give public notice of the adjournment.

Adjournment
other cases.

153A.—(1.) Where for any reason the polling is adjourned at any polling place, those electors only who are enrolled for that polling place (or who are enrolled for the subdivision, and for whom the polling place is prescribed), and who have not already voted, shall be entitled to vote at the adjourned polling at that polling place.

Voting at
adjourned
polling.
inserted by
No. 26, 1905,
s. 46.

(2.) Where an election is being held in any Division, it shall not be necessary to open polling booths at the polling places for any other Division in which no election is being held.

PART XII.—THE SCRUTINY.

General Provisions.

154. The result of the polling shall be ascertained by scrutiny.

Scrutiny.
W.A. 1399, N
20 s. 110.
S.A. 1896, No.
667 s. 133.
How conducted
W.A. ib. s. 111.
S.A. ib. s. 134.

155. The scrutiny shall be conducted as follows:—

- (i.) It shall commence as soon as practicable after the closing of the poll:
- (ii.) The scrutineers and any persons approved by the Officer conducting the scrutiny may be present:
- (iii.) All the proceedings at the scrutiny shall be subject to the inspection of the scrutineers:
- (iv.) All informal votes shall be rejected, and the number recorded:
- (v.) The scrutiny may be adjourned as may be necessary until the counting of the votes is complete.

156. Each candidate may appoint one scrutineer to represent him at the scrutiny.

Power to
appoint
scrutineers.

Clause 24.

157. Any scrutineer may object that any ballot-paper is informal, and thereupon the officer conducting the scrutiny shall mark the ballot-paper "admitted" or "rejected," according to his decision on the objection; and such decision shall be final, subject only to reversal by the Court of Disputed Returns.

Scrutineer may
object to vote
as informal.
W.A. ib. s. 111
(10).
S.A. ib. s. 134
(ix.).

Clause 24.

157.—(1.) If a scrutineer objects to a ballot-paper as being informal, the officer conducting the scrutiny shall mark the ballot-paper "admitted" or "rejected" according to his decision to admit or reject the ballot-paper.

Action on
objections to
ballot-papers.

(2.) Nothing in this section shall prevent the officer conducting the scrutiny from rejecting any ballot-paper as being informal although it is not objected to.

158. A ballot-paper shall be informal if—

Informal ballot
papers.

- (a) It is not duly initialed by the presiding officer; or

Clause 25.

It is not authenticated by the initials of the presiding officer (or, in the case of a postal ballot-paper, of the Returning Officer), or by an official mark as prescribed; or

- (b) In elections for the Senate it has (not being a postal ballot-paper) no cross in the square opposite the name of any candidate or has crosses in squares opposite the names of a greater or less number of candidates than the number required to be elected or being a postal ballot-paper it has no names written on it or has a greater or less number of names written on it than there are candidates required to be elected ; or
- (c) In elections for the House of Representatives it has (not being a postal ballot-paper) no cross in a square opposite the name of a candidate, or has crosses in squares opposite the names of more than one candidate, or being a postal ballot-paper it has no candidate's name written on it, or has the name of more than one candidate written on it ; or
- (d) It has upon it any mark or writing not authorized by this Act to be put upon it which in the opinion of the Returning Officer will enable any person to identify the voter.

Preservation of
ballot-papers.

159. All ballot-papers used for voting shall be preserved as and in such custody as shall be prescribed until the election can be no longer questioned when they shall be destroyed.

Provisions relating to Elections for the Senate.

Scrutiny of votes
in Senate
elections.

160. In elections for the Senate the scrutiny shall be conducted by Divisional Returning Officers and Assistant Returning Officers as follows :—

- (a) Each Divisional Returning Officer shall open all ballot-boxes for his Division except those to be opened by Assistant Returning Officers.
- (b) Each Assistant Returning Officer shall open all ballot-boxes from polling places within or for the portion of the Division in which he exercises his powers.
- (c) Divisional Returning Officers and Assistant Returning Officers shall count all the votes found in the boxes opened by them respectively, rejecting all informal ballot-papers, and shall make and keep a record of the number of votes counted by them from such boxes respectively.
- (d) Each Assistant Returning Officer shall seal up all ballot-papers counted by him, and shall certify by indorsement on the copy of the Writ received by him the number of votes given for each candidate as shown by the ballot-papers so counted ; and shall transmit the ballot-papers so sealed and the copy of the Writ so indorsed to his Divisional Returning Officer.
- (e) The Divisional Returning Officer shall certify by indorsement on his copy of the Writ the number of votes given for each candidate by electors enrolled for the Division and forward the copy of the Writ so indorsed to the Commonwealth Electoral Officer for the State.

161. The Commonwealth Electoral Officer for the State shall, from the copies of the Writ forwarded to him by the Divisional Returning Officers, ascertain the total number of votes polled by each candidate, and in the event of an equality of votes shall give a casting vote for the purpose of deciding the election, but except as provided in this section he shall not vote at the election. The candidates to the number required to be elected who receive the greatest number of votes shall be elected.

Casting vote of
Electoral
Officer.

161A. At any time before the declaration of the poll, the Commonwealth Electoral Officer for the State may, if he thinks fit, on the request of any candidate or of his own motion, direct a recount of the ballot-papers from any Division or portion of a Division, or of the ballot-papers contained in any parcel.

Recount at
Senate elections
inserted by
No. 26, 1905,
s. 47.

Clause 26.

(2.) The officer conducting the recount shall have the same powers as if the recount were the scrutiny, and may reverse any decision in relation to the scrutiny as to the allowance or admission or disallowance or rejection of any ballot-paper.

Provisions relating to Elections for the House of Representatives.

162. In elections for the House of Representatives the scrutiny shall be conducted by the Divisional Returning Officers and Assistant Returning Officers.

Scrutiny at
elections for
House of
Representatives.

163. Each Assistant Returning Officer shall, in the presence of such scrutineers as choose to be present, open all ballot-boxes containing the ballot-papers received from polling places within or for that portion of the Division in which he exercises his powers, and shall—

Assistant
Returning
Officers to count
votes.

- (i.) Arrange the ballot-papers under the names of the respective candidates by placing in a separate parcel all those which have a cross set opposite the name of the same candidate, rejecting all informal ballot-papers.
- (ii.) Place in another parcel all the ballot-papers which have been rejected as informal.
- (iii.) Transmit the following information by telegram or some other expeditious manner to the Divisional Returning Officer—(a) The number of votes recorded for each candidate; and (b) The total number of ballot-papers rejected as informal.
- (iv.) Seal up such parcels and transmit them to the Divisional Returning Officer.

164. In elections for the House of Representatives the Divisional Returning Officer shall open all ballot-boxes not opened by Assistant Returning Officers, and shall deal with the ballot-papers therein by arranging them under the names of the respective candidates and placing in a separate parcel all those which have a cross set opposite the name of the same candidate, rejecting informal voting-papers, and on receipt of the information giving the results of the counting of the ballot-papers by the Assistant Returning Officers in the Division shall proceed to ascertain the final result of the election, and in the event of an equality of votes shall give a

Counting of
votes at
elections for
House of
Representatives.

