

COMMONWEALTH ELECTORAL.

No. 26 of 1905.

An Act to amend the Law relating to Parliamentary Elections.

[Assented to 21st December, 1905.]

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.

Short title and incorporation.

1. This Act may be cited as the *Commonwealth Electoral Act* 1905, and this Act and the *Commonwealth Electoral Act* 1902 (in this Act referred to as the Principal Act) shall be read together and may together be cited as the *Commonwealth Electoral Acts* 1902–1905.

2. After section one of the Principal Act the following section is inserted :—

Incorporation.

“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.”

Parts.

3. Section two of the Principal Act is repealed, and the following section substituted in lieu thereof :—

“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.
 PART XVII.—Miscellaneous.”

4. Section three of the Principal Act is amended—

Interpretation.

(a) by inserting, after the paragraph defining “Elector,” the following paragraph:—

“ ‘Electoral Registrar’ includes a Divisional Returning Officer acting as Registrar ” ;

(b) by omitting the words “for Home Affairs” and inserting in lieu thereof the words “of State administering the Act” ;

(c) by inserting, after the words “Presiding Officer,” the words “Assistant Presiding Officer, Doorkeeper” ; and

(d) by adding, at the end thereof, the words “ ‘Subdivision’ means a subdivision of a division.”

5. Section four of the Principal Act is repealed.

Repeal of s. 4 of Principal Act.

PART II.—ADMINISTRATION.

6. Section five of the Principal Act is repealed, and the following section substituted in lieu thereof:—

“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.”

Chief Electoral Officer.

7. Section nine of the Principal Act is repealed, and the following section substituted in lieu thereof:—

“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.”

Electoral Registrars.

8. Section ten of the Principal Act is amended by inserting, after the word “transfer,” the words “and such other forms as are prescribed.”

Keeping of forms.

PART III.—ELECTORAL DIVISIONS.

9. Section fifteen of the Principal Act is amended—

Quota.

(a) by omitting the words “a quota shall be ascertained in each State,” and inserting in lieu thereof the words “the Chief Electoral Officer shall, whenever necessary, ascertain a quota for each State” ; and

(b) by omitting the whole of the last paragraph, beginning with the words “until rolls are compiled.”

Matters to be considered in distribution of seats.

10. Section sixteen of the Principal Act is amended by inserting after paragraph (d) the following new paragraph—“(e) Boundaries of State Electorates.”

Notice of proposed distribution.

11. Section seventeen of the Principal Act is amended by inserting after the word “map” the words “with a description of the boundaries.”

Objections.

12. Section eighteen of the Principal Act is amended by omitting the word “publication,” and inserting in lieu thereof the words “advertisement in the *Gazette*.”

Report of Commissioner.

13. Section nineteen of the Principal Act is amended by inserting, after the words “residing in each proposed Division,” the words “as nearly as can be ascertained.”

Proclamation of names of Divisions.

14. Section twenty-one of the Principal Act is amended by adding at the end thereof the following words:—

Proviso.

“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.

15. Section twenty-two of the Principal Act is amended by adding the following sub-section:—

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

16. Section twenty-three of the Principal Act is amended by adding the following sub-section:—

“(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.

Subdivisions and polling-places.

17. The whole of Part IV. of the Principal Act is repealed, and the following Part substituted in lieu thereof:—

“PART IV.—SUBDIVISIONS AND POLLING-PLACES.

Subdivisions.

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

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

- (a) appoint a chief polling-place for each Division;
- (b) appoint such other polling-places for each Division as he thinks necessary;
- (c) abolish any polling-place;
- (d) establish a polling-place area for any specified polling-place and fix its boundaries.

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

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.

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.

18. Sections twenty-seven to fifty-four inclusive of the Principal Act are repealed, and the following sections are substituted in lieu thereof:—

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

Electoral Rolls.
Cf. ib. s. 27.

(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.

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”).

(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.

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.

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.

