

COMMONWEALTH ELECTORAL.

No. 27 of 1918.

An Act to Consolidate and Amend the Law relating to Parliamentary Elections and for other purposes.

[Assented to 21st November, 1918.]

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.

1. This Act may be cited as the *Commonwealth Electoral Act 1918*.

Commencement.

2. The several Parts and sections of this Act shall commence on such dates as are respectively fixed by proclamation.

Repeal.

3.—(1.) The several Parts and sections of the following Acts, namely :—the *Commonwealth Electoral Act 1902*, the *Commonwealth Electoral Act 1905*, the *Commonwealth Electoral Act 1906*, the *Disputed Elections and Qualifications Act 1907*, the *Commonwealth Electoral Act 1909*, the *Commonwealth Electoral Act 1911*; the *Commonwealth Franchise Act 1902*, and the *Electoral Divisions Act 1903*, are repealed as from such dates as are respectively fixed by proclamation.

(2.) All appointments, divisions, subdivisions, polling places, electoral rolls, regulations, notices, proceedings, and all other matters and things duly appointed, made, commenced, or done under the Acts hereby repealed and in force, current, operative, or pending at the commencement of this Act shall, subject to this Act, be of the same force or effect in all respects as if this Act had been in force when they were so appointed, made, commenced, or done, and they had been respectively appointed, made, commenced, or done hereunder.

(3.) Nothing in this Act shall affect the provisions of the *Commonwealth Electoral (War Time) Act 1917*.

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

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| Part | I.—Preliminary. |
| Part | II.—Administration. |
| Part | III.—Electoral Divisions. |
| Part | IV.—Subdivisions and Polling Places. |

- Part V.—Electoral Rolls.
 Part VI.—Qualifications and Disqualifications for Enrolment and for Voting.
 Part VII.—Enrolment.
 Part VIII.—Objections.
 Part IX.—Appeals.
 Part X.—Writs for Elections.
 Part XI.—The Nominations.
 Part XII.—Voting by Post.
 Part XIII.—The Polling.
 Part XIV.—The Scrutiny.
 Part XV.—The Return of the Writs.
 Part XVI.—Limitation of Electoral Expenses.
 Part XVII.—Electoral Offences.
 Part XVIII.—Court of Disputed Returns.
 Division 1.—Disputed Elections and Returns.
 Division 2.—Qualifications and Vacancies.
 Part XIX.—Miscellaneous.

5. In this Act unless the contrary intention appears—

Interpretation.

- “Candidate” in Parts II., XVI., and XVII. includes any person who within three months before the day of election announces himself as a candidate for election as a Member of the Senate or the House of Representatives :
- “Controller-General of Prisons” means the Controller-General or other principal officer of a State having control of the prisons and gaols of the State :
- “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 :
- “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 :
- “Officer” includes the Chief Electoral Officer for the Commonwealth, and any Commonwealth Electoral Officer for a State, Divisional Returning Officer, Assistant Returning Officer, Registrar, Presiding Officer, Substitute Presiding Officer, Assistant Presiding Officer, Poll Clerk, and Doorkeeper :
- “Registrar” means an Electoral Registrar under this Act and includes a Divisional Returning Officer acting as Registrar :
- “Registrar-General” means the Registrar-General or other Principal Officer of a State who is charged with the duty of registering deaths occurring and marriages celebrated in the State :
- “Returning Officer” includes Divisional Returning Officer and Assistant Returning Officer :
- “Roll” means an Electoral Roll under this Act :
- “Subdivision” means a subdivision of a Division.

PART II.—ADMINISTRATION.

Chief Electoral
Officer.

6. 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.

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

Divisional
Returning
Officers.

8. 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.

9.—(1.) 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 those relating to postal voting, but no Assistant Returning Officer shall be appointed in or for any portion of a Division for which less than one hundred electors are enrolled.

(2.) Where the services of an Assistant Returning Officer are required for the purpose of an election only, the appointment may be made by the Chief Electoral Officer and in such case shall terminate upon the completion of the election.

Electoral
Registrars

10. The Minister may appoint Electoral Registrars to keep the Rolls for specified Subdivisions, who shall be subject to the directions of the Divisional Returning Officer. The Divisional Returning Officer shall act as Registrar for any Subdivision of his Division for which no Registrar has been appointed, and may by virtue of his office act as Registrar for any Subdivision of his Division during the absence from duty of the Registrar for the Subdivision.

Appointment
in cases of
emergency.

11.—(1.) In the event of any vacancy occurring in the office of Divisional Returning Officer, Assistant Returning Officer or Registrar, or in the absence from duty of any such officer, the Chief Electoral Officer may appoint some person to perform the duties of the office during the period of the vacancy or absence.

(2.) Any such appointment shall be temporary only, and shall not confer on the appointee any right or claim to be permanently appointed to the position.

Date from
which
appointments
are to take
effect.

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

Candidates not
to be officers.

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

14. All Divisional Returning Officers and Registrars shall keep forms of claim for enrolment and transfer and such other forms as are prescribed, and shall without fee supply them to the public and assist the public in their proper use. Keeping of forms.