Recount.
Inserted by
No. 26, 1905,
s. 48.

casting vote for the purpose of deciding the election, but except as provided in this section he shall not vote at the election. The candidate who receives the greatest number of votes shall be elected.

164A. At any time before the declaration of the poll, the Divisional Returning Officer may, if he thinks fit, at the request of any candidate or of his own motion, recount the ballot-papers contained in any parcel.

(2.) The Divisional Returning Officer shall, in relation to the recount, Clause 27. have the same powers as if the recount were the scrutiny, and may reverse any decision in relation to the scrutiny as to the allowance or admission or disallowance or rejection of any ballot-paper.

PART XIII.—THE RETURN OF THE WRITS.

Return of writs
for election of
Senators.

165. In elections for the Senate, the Commonwealth Electoral Officer for the State in which the election is held shall, as soon as conveniently may be after the result of the election has been ascertained—

- (a) At the place of nomination declare the result of the election and the names of the candidates elected:
- (b) By indorsement under his hand certify on the original writ the names of the candidates elected, and return the writ to the Governor of the State in which it was issued.

Return of writs
for House of
Representatives.

166. In elections for the House of Representatives the Divisional Returning Officer shall, as soon as conveniently may be after the result of the election has been ascertained—

- (a) At the chief polling place of the Division publicly declare the result of the election and the name of the candidate elected:
- (b) By indorsement under his hand certify on the original writ the name of the candidate elected, and return the writ through the Commonwealth Electoral Officer for the State in which the election is held.

Correction of
errors.
W.A. 1899,
No. 20 s. 117.
S.A. 1896,
No. 667 s. 140.

167. Any delay, error, or omission in the printing, preparation, issue, transmission, or return of any roll, writ, ballot-papers, or list of voters, may be remedied, removed, rectified, and supplied by Proclamation specifying the matter dealt with, and providing for the course to be followed, and such course shall be valid and sufficient.

Extension of
time.
W.A. ib. s. 118.
ib. s. 141.

168. Within twenty days before or after the day appointed for any election the person causing the writ to be issued may provide for extending the time for holding the election or for returning the writ, or meeting any difficulty which might otherwise interfere with the due course of the election; and any provision so made shall be valid and sufficient: Provided that—

- (i.) Public notice shall be immediately given in the State or Division in which the election is to be held of any extension of the time for holding the election:
- (ii.) No polling day shall be postponed under this section at any time later than seven days before the time originally appointed.

PART XIV.—LIMITATION OF ELECTORAL EXPENSES.

169. No electoral expense shall be incurred or authorized by a candidate in respect of any candidature— Rates of expenditure.

- (a) In elections for the Senate in excess of Two hundred and fifty pounds:
- (b) In elections for the House of Representatives in excess of One hundred pounds.

170. No electoral expense shall be incurred or authorized except in respect of the following matters:— Expenses allowed. S.A. 1896, No. 667 s. 145.

- (i.) Purchasing electoral rolls:
- (ii.) Printing, advertising, publishing, issuing, and distributing addresses by the candidate and notices of meetings:
- (iii.) Stationery, messages, postages, and telegrams:
- (iv.) Committee rooms:
- (v.) Public meetings and halls therefor:
- (vi.) Scrutineers.

171. "Electoral expense" includes all expenses incurred by or on behalf or in the interests of any candidate at or in connexion with any election, excepting only the personal and reasonable living and travelling expenses of the candidate. Electoral expenses. S.A. ib. s. 143.

172.—(I.) Within eight weeks after the result of any election has been declared, every candidate at the election shall sign and declare before a Justice of the Peace and file with the Commonwealth Electoral Officer for the State a true return of his electoral expenses, showing— Returns. S.A. ib. s. 149.

- (a) All electoral expenses paid:
- (b) All disputed and unpaid claims for electoral expenses.

(II.) The return ~~may be in the~~ shall be in accordance with Form R in the Schedule and shall be accompanied by a receipted bill of particulars vouching each payment of Two pounds or more.

(III.) The return and the receipted bills of particulars shall be retained by the Commonwealth Electoral Officer for the State, and shall be open to public inspection during ordinary office hours on payment of the prescribed fee. Return of candidates' expenses to be open to inspection. Added by No. 26, 1905, s. 49.

PART XV.—ELECTORAL OFFENCES.

173. To secure the due execution of this Act and the purity of elections the following acts are hereby prohibited and penalized:— Offences. W.A. 1890, No. 20 s. 123. S.A. ib. s. 153.

- (i.) Breach or neglect of official duty:
- (ii.) Illegal practices, including—
 - (a) Bribery:
 - (b) Undue influence:
- (iii.) Electoral offences.

174. "Breach or neglect of official duty" includes—

- (i.) Any attempt by any officer to influence the vote of any elector, or, except by recording his vote, the result of any election: Breach or neglect by officers. W.A. ib. s. 124. S.A. ib. s. 154.

Amended by
No. 26, 1905,
s. 50.

- (ii.) The disclosure of any knowledge officially acquired by any officer or scrutineer touching the vote of any elector:
- (iii.) Any neglect or refusal by any officer to discharge any official duty, and any violation by any officer of any provision of this Act:
- (iv.) Any attempt by a person authorized or required by this Act to witness the signature of an elector on the counterfoil of a postal ballot-paper to influence the vote of the elector whose signature he witnesses.

Breach or neglect of official duty is punishable by a penalty not exceeding Two hundred pounds, or by imprisonment not exceeding one year.

Bribery.
W.A. 1899, No.
20 s. 125.
S.A. 1896, No.
607 s. 155.

175. Whoever—

- (i.) Promises, or offers, or suggests any valuable consideration, advantage, recompense, reward, or benefit for or on account of, or to induce any candidature, or withdrawal of candidature, or any vote or omission to vote, or any support of, or opposition to, any candidate, or any promise of any such vote, omission, support, or opposition:
- (ii.) Gives or takes any valuable consideration, advantage, recompense, reward, or benefit for, or on account of, any such candidature, withdrawal, vote, omission, support, or opposition, or promise thereof:
- (iii.) Promises, offers, or suggests any valuable consideration, advantage, recompense, reward, or benefit, for bribery, or gives or takes any valuable consideration, advantage, recompense, reward, or benefit for bribery:

shall be guilty of bribery.

Definition.
W.A. ib. s. 126.
S.A. ib. s. 156.

176. Without limiting the effect of the general words in the preceding section, "bribery" particularly includes the supply of meat, drink, or entertainment after the nominations have been officially declared, or horse or carriage hire for any voter whilst going to or returning from the poll, with a view to influence the vote of an elector.

Undue influence.
W.A. ib. s. 127.
S.A. ib. s. 157.

177. Whoever—

- (i.) Threatens, offers, or suggests any violence, injury, punishment, damage, loss, or disadvantage for or on account of, or to induce any candidature, or withdrawal of candidature, or any vote, or any omission to vote, or any support or opposition to any candidate, or any promise of any vote, omission, support, or opposition:
- (ii.) Uses, causes, inflicts, or procures any violence, punishment, damage, loss, or disadvantage for or on account of any such candidature, withdrawal, vote, omission, support, or opposition:

shall be guilty of undue influence.