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.
Cf. *ib.* s. 50.

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.
Ib. s. 52.
Supplemental Rolls.
Cf. *ib.* s. 53.

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

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.
Cf. 1902, No. 19,
s. 54.

(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 infor-
mation.
Cf. ib. s. 33.

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

19. Section fifty-five of the Principal Act is amended by omitting the whole of paragraph (c).

Additions of
new names.

20. Section fifty-six of the Principal Act is repealed, and the following section is substituted in lieu thereof:—

"56. 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."

Forms of claims.

21. Section fifty-seven of the Principal Act is amended by omitting the words "the Returning Officer or Registrar," and inserting in lieu thereof the words "and the Electoral Registrar is satisfied that the claimant is entitled to be enrolled, he".

Registration
of claims.

22. Section sixty of the Principal Act is amended—

(a) by omitting the words "in the presence of a witness," and inserting in lieu thereof the words "and witnessed by an elector";

Method of
transfer.

(b) by omitting the words "Returning Officer for the Division," and inserting in lieu thereof the words "Electoral Registrar keeping the Polling-place or Subdivision Roll."

23. Section sixty-one of the Principal Act is repealed, and the following section substituted in lieu thereof:—

"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."

Registration of
transfer.

24. After section sixty-one of the Principal Act the following section is inserted :—

Change to
another polling
place or
subdivision.

“ 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, and sent to the Electoral Registrar keeping the Polling-place or Subdivision Roll to which the elector's name is to be changed.

(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.”

25. Section sixty-two of the Principal Act is repealed, and the following section substituted in lieu thereof :—

Alteration of
Rolls.

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

- (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.”

26. Section sixty-three of the Principal Act is repealed and the following section substituted in lieu thereof :—

Change to
proper Polling-
place Rolls.

“ 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.”

Time for
altering Rolls.

27. Section sixty-four of the Principal Act is amended by inserting after the word “ transfer ” the words “ or change.”

28. Section sixty-six of the Principal Act is amended by omitting the words "March, June, September, and December," and inserting in lieu thereof the words "January, April, July, and October." List of deaths to be forwarded.

PART VII.—REMOVAL OF NAMES FROM ROLLS.

29. The whole of Part VII. of the Principal Act is repealed, and the following Part substituted in lieu thereof:—

"PART VII.—REMOVAL OF NAMES FROM ROLLS.

DIVISION 1.—OBJECTIONS.

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

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. Cf. 1902, No. 19, s. 71.

68. The objection may be in the Form D in the Schedule, and shall be signed by an elector registered on the same Division Roll, or by the Returning Officer or Registrar. Objection.
Cf. ib. s. 72.

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. Duty to object.
Cf. ib. s. 73.

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. Notice of objection.
Cf. ib. s. 74.

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

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. Determination of objection.

(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; or
 - (b) whose name has been struck off a Roll by the Returning Officer upon an objection by any person,
- Appeal to Court of summary jurisdiction.

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 IX.—THE NOMINATIONS.

30. After section one hundred and five of the Principal Act the following sections are inserted :—

Withdrawal of consent to nomination.

"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.

Return of deposit in case of candidate's death.

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."

PART X.—VOTING BY POST.

31. Section one hundred and nine of the Principal Act is amended—

Application
a postal vote
certificate.

(a) by omitting the whole of paragraph (a) and inserting in lieu thereof the following paragraph:—

“(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) by omitting from paragraph (b) the words “believes that she”; and

(c) by adding at the end thereof the following sub-sections:—

“(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.

(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.”

32. After section one hundred and nine of the Principal Act the following sections are inserted:—

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

Authorized
witnesses.

(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.

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

Duty of
authorized
witness as to
applications.

- (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."

33. Section one hundred and ten of the Principal Act is repealed and the following section substituted in lieu thereof:—

Issue of
certificates and
ballot-papers.

"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."

Returning
Officer to
initial
ballot-paper.