178. Without limiting the effect of the general words in the preceding section, "undue influence" includes every interference or attempted interference with the free exercise of the franchise of any voter.

Definition.
W.A. 1899,
No. 20 s. 128.
S.A. 1896,
No. 667 s. 158.

179. No declaration of public policy or promise of public action shall be deemed bribery or undue influence.

Exception.
W.A. ib. s. 129.
S.A. ib. s. 159.

180. In addition to bribery and undue influence the following shall be illegal practices:—

Illegal practices.
S.A. ib. s. 160
sub-sec. (d).

- (a) Any publication of any electoral advertisement hand-bill or pamphlet or any issue of any electoral notice (other than the announcement by advertisement in a newspaper of the holding of a meeting) without at the end thereof the name and address of the person authorizing the same ;

Amended by
No. 26, 1905,
s. 51.

- (b) Printing or publishing any printed electoral advertisement hand-bill or pamphlet (other than an advertisement in a newspaper) without the name and place of business of the printer being printed at the foot of it ;

- (c) Any contravention by a candidate of the provisions of Part XIV. of this Act relating to the Limitation of Electoral Expenses.

Amended by
No. 18, 1906,
s. 2.

181. Any illegal practice shall be punishable as follows:—

Punishment.

- (a) Bribery or undue influence by a penalty not exceeding Two hundred pounds, or by imprisonment not exceeding one year ;

W.A. ib. s. 132.
S.A. ib. s. 161.

- (b) Any other illegal practice by a penalty not exceeding One hundred pounds, or by imprisonment not exceeding six months.

182. The matters mentioned in the first column of the table at the foot of this section are electoral offences punishable as provided in the second column of the table opposite the statement of the offence.

Electoral
offences.
W.A. ib. s. 134.
S.A. ib. s. 163.

Table of Electoral Offences and Punishments.

First Column.—Offences.	Second Column.—Punishments.
Falsely personating any person to secure a ballot-paper to which the personator is not entitled, or personating any other person for the purpose of voting	Imprisonment not exceeding two years
Fraudulently destroying or defacing any nomination or ballot-paper	Imprisonment not exceeding two years
Fraudulently putting any ballot or other paper into the ballot-box	Imprisonment not exceeding six months
Fraudulently taking any ballot-paper out of any polling booth	Imprisonment not exceeding six months
Forging or uttering, knowing the same to be forged, any nomination, voter's certificate, or ballot-paper	Imprisonment not exceeding two years
In any polling booth on polling day misconducting himself, or failing to obey the lawful directions of the presiding officer	Penalty not exceeding Fifty pounds, or imprisonment not exceeding one month

Table of Electoral Offences and Punishments—continued.

First Column.—Offences.	Second Column.—Punishments.
Supplying ballot-papers without authority	Imprisonment not exceeding six months
Unlawfully destroying, taking, opening, or otherwise interfering with ballot-boxes or ballot-papers	Imprisonment not exceeding six months
Voting more than once at the same election	Penalty not exceeding Fifty pounds, or imprisonment not exceeding three months
Wagering on the result of any election ...	Penalty not exceeding Fifty pounds
Wilfully defacing, mutilating, destroying, or removing, any notice, list, or other document affixed by any Returning Officer or by his authority	Penalty not exceeding Two pounds
Wilfully making any false statement in any claim, application, return, or declaration, or in answer to a question under this Act	Imprisonment not exceeding two years
Distributing any advertisement, hand-bill, or pamphlet published in contravention of section one hundred and eighty	Penalty not exceeding Fifty pounds, or imprisonment not exceeding one month
Any contravention of this Act for which no other punishment is provided	Penalty not exceeding Fifty pounds.

Prohibition of canvassing near polling booths.
Inserted by No. 26, 1905, s. 52.

182A. The following acts are, on polling day, and on all days to which the polling is adjourned, prohibited at the entrance of or within a polling booth, namely:—

- (a) Canvassing for votes ; or
- (b) Soliciting the vote of any elector ; or
- (c) Inducing any elector not to vote for any particular candidate ; or
- (d) Inducing any elector not to vote at the election.

Penalty : Twenty-five pounds.

Witness to application must satisfy himself of truth of statements.
Cf. Q., Elections Acts 1885-1905, ss. 30c, 30d.
Inserted by No. 26, 1905, s. 52.

182B. The person witnessing any claim or application to transfer or change or application for a postal vote certificate under this Act shall, if he is not personally acquainted with the facts, satisfy himself, by inquiry from the claimant or applicant, that the statements contained in the claim or application are true.

Penalty : Fifty pounds.

Failure to transmit claim.
Inserted by No. 26, 1905, s. 52.

182c. When any person has signed a claim to be enrolled as an elector, any other person who induces the claimant to let him have custody of the claim for transmission to the Electoral Registrar, and fails without just cause or excuse to transmit the claim to the Electoral Registrar, shall be guilty of a contravention of this Act.

Forging or uttering electoral papers.

182cc.—(1.) A person shall not—

- (a) forge any electoral paper, or
- (b) utter any forged electoral paper, knowing it to be forged.

Penalty : Two years' imprisonment.

(2) In this section the words "electoral paper" include any prescribed form.

Clause 30.

182d.—(1.) If an employee who is an elector notifies his employer before the polling day that he desires leave of absence to enable him to vote at any election, the employer shall, if the absence desired is necessary to enable the employee to vote at the election, allow him leave of absence without any penalty or disproportionate deduction of pay for such reasonable period not exceeding two hours as is necessary to enable the employee to vote at the election.

Employers to allow employees leave of absence to vote.

Inserted by No. 26, 1905, s. 52.

(2.) No employee shall under pretence that he intends to vote at the election, but without the *bonâ fide* intention of doing so, obtain leave of absence under this section.

(3.) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

Penalty: Five pounds.

Clause 37.

182dd.—(1.) A person shall not, without lawful authority, proof whereof shall lie upon him—

Protection of the official mark.

- (a) make any official mark on or in any paper ;
- (b) have in his possession any paper bearing any official mark ; or
- (c) make use of or have in his possession any instrument capable of making on or in any paper an official mark.

Penalty: One hundred pounds.

(2.) A person who, without the authority of the Minister, proof whereof shall lie upon him, makes on or in any ballot-paper, or on or in any paper purporting to be a ballot-paper, an official mark shall be deemed to have forged a ballot-paper, and shall be punishable accordingly.

(3.) All paper bearing an official mark, and all instruments capable of making on or in paper an official mark, made, used, or in the possession of any person without lawful authority shall be forfeited to the King, and may without warrant be seized by any member of the police force of the Commonwealth or of a State and destroyed or dealt with as prescribed.

(4.) In this section the words "official mark" mean any prescribed mark to be placed or made on or in any electoral paper, and include any mark so nearly resembling an official mark as to be likely to deceive.

183. Whoever in any polling booth on polling day misconducts himself, or fails to obey the lawful directions of the presiding officer, may be removed from the polling booth by any constable or by any person authorized by the presiding officer.

Offender may be removed from polling booth.
W.A. 1899,
No. 20 s. 135.
S.A. 1896,
No. 667 s. 164.

184. Any person so removed re-entering or attempting to re-enter the polling booth without the permission of the presiding officer shall be guilty of a further electoral offence, punishable on conviction by twice the penalties prescribed in the table for the original offence.

Further punishment.
W.A. ib. s. 136.
S.A. ib. s. 165.

185. Any person incurring or authorizing any electoral expense on behalf of a candidate without the written authority of the candidate or of his agent authorized in writing shall be guilty of a contravention of this Act.

Expenditure on behalf of a candidate.

Liability for indirect acts.
W.A. 1899, No. 20, s. 140.
S.A. 1896, No. 667, s. 169.
Attempts

186. Every person shall be liable for an illegal practice committed directly or indirectly by himself, or by any other person on his behalf, and with his knowledge or authority.

187. Any attempt to commit an offence against this Act shall be an offence against this Act punishable as if the offence had been committed.

Certificate evidence.
W.A. ib. s. 141.
S.A. ib. s. 170.

188. On any prosecution under this Act the certificate of the Chief Electoral Officer for the Commonwealth, Commonwealth Electoral Officer for a State, or Returning Officer that the election mentioned in the certificate was duly held and that the person named in the certificate was a candidate at the election shall be evidence of the matter stated.

Hard labour may be awarded.

189. Where imprisonment may be awarded for an offence against this Act it may be awarded with or without hard labour.

Indictable offences.

190. Offences against this Act punishable by imprisonment exceeding one year are indictable offences.

Summary conviction.

191. All offences against this Act which are not indictable offences shall be punishable on summary conviction.

PART XVI.—COURT OF DISPUTED RETURNS.

Division 1.—Disputed Elections and Returns.

Method of disputing elections.

192. The validity of any election or return may be disputed by petition addressed to the Court of Disputed Returns and not otherwise.

Choice under s. 15 of Constitution to be an Election.
Added by No. 10, 1907, s. 5.

The choice of a person to hold the place of a Senator by the Houses of Parliament of a State or the appointment of a person to hold the place of a Senator by the Governor of a State under section fifteen of the Constitution shall be deemed to be an election within the meaning of this section.

The Court of Disputed Returns.

193.—(1.) The High Court shall be the Court of Disputed Returns, and shall have jurisdiction either to try the petition or to refer it for trial to the Supreme Court of the State in which the election was held or return made.

(2.) When a petition has been so referred for trial to the Supreme Court of a State, that Court shall have jurisdiction to try the petition, and shall in respect of the petition be and have all the powers and functions of the Court of Disputed Returns.

Sub-sec. (3) omitted by No. 26, 1905, s. 53.

* * * * *

(4.) The jurisdiction of the High Court or of the Supreme Court of a State sitting as a Court of Disputed Returns, or in the exercise of powers conferred by this section, may be exercised by a single Justice or Judge.

Requisites of petition.

194. Every petition disputing an election or return in this Part of this Act called the petition shall—

(a) Set out the facts relied on to invalidate the election or return;

- (b) Contain a prayer asking for the relief the petitioner claims to be entitled to :
- (c) Be signed by a candidate at the election in dispute or by a person who was qualified to vote thereat :
- (d) Be attested by two witnesses whose occupations and addresses are stated :
- (e) Be filed in the Principal Registry of the High Court or in the District Registry of that Court in the capital city of the State in which the election was held within forty days after the return of the writ ; or (if the facts relied on in support of the petition are breaches by a candidate of the provisions of Part XIV. of this Act) within forty days after the filing by the candidate of the return of his electoral expenses.

Amended by
No. 26, 1905,
s. 54.

195. At the time of filing the petition the petitioner shall deposit with the Principal Registrar or District Registrar (as the case may be) of the High Court the sum of Fifty pounds as security for costs.

Deposit as
security for
costs.

196. No proceedings shall be had on the petition unless the requirements of the preceding sections are complied with.

No proceeding
unless requisites
complied with.

197.—(1.) The Court of Disputed Returns shall sit as an open Court and its powers shall include the following :—

Powers of Court.

- (i.) To adjourn :
- (ii.) To compel the attendance of witnesses and the production of documents :
- (iii.) To examine witnesses on oath :
- (iv.) To declare that any person who was returned as elected was not duly elected :
- (v.) To declare any candidate duly elected who was not returned as elected :
- (vi.) To declare any election absolutely void :
- (vii.) To dismiss or uphold the petition in whole or in part :
- (viii.) To award costs :
- (ix.) To punish any contempt of its authority by fine or imprisonment.

(2.) The Court may exercise all or any of its powers under this section on such grounds as the Court in its discretion thinks just and sufficient.

Added by
No. 26, 1905,
s. 55.

(3.) Without limiting the powers conferred by this section, it is hereby declared that the power of the Court to declare that any person who was returned as elected was not duly elected, or to declare an election absolutely void, may be exercised on the ground that illegal practices were committed in connexion with the election.

Added by
No. 26, 1905,
s. 55.

198. The Court shall inquire whether or not the petition is duly signed, and so far as Rolls and voting are concerned may inquire into the identity of persons, and whether their votes were improperly admitted or rejected, assuming the Roll to be correct ; but the Court shall not inquire into the correctness of any Roll.

Inquiries by
Court.
W.A. 1899,
No. 20 s. 148
S.A. 1896,
No. 667 s. 184.

Voiding
election for
illegal
practices.

Inserted by
No. 26, 1905,
s. 56.

193A.—(1.) If the Court of Disputed Returns finds that a candidate has committed or has attempted to commit bribery or undue influence, his election, if he is a successful candidate, shall be declared void.

(2.) No finding by the Court of Disputed Returns shall bar or prejudice any prosecution for any illegal practice.

(3.) The Court of Disputed Returns shall not declare that any person returned as elected was not duly elected, or declare any election void—

(a) on the ground of any illegal practice committed by any person other than the candidate and without his knowledge or authority; or

(b) on the ground of any illegal practice other than bribery or corruption or attempted bribery or corruption,

unless the Court is satisfied that the result of the election was likely to be affected, and that it is just that the candidate should be declared not to be duly elected or that the election should be declared void.

Court to report
cases of illegal
practices.

Inserted by
No. 26, 1905,
s. 56.

198B. When the Court of Disputed Returns finds that any person has committed an illegal practice, the Principal Registrar or District Registrar of the High Court shall forthwith report the finding to the Minister.

Real justice to
be observed.
W.A. 1899, No.
20 s. 149.

199. The Court shall be guided by the substantial merits and good conscience of each case without regard to legal forms or technicalities, or whether the evidence before it is in accordance with the law of evidence or not.

Immaterial
errors not to
vitate election.
W.A. ib. s. 150.
S.A. 1896, No.
667, s. 186.