34. Section one hundred and eleven of the Principal Act is amended by inserting after the word "initial" the words "on the back."

How vote
recorded.

35. Sections one hundred and twelve to one hundred and sixteen inclusive and section one hundred and twenty-two of the Principal Act are repealed.

36. After section one hundred and eighteen of the Principal Act the following sections are inserted:—

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

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

- (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.

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 ;
- (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.

Duty of authorized witness.
Cf. 1902, No. 19, ss. 114, 115.

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

PART XI.—THE POLLING.

37. Section one hundred and twenty-five of the Principal Act is amended by adding at the end thereof the words " unless he appoints some other person to be the presiding officer thereat."

Presiding Officers.

38. Section one hundred and twenty-six of the Principal Act is amended by adding at the end thereof the words " and shall, in respect of the exercise of those powers, be deemed to be the presiding officer."

Substitute.

39. Section one hundred and twenty-nine of the Principal Act is repealed, and the following section substituted in lieu thereof :—

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

Ballot-boxes.

40. Section one hundred and thirty of the Principal Act is amended—

Lists of voters.

(a) by inserting after the words " polling-place " the words " (or enrolled for the Subdivision, and for whom the polling-place is prescribed) " ;

(b) by omitting the word " signed," and inserting in lieu thereof the words " certified to."

41. Section one hundred and thirty-five of the Principal Act is amended by inserting after the words " Returning Officer," wherever they occur, the words " or presiding officer."

Scrutineers.

The polling.

42. Section one hundred and thirty-seven of the Principal Act is amended—

- (a) by omitting from paragraph (i) all words after the word “fasten,” and inserting in lieu thereof the words “its cover”;
- (b) by omitting from paragraph (iii) the words “the outer cover.”

Place of voting.

43. Section one hundred and thirty-nine of the Principal Act is amended by omitting sub-sections (1) and (2) and inserting in lieu thereof the following sub-section:—

- “ (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.

Questions to be put if voter challenged.

44. Section one hundred and forty-one of the Principal Act is amended by inserting after the words “this Division?” the words “(or the Division of ————— ? as the case may be).”

Spoilt ballot-papers.

45. Section one hundred and forty-nine of the Principal Act is amended by omitting the word “destroy,” and inserting in lieu thereof the words “cancel and preserve.”

46. After section one hundred and fifty-three the following section is inserted:—

Voting at adjourned polling.

“ 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.

“ (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.

47. After section one hundred and sixty-one of the Principal Act the following section is inserted:—

Re-count at Senate elections.

“ 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 re-count of the ballot-papers from any Division or portion of a Division, or of the ballot-papers contained in any parcel.”

48. After section one hundred and sixty-four of the Principal Act the following section is inserted :—

“ 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, re-count the ballot-papers contained in any parcel.” Re-count.

PART XIV.—LIMITATION OF ELECTORAL EXPENSES.

49. Section one hundred and seventy-two of the Principal Act is amended by adding the following sub-section :—

“(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.

PART XV.—ELECTORAL OFFENCES.

50. Section one hundred and seventy-four of the Principal Act is amended— Breach or neglect by officers.

- (a) by inserting in paragraph (ii.), after the words “ acquired by any officer ” the words “ or scrutineer ” ;
- (b) by omitting all words after the word “ witnesses,” in paragraph (iv.) down to the end of paragraph (v.).

51. Section one hundred and eighty of the Principal Act is amended by inserting in paragraph (a), after the word “ advertisement,” “ other than an advertisement announcing the holding of a meeting in a newspaper,” and by omitting “ and on the face of the notice the name and address of the person authorizing the notice.”

52. After section one hundred and eighty-two of the Principal Act the following sections are inserted :—

“ 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 :— Prohibition of canvassing in polling-booth.

- (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.

182B. The person witnessing any 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. Witness to application must satisfy himself of truth of statements. Cf. Q., Elections Acts 1885-1905, ss. 30c, 30d.