200. No election shall be avoided on account of any delay in the declaration of nominations, the polling, or the return of the writ, or on account of the absence or error of any officer which shall not be proved to have affected the result of the election.

Decisions to be
final.
W.A. ib. s. 151.

201. All decisions of the Court shall be final and conclusive without appeal, and shall not be questioned in any way.

Copies of
petition minutes
of proceedings
and order of
Court to be sent
to House
affected.

202. The Principal Registrar or District Registrar of the High Court shall forthwith after the filing of the petition forward to the Clerk of the House of the Parliament affected by the petition a copy of the petition, and after the trial of the petition shall forthwith forward to such Clerk a copy of the order of the Court.

Counsel or
solicitor.
Inserted by
No. 26, 1905,
s. 57.

202A.—(1.) No party to the petition shall, except by consent of all parties, or by leave of the Court, be represented by counsel or solicitor.

(2.) In no case shall more than one counsel or one solicitor appear on behalf of any party.

Costs.
Inserted by
No. 26, 1905,
s. 57.

202B. The Court may award costs against an unsuccessful party to the petition.

Provided that the amount of costs to be paid by any party shall in no case exceed the sum of One hundred pounds.

203. If costs are awarded to any party against the petitioner, the deposit shall be applicable in payment of the sum ordered, but otherwise the deposit shall be repaid to the petitioner.

Deposit applicable for costs.

W.A. 1899, No. 20 s. 154.

S.A. 1896, No. 667 s. 190.

Other costs. W.A. ib. s. 155.

204. All other costs awarded by the Court, including any balance above the deposit payable by the petitioner, shall be recoverable as if the order of the Court were a judgment of the High Court of Australia, and such order, certified by the Court, may be entered as a judgment of the High Court of Australia, and enforced accordingly.

205. Effect shall be given to any decision of the Court as follows:—

Effect of decision.

W.A. ib. s. 156.

S.A. ib. s. 192.

- (i.) If any person returned is declared not to have been duly elected, he shall cease to be a Senator or Member of the House of Representatives;
- (ii.) If any person not returned is declared to have been duly elected, he may take his seat accordingly;
- (iii.) If any election is declared absolutely void a new election shall be held.

206. The Justices of the High Court or a majority of them may make Rules of Court not inconsistent with this Act for carrying this Part of this Act into effect and in particular for regulating the practice and procedure of the Court the forms to be used and the fees to be paid by parties.

Power to make rules of Court. Amended by No. 26, 1905, s. 58.

Every Rule of Court made in pursuance of this section shall be laid before the Senate and the House of Representatives within forty days next after it is made if the Parliament is then sitting, or if the Parliament is not then sitting then within forty days after the next meeting of the Parliament; and if an Address is presented to the Governor-General by either House of the Parliament within the next subsequent forty sitting days of the House praying that any such rule may be annulled the Governor-General may thereupon annul the same; and the rule so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which have in the meantime been taken under it.

To be laid before the Parliament.

Division 2.—Qualifications and Vacancies.

206AA. Any question respecting the qualification of a Senator or of a Member of the House of Representatives or respecting a vacancy in either House of the Parliament may be referred by resolution to the Court of Disputed Returns by the House in which the question arises and the Court of Disputed Returns shall thereupon have jurisdiction to hear and determine the question.

Reference of question as to qualification or vacancy.

Inserted by No. 10, 1907, s. 6.

206BB. When any question is referred to the Court of Disputed Returns under this part of this Act, the President if the question arises in the Senate, or the Speaker if the question arises in the House of Representatives, shall transmit to the Court of Disputed Returns a statement of the question upon which the determination of the Court is desired, together with any proceedings, papers, reports, or documents relating to the question in the possession of the House in which the question arises.

President or Speaker to State case.

Inserted by No. 10, 1907, s. 6.

Parties to the
reference.

Inserted by No.
10, 1907, s. 6.

206cc. The Court of Disputed Returns may allow any person who in the opinion of the Court is interested in the determination of any question referred to it under this part of this Act to be heard on the hearing of the reference, or may direct notice of the reference to be served on any person, and any person so allowed to be heard or so directed to be served shall be deemed to be a party to the reference.

Power of Court.

Inserted by No.
10, 1907, s. 6.

206dd. On the hearing of any reference under this part of this Act the Court of Disputed Returns shall sit as an open Court and shall have the powers conferred by section one hundred and ninety-seven of this Act so far as they are applicable, and in addition thereto shall have power—

(a) to declare that any person was not qualified to be a Senator or a Member of the House of Representatives ;

(b) to declare that any person was not capable of being chosen or of sitting as a Senator or a Member of the House of Representatives ;

(c) to declare that there is a vacancy in the Senate or in the House of Representatives.

Order to be sent
to House
affected.

Inserted by No.
10, 1907, s. 6.

206E. After the hearing and determination of any reference under this part of this Act the Principal Registrar or District Registrar of the High Court shall forthwith forward to the Clerk of the House by which the question has been referred a copy of the order or declaration of the Court of Disputed Returns.

Application of
certain sections.

Inserted by No.
10, 1907, s. 6.

206F. The provisions of sections one hundred and ninety-nine two hundred and one two hundred and two A two hundred and two B two hundred and four two hundred and five and two hundred and six shall apply so far as applicable to proceedings on a reference to the Court of Disputed Returns under this part of this Act.

PART XVII.—MISCELLANEOUS.

Disqualification
for bribery or
undue influence.

Inserted by
No. 26, 1905,
s. 59.

206A. Any person who—

(a) is convicted of bribery or undue influence, or of attempted bribery or undue influence, at an election ; or

(b) is found by the Court of Disputed Returns to have committed or attempted to commit bribery or undue influence when a candidate ;

shall, during a period of two years from the date of the conviction or finding, be incapable of being chosen or of sitting as a Member of either House of the Parliament.

Gifts by candi-
date.

Inserted by
No. 26, 1905,
s. 59.

206B.—(1.) Any person who having announced himself within three months before the day of election as a candidate for election to the Parliament, shall before the poll for the election is closed offer promise or give directly or indirectly to or for any club or other association, any gift, donation, or prize, shall be guilty of an offence against this section.

Penalty: Five pounds, in addition to any other penalty provided by law.

(2.) No proceedings shall be taken for a contravention of this section except within three months after the act complained of.

206c.—(1.) Any person who makes or publishes any false and defamatory statement in relation to the personal character or conduct of a candidate shall be guilty of an offence against this Act, and shall be liable on conviction to a penalty of One hundred pounds or six months' imprisonment.

Defamation of candidate.
Inserted by
No. 26, 1905,
s. 59.

Provided always that it shall be a defence to a prosecution for an offence against this sub-section if the defendant proves that he had reasonable ground for believing and did in fact believe the statement made or published by him to be true.

(2.) Any person who makes a false and defamatory statement in relation to the personal character or conduct of a candidate in contravention of this section may be restrained by injunction at the suit of the candidate aggrieved, from repeating the statement or any similar false and defamatory statement.

206d. Telegrams relating to elections and containing only the names of divisions, names of candidates, and the numbers of votes polled for each candidate, and lodged for transmission on the day of or before noon on the day after the day of election may, subject to regulations, be transmitted on payment of the rates prescribed in the Second Part of the Second Schedule to the *Post and Telegraph Rates Act 1902*.

Rates of telegrams.
Inserted by
No. 26, 1905,
s. 59.

207. All electoral papers provided for by this Act may be transmitted through the post free of charge, subject to any postal regulations, and all papers so transmitted, if duly addressed, shall, on proof of posting, unless the contrary be shown, be deemed to have been duly served on and received by the person to whom they were addressed on the day when in the ordinary course of post they should have been received at his address.

Electoral matter to be sent free by post.
S.A. 1896,
No. 667 s. 193.

207A.—(1.) Every electoral paper which by this Act or the regulations has to be signed by any person shall be signed by that person with his personal signature.

Signature to electoral paper

(2.) Where a person who is unable to sign his name in writing makes his mark as his signature to an electoral paper, the mark shall be deemed to be his personal signature, if it is identifiable as such, and is made in the presence of a witness who signs the electoral paper as such witness.

Clause 32.

Provided that nothing in this section shall authorize any person to sign any electoral paper by a mark or otherwise than in his own handwriting in cases where the Act or the regulations require him to sign the electoral paper in his own handwriting.

(3.) A person shall not make the signature of any other person on an electoral paper.

Penalty : Fifty pounds.

(4.) Sub-section (3) of this section shall not affect the liability of any person to be proceeded against for forgery, but so that he shall not be liable to be punished twice in respect of the same offence.

(5.) In this section the words "electoral paper" include any prescribed form.

Electoral matter
may be sent by
telegraph.
See S.A. 1896,
No. 667 s. 194.

208. In all cases where it is impracticable to communicate any electoral matter by post without occasioning undue delay, any telegraphic advice communicated in the ordinary course shall suffice for all the purposes of this Act as if the matter telegraphed had been communicated in manner provided by this Act.

Forms.

Substituted
by No. 26, 1905,
s. 60.

209.—(1.) Strict compliance with the forms in the Schedule shall not be required, and substantial compliance therewith shall suffice for the purposes of this Act.

(2.) The forms in the Schedule may, subject to the provisions of this Act, be altered by the regulations.

Combined
forms.

(3.) The regulations may prescribe combined forms containing the substance of any two or more forms to the intent that the combined form may be used in lieu of any of those forms. *Clause 33.*

Use of repealed
forms.

(4.) The regulations may permit the use of any repealed form for any prescribed period, notwithstanding that a new form has been prescribed in lieu of it, and without any alteration or witnessing further than is provided for in the repealed form.

Regulations.

210.—(1.) The Governor-General may make regulations for carrying out this Act.

(2.) All such regulations shall be notified in the *Gazette*, and shall thereupon have the force of law.

(3.) All such regulations shall be laid before both Houses of the Parliament within thirty days after the making thereof if the Parliament is then sitting, and if not then within thirty days after the next meeting of the Parliament.

THE SCHEDULE.

* * * * *

Form A
repealed;
No. 26, 1905,
s. 61.

Clause 34.

FORM B.

THE COMMONWEALTH OF AUSTRALIA.

The Commonwealth Electoral Acts 1902-1905.

Electoral Claim.

State of [here insert name of State].

Division of [here insert name of Division].

I claim to have my name placed on the Electoral Roll for Polling
Place [or Subdivision] for the above Division.1. I am a [here insert natural-born or naturalized as the case may be] subject of
the King.

2. I am not under twenty-one years of age.

3. I am an inhabitant of Australia and have lived therein for six months, and
live in the above Division.

4. My name is not, to the best of my knowledge, on any Electoral Roll.

Dated the day of 19 .

Surname—

Christian names at full length—

Sex—

Place of living—

Occupation—

Usual signature

Section 58.

Substituted
by No. 26, 1905,
s. 61.

Clause 34.

FORM C.

COMMONWEALTH OF AUSTRALIA.

The Commonwealth Electoral Acts 1902-1905.

Application to Transfer.

Surname—

Christian name at full length—

Sex—

Present place of living—

Occupation—

formerly living at [here insert place] in the State of [here insert name of State] and
 enrolled for Polling Place [or Subdivision] having *bona fide* changed
 my place of living, and lived within the Division of [here insert name of Division] for
 not less than one month, do hereby claim to have my name transferred to the electoral
 roll for Polling Place [or Subdivision] for the Division of [here insert
 name of Division] in the State of [here insert name of State].

Dated this day of 19 .

[Signature].

I, , an elector of the Commonwealth, enrolled for
 Polling Place [or Subdivision] in the Division of , certify that I have
 seen the above-named applicant sign the above application, and that I am satisfied
 that the statements therein contained are true.

Witness to signature—

NOTE.—Any person who witnesses the signature of the applicant without being
 personally acquainted with the facts or satisfying himself by inquiry from the appli-
 cant or otherwise that the statements contained in the application are true, is guilty
 of an offence and liable to a penalty of £50.

Section 72.

FORM D.

Clause 34.

COMMONWEALTH OF AUSTRALIA.

The Commonwealth Electoral Act 1902.

Notice of Objection.

I object to the name of [here insert the name, place of living, and occupation of person objected to, as in the roll] being retained on the electoral roll for the Division of [here insert name of Division] in the State of [here insert name of State] on the ground that [here state grounds of objection].

Dated this day of 19 .

(Signed) A.B., of [here state address and occupation of objector].

Forms E and
F repealed;
No. 26, 1905,
s. 61.

* * * * *

Section 86.
Substituted
by No. 26, 1905,
s. 61.

FORM G.

Writ for the Election of Senators.

COMMONWEALTH



OF AUSTRALIA.

HIS MAJESTY THE KING

To the Commonwealth Electoral Officer for the
State [here insert name of State].

GREETING.

We command you to cause election to be made according to law of [here insert number] Senators for our State of [here insert name of State] to serve in the Senate of the Parliament of the Commonwealth of Australia from and after [here insert "the date of their election" or "the day of 19 " as the case may be]. And we appoint the day of 19 , at twelve o'clock noon to be the day and time before which nominations of Senators at and for the said election are to be made. And we appoint the day of 19 , to be the day on which the poll is to be taken in the event of the said election being contested. And we appoint [here insert name of building] at [here insert name of town] to be the place of nomination at the said election. And we command you to indorse on this our writ the names of the Senators elected and to return it so indorsed to our Governor in and over our said State on or before the day of 19 .

Witness [here insert the title of the Governor of the State issuing the writ] at [here insert place] in our said State the day of in the year of our Lord One thousand nine hundred and .

By His Excellency's command,

47

Section 86.

FORM H.

Writ for the Election of a Member of the House of Representatives.

COMMONWEALTH



OF AUSTRALIA.

HIS MAJESTY THE KING

To Returning Officer for the Electoral Division of [*here insert name of Division*] in the State of [*here insert name of State*].

GREETING.