Penalty : Fifty pounds.

Failure to
transmit claim.

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.

Employers to
allow employees
leave of absence
to vote.

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.

(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."

PART XVI.—COURT OF DISPUTED RETURNS.

The Court of dis-
puted returns.

53. Section one hundred and ninety-three of the Principal Act is amended by omitting the whole of sub-section (3).

Requisites of
petition.

54. Section one hundred and ninety-four of the Principal Act is amended by adding at the end of paragraph (e) the words "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."

Powers of
Court.

55. Section one hundred and ninety-seven of the Principal Act is amended by adding thereto the following sub-sections :—

"(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.

(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."

56. After section one hundred and ninety-eight of the Principal Act the following sections are inserted :—

"198A.—(1.) If the Court of Disputed Returns finds that a candidate has committed or has attempted to commit bribery or undue

Voiding
election for
illegal
practices.

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.

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.”

Court to report cases of illegal practices.

57. After section two hundred and two of the Principal Act the following sections are inserted :—

“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.

Counsel or solicitor.

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

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

Costs.

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

58. Section two hundred and six of the Principal Act is amended by omitting the words “or until the High Court is established, the Governor-General.”

Power to make rules of Court.

PART XVII.—MISCELLANEOUS.

59. Before section two hundred and seven of the Principal Act the following sections are inserted :—

“206A. Any person who—

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

Disqualification for bribery or undue influence.

(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 candidate.

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.

Defamation of candidate.

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.

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.

Rates of telegrams.

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.*"

60. Section two hundred and nine of the Principal Act is repealed, and the following section substituted in lieu thereof:—

Forms.

"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."

Repeal of Forms in Schedule to Principal Act and substitution of other Forms.

61. Forms A, B, C, E, F, G, J, K, M, N, O, P, and R in the Schedule to the Principal Act are repealed, and the Forms in the Schedule to this Act are substituted in lieu thereof.

THE SCHEDULE.

FORM B.

Section 56.

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—

FORM C.

Section 59.

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 *bonâ 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 applicant or otherwise that the statements contained in the application are true, is guilty of an offence and liable to a penalty of £50.

Section 86.

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

Section 99.

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.

FORM K.

Section 109.

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:—

.....
.....

(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.

Penalty: Fifty pounds.

Witness to application must satisfy himself of truth of statements. Cf. Q., Elections Acts 1895-1905, ss. 30c, 30d.

FORM M.

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.
- (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.

Section 110.

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.

Section 131.

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.

- BRADY, SAMUEL.
- CARTER, WILLIAM.
- DAVIS, CHARLES.
- JONES, HENRY.
- KING, JAMES.
- SMITH, JOHN.
- WILLIAMS, BENJAMIN (Auburn).
- WILLIAMS, BENJAMIN (St. Kilda).

Section 132.

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.

1905.

Commonwealth Electoral.

No. 26.

121

FORM R.

Section 172.

COMMONWEALTH OF AUSTRALIA.

State of

The Commonwealth Electoral Acts 1902—1905.

Return of Electoral Expenses.

I, * _____ a candidate at the election of _____ held on the _____ day of _____ 190 _____ (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.

- | | |
|---|--|
| <p>(1) * Paid for purchasing electoral Rolls</p> | <p>* The names of persons to whom the money is paid and the sum paid to each must be set out separately.</p> |
| <p>(2)† Paid for printing, advertising, publishing, issuing, and distributing addresses by me as candidate, and notices of meetings</p> | <p>† 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.</p> |
| <p>(3)‡ Paid for stationery, messages, postages, and telegrams</p> | <p>‡ 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.</p> |
| <p>(4)§ Paid for Committee rooms</p> | <p>§ 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.</p> |
| <p>(5) Paid for public meetings and halls therefor</p> | <p> 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.</p> |

FORM R—continued.

Expenditure—continued.

£ s. d.

¶ 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.