We command you that you cause election to be made according to law of one Member of the House of Representatives for the Electoral Division of [*here insert name of Division*], in the State of [*here insert name of State*], to serve in the Parliament of our Commonwealth of Australia, and we appoint the following dates for the purposes of the said election:—

1. For nomination the day of 19 . . .
2. For taking the poll at the different polling-places in the event of the election being contested the day of 19 . . .
3. For the return of the writ on or before the day of 19 . . .

Witness [*here insert the Governor-General's title*] at [*here insert place*] the day of in the year of our Lord One thousand nine hundred and

By His Excellency's command,

FORM I.

Section 99.

COMMONWEALTH OF AUSTRALIA.

State of [*here insert name of State*].

Nomination of Senator.

To the Commonwealth Electoral Officer for the State of [*here insert name of State*].

We, the undersigned electors on the Electoral Roll for the State of [*here insert name of State*], do hereby nominate [*here insert the Christian name, surname, residence, and occupation of the person nominated*] as a Senator for the State of [*here insert name of State*] to serve in the Senate of the Parliament of the Commonwealth, from and after the day of 19 . . .

Dated the day of 19 . . .

Signatures of Nominators.	Places of Living.	Polling Places.	Number on Roll.

I, of consent to the above nomination, and to act if elected.

Witness—

[*Signature of Candidate*].

Address—

N.B.—The Candidate's consent to the nomination may be on a separate paper and in any form, but if given on the nomination paper in the above form its sufficiency is not to be questioned.

Section 99.
Substituted
by No. 26, 1905,
s. 61.

FORM J.

COMMONWEALTH OF AUSTRALIA.

State of [here insert name of State].

Division of [here insert name of Division].

Nomination of a Member of the House of Representatives.

To the Returning Officer for the Electoral Division of [here insert name of Division].

We, the undersigned electors on the Electoral Roll for the Electoral Division of [here insert name of Division], in the State of [here insert name of State], do hereby nominate [Christian name, surname, residence, and occupation of person nominated] as a Member of the House of Representatives for the above Division.

Dated the day of 19 .

Signatures of Nominators.	Place of Living.	Polling Places.	Number on Roll.

I, of consent to the above nomination, and to act if elected.

Witness—

[Signature of Candidate].



Address—

N.B.—The Candidate's consent to the nomination may be on a separate paper and in any form, but if given on the nomination paper in the above form its sufficiency is not to be questioned.

Section 109.
Substituted
by No. 26, 1905,
s. 61.

FORM K.

Clause 34.

The Commonwealth Electoral Acts 1902-1905.

Application for a Postal Vote Certificate.

State of [here insert name of State].

To the Returning Officer, Electoral Division of [here insert name of Division].

I [here state Christian names, surname, place of living, and occupation] hereby apply for a Postal Vote Certificate.

1. I am an elector on the Electoral Roll for the Division of [here insert name of Division] to vote at [here insert name of polling place].

2. The ground on which I apply for the Certificate is—

(a) that I have reason to believe that I will not, on polling day, be within seven miles of the above polling place. My reasons for this belief are:—

.....
.....

49

- (b) that, being a woman, I will, on account of ill-health, be unable on polling day to attend the polling place to vote ;
- (c) that I will be prevented by serious illness or infirmity from attending the polling place on polling day.

NOTE.—The elector will rule out any two of the above grounds which do not apply to his or her particular case, as only one ground is necessary for the application.

3. I request that a Postal Vote Certificate and a Postal Ballot-paper for the Senate and the House of Representatives, or either, as may be required, may be forwarded to me at [here state address to which the papers are to be forwarded].

Dated this day of 19 .

[Signature].

Signed in the presence of—

[Authorized witness to sign here and insert his title].

N.B.—Any one of the following persons is an authorized witness, namely:—

[The persons who are authorized witnesses within the meaning of this Act to be enumerated here].

109B. No authorized witness shall—

- (a) witness the signature of any elector to an application for a postal vote certificate unless the elector is personally known to him ; or
- (b) witness the signature of any elector to any application or form of application for a postal vote certificate, unless he has seen the elector sign the application or form of application in his own handwriting.

Duty of authorized witness as to applications.

Penalty: Fifty pounds, or one month's imprisonment.

182B. The person witnessing any application for a postal vote certificate under this Act shall, if he is not personally acquainted with the facts, satisfy himself, by inquiry from the applicant, that the statements contained in the application are true.

Witness to application must satisfy himself of truth of statements.
Cf. Q., Elections Acts 1885-1905, ss. 30c, 30d.

Penalty: Fifty pounds.

Clause 34.

FORM L.

Section 110.

The Commonwealth Electoral Act 1902.

POSTAL VOTE CERTIFICATE.

Electoral Division of [here insert name of Division].

I hereby certify that of is entitled to vote at the election for [here insert purpose for which the election is to be held] to be held on the day of 19 .

Dated this day of 19 .

(Signed)—

Returning Officer.

Clause 34.

FORM M.

Section 110.

COMMONWEALTH OF AUSTRALIA.

State of [here insert name of State].

Election of [here insert number to be elected] Senators.

Postal Ballot-paper

INSTRUCTIONS TO ELECTOR.

(a) The elector shall exhibit his postal ballot-paper (in blank) and his postal vote certificate to an authorized witness ;

(b) The elector shall then mark his vote by writing the name of the candidate or candidates for whom he votes on the ballot-paper in the presence of the authorized witness, but so that the witness cannot see the vote.

Substituted by No. 26, 1905, s. 61.

(c) If the elector's sight is so impaired that he cannot vote without assistance, the authorized witness, if so requested by the elector, may mark his vote on the ballot-paper.

(d) The elector shall then fold the ballot-paper and fasten margin to margin.

(e) The elector shall then sign his name in his own handwriting on the counterfoil, in the place provided for the signature of the voter.

(f) The authorized witness shall then sign his name in his own handwriting in the place provided for the signature of the witness, and shall add his occupation and place of living, and the date.

(g) The elector shall then place the ballot-paper with the counterfoil attached into the envelope addressed to the Returning Officer, and fasten the envelope, and hand it to the authorized witness for posting.

N.B.—The elector must vote for the full number of candidates to be elected but not for any greater number.

INSTRUCTIONS TO AUTHORIZED WITNESS.

The authorized witness shall—

- (a) see that the above directions are substantially complied with;
- (b) refrain from looking at the vote given by the elector except where the elector's sight is so impaired that he cannot vote without assistance, and the elector requests his assistance;
- (c) not disclose any knowledge officially acquired by him touching the vote of the elector; and
- (d) forthwith post the envelope containing the postal ballot-paper.

Penalty: One hundred pounds, or three months' imprisonment.

AUTHORIZED WITNESSES.

Any one of the following persons is an authorized witness, namely:—

[The persons who are authorized witnesses within the meaning of this Act to be enumerated here].

COUNTERFOIL.

No.—

Signature of Voter—

Witness—

[Authorized witness to sign here and insert his title].

BALLOT-PAPER.

FORM N.

COMMONWEALTH OF AUSTRALIA.

State of *[here insert name of State]*.

Electoral Division of *[here insert name of Division]*.

Election of one Member of the House of Representatives.

Postal Ballot-paper.

INSTRUCTIONS TO ELECTOR.

(a) The elector shall exhibit his postal ballot-paper (in blank) and his postal vote certificate to an authorized witness.

(b) The elector shall then mark his vote by writing the name of the candidate for whom he votes on the ballot-paper in the presence of the authorized witness, but so that the witness cannot see his vote.

(c) If the elector's sight is so impaired that he cannot vote without assistance, the authorized witness, if so requested by the elector, may mark his vote on the ballot-paper.

- (d) The elector shall then fold the ballot-paper and fasten margin to margin.
 (e) The elector shall then sign his name in his own handwriting on the counterfoil, in the place provided for the signature of the voter.
 (f) The authorized witness shall then sign his name in his own handwriting in the place provided for the signature of the witness, and shall add his occupation and place of living, and the date.
 (g) The elector shall then place the ballot-paper with the counterfoil attached into the envelope addressed to the Returning Officer, and fasten the envelope, and hand it to the authorized witness for posting.

INSTRUCTIONS TO AUTHORIZED WITNESS.

The authorized witness shall—

- (a) see that the above directions are substantially complied with;
 (b) refrain from looking at the vote given by the elector except where the elector's sight is so impaired that he cannot vote without assistance, and the elector requests his assistance;
 (c) not disclose any knowledge officially acquired by him touching the vote of the elector; and
 (d) forthwith post the envelope containing the postal ballot-paper.

Penalty: One hundred pounds, or three months' imprisonment.

AUTHORIZED WITNESSES.

Any one of the following persons is an authorized witness, namely:

[The persons who are authorized witnesses within the meaning of this Act to be enumerated here].

COUNTERFOIL.

No.—
 Signature of Voter—
 Witness—

[Authorized witness to sign here and insert his title].

BALLOT-PAPER

FORM O.

COMMONWEALTH OF AUSTRALIA.

Ballot-paper.

State of [here insert name of State].

Election of [here insert number] Senators.

Directions.—The elector should mark his vote on this ballot-paper by making a cross in the square opposite the name of each candidate for whom he votes. He must vote for the full number of candidates to be elected.

CANDIDATES.

- | | |
|--------------------------|---------------------------------|
| <input type="checkbox"/> | BRADY, SAMUEL. |
| <input type="checkbox"/> | CARTER, WILLIAM. |
| <input type="checkbox"/> | DAVIS, CHARLES. |
| <input type="checkbox"/> | JONES, HENRY. |
| <input type="checkbox"/> | KING, JAMES. |
| <input type="checkbox"/> | SMITH, JOHN. |
| <input type="checkbox"/> | WILLIAMS, BENJAMIN (AUBURN). |
| <input type="checkbox"/> | WILLIAMS, BENJAMIN (ST. KILDA). |

Section 131.
 Substituted
 by No. 26, 1905
 s. 61.

Section 132.
Substituted
by No. 26, 1905,
s. 61.

FORM P.

Ballot-paper.

COMMONWEALTH OF AUSTRALIA.

State of *[here insert name of State]*.

Electoral Division of *[here insert name of Division]*.

Election of one Member of the House of Representatives.

Directions.—The elector should mark his vote on this ballot-paper by making a cross in the square opposite the name of the candidate for whom he votes.

CANDIDATES.

- ☐ BROOKMAN, JOHN.
☐ CRANE, JOSEPH.
☐ FRENCH, CHARLES.
☐ KING, WILLIAM.
☐ WILSON, HENRY.

Section 139.

FORM Q.

Clause 34.

FORM OF DECLARATION TO BE SIGNED BY A VOTER BEFORE VOTING AT ANY POLLING PLACE OTHER THAN THE POLLING PLACE FOR WHICH HE IS ENROLLED.

Polling Place.

I declare that I am the person whose name appears as No. *[here insert number on Roll and name of elector]* on the Electoral Roll for the Electoral Division of *[here insert name of Division]*, and that I have not voted either here or at any other polling place at this election, and I promise that if I am permitted to vote here, I will not vote at this election at any other polling place.

Signature of Elector—

Place of living—

Occupation—

Declared before me this

day of

19

Presiding Officer—

Clause 34 and
Schedule.

Form Q.

Section 139.

COMMONWEALTH OF AUSTRALIA.

The Commonwealth Electoral Acts.

Form of Declaration to be signed by a Voter before voting at any Polling Place other than the Polling Place for which he is enrolled (or a prescribed Polling Place for the Subdivision for which he is enrolled).

I declare that I am the person enrolled as—

Surname.	Christian Names at Full Length.	Place of Living.	Occupation.

on the Electoral Roll for the Division of _____ **Polling Place (or Subdivision) of the** _____ **, and that I have not voted at either this or any other Polling Place, or by post at this election, and I promise and declare that if I am permitted to vote at this Polling Place I will not vote elsewhere at this election.**

Signature of Elector—

Declared before me this

day of

19

at

Polling Place.

Presiding Officer—

FORM R.

COMMONWEALTH OF AUSTRALIA.

State of

The Commonwealth Electoral Acts 1902-1905.

Return of Electoral Expenses.

Section 172.

Substituted
by No. 26, 1905,
s. 61.

I, * _____ a candidate at the election *
of _____ held on the † _____ day of _____ 19 _____
(in the State of _____, or in the Electoral Division of _____ in
the State of _____, as the case requires), make the following
return respecting my electoral expenses at the election:—

Expenditure.

£ s. d.

(1) * Paid for purchasing electoral Rolls

* The names of persons to whom the money is paid and the sum paid to each must be set out separately.

(2) † Paid for printing, advertising, publishing, issuing, and distributing addresses by me as candidate, and notices of meetings ..

† The name and description and the nature of the work done by each person to whom any payment is made must be set out separately.

Expenditure—continued.

† The name, occupation, and address of each person to whom any sum is paid and the reason for which it was paid to him must be set out separately.

(3) † Paid for stationery, messages, postages, and telegrams

§ The name, occupation, and address of each person to whom any sum is paid and the reason for which it was paid to him must be set out separately.

(4) § Paid for committee rooms

|| The name, occupation, and address of each person to whom any sum is paid and the reason for which it was paid to him must be set out separately.

(5) || Paid for public meetings and halls therefor

¶ The name of each scrutineer, the name of the polling-place at which he was employed, and the sum paid to him must be set out separately.

(6) ¶ Paid for scrutineers

The name, occupation, and address of each person of whose claim is disputed, the ground of the claim, and its amount must be set out separately.

In addition to the foregoing, I am aware of the following disputed and unpaid claims, viz. :—

Total

And I do solemnly and sincerely declare that this return is true in every particular, and that, except as appears by this return, I have not, and no person has with my knowledge or authority, paid any electoral expense incurred by me or on my behalf or in my interest at or in connexion with the said election, or incurred any such expense or any liability for any such expense or given or promised any reward office employment or valuable consideration on account or in respect of any such expense.

[Signature of Candidate].

Declared and subscribed before me this

day of

19 .

Justice of the Peace.