PART III.—ELECTORAL DIVISIONS.

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

16.—(1.) For the purpose of the distribution of a State into Divisions in accordance with this Act the Governor-General may appoint three Distribution Commissioners, of whom one shall be the Chief Electoral Officer or an officer having similar qualifications, and, if his services are obtainable, one shall be the Surveyor-General of the State or an officer having similar qualifications. Distribution Commissioners.

(2.) The Governor-General may appoint one of the Distribution Commissioners to be Chairman.

(3.) The Distribution Commissioners shall hold office during the pleasure of the Governor-General.

17. At all meetings of the Distribution Commissioners the Chairman, if present, shall preside, and in his absence the Distribution Commissioners present shall appoint one of their number to preside, and at all such meetings two Commissioners shall be a quorum and shall have full power to act, and in the event of an equality of votes the Chairman or presiding Commissioner shall have a casting vote in addition to his original vote. Proceedings at meetings.

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

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 for the State.

19. In making any proposed distribution of a State into Divisions the Distribution Commissioners shall give due consideration to— Matters to be considered in distribution of a State.

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

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

Notice of
proposed
distribution.

20. Before reporting on the distribution of any State into Divisions the Distribution Commissioners 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*.

Objections.

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

Report of
Distribution
Commissioners.

22. The Distribution Commissioners shall forthwith, after the expiration of the thirty days above mentioned, forward to the Minister their 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 them showing the boundaries of each proposed Division.

Report to be
laid before
Parliament.

23. The report and map shall be laid before both Houses of the Parliament within seven days after its receipt if the Parliament is then sitting, and, if not, then within seven days after the next meeting of the Parliament.

Proclamation of
Divisions

24.—(1.) If both Houses of the 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 :

Provided that, until the 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.

(2.) If either House of the 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 Distribution Commissioners to propose a fresh distribution of the State into Divisions.

(3.) The Distribution Commissioners shall thereupon reconsider the matter, and forthwith propose a fresh distribution, but for that purpose it shall not be necessary to cause the action provided by section twenty of this Act to be taken.

Re-distribution.

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

- (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 of the State the number of the electors differs from a quota ascertained in the manner provided in this Part to a greater extent than one-fifth more or one-fifth less ; and
 - (c) at such other times as the Governor-General thinks fit.

PART IV.—SUBDIVISIONS AND POLLING PLACES.

26. Each Division shall be divided into Subdivisions and the boundaries of each Subdivision shall be as specified by proclamation Subdivisions.

27.—(1.) The Minister may, by notice in the *Gazette*— Polling places.

- (a) appoint a chief polling place for each Division ;
- (b) appoint such other polling places for each Division as he thinks necessary ;
- (c) declare polling places to be the polling places for any specified Subdivision ; and
- (d) abolish any polling place.

(2.) No polling place shall be abolished after the issue of the writ and before the time appointed for its return.

28. When a Division is divided into Subdivisions, or the boundaries of a Division or Subdivision are altered, or a new Subdivision is proclaimed, such changes as are thereby rendered necessary for the transfer of the names of electors from one Roll to another Roll shall be made in the prescribed manner. Change of electors from one Roll to another.

PART V.—ELECTORAL ROLLS.

29.—(1.) There shall be a Roll of the electors for each State. Electoral Rolls.

(2.) Until new Rolls are prepared, the Rolls in existence at the commencement of this Act shall, as altered from time to time, be the Rolls of electors.

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

(2.) There shall be a separate Roll for each Subdivision.

(3.) All the Subdivision Rolls for a Division shall together form the Roll for the Division. Subdivision Rolls, Division Rolls, and State Rolls.

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

31. The Rolls may be in the prescribed form, and shall set out the surname, Christian names, place of living, occupation (or other prescribed particulars) and sex of each elector, and may contain such further particulars as are prescribed. Form of Rolls.

32.—(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, Arrangement with States.

jointly by 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 ; and
 - (c) other particulars in addition to the prescribed particulars ;
- and for the purposes of this Act the names, descriptions, marks, and particulars so contained shall not be deemed part of the Roll.

New Rolls.

33.—(1.) New Rolls for any Subdivisions, Divisions, or States shall be prepared whenever directed by proclamation.

(2.) The Rolls shall be prepared under a system of compulsory enrolment.

(3.) The proclamation may specify the manner in which the Rolls shall be prepared ; and may require every person entitled to enrolment on any new Roll to sign and send to the proper officer in accordance with the regulations a form of claim for enrolment and otherwise to comply with the regulations relating to compulsory enrolment :

Provided that where an elector is enrolled for the Subdivision in which he lives, in pursuance of a claim signed by him, he shall not be required to sign and send in any further claim for enrolment in connexion with the preparation of a new Roll.

**Additions, &c.,
to new Rolls.**

34. Upon the receipt by the Registrar of a new Roll for a Subdivision, the Registrar shall—

- (a) make additions, alterations, and corrections therein ; and
- (b) remove names therefrom,

pursuant to claims or notifications received by him between the date of the proclamation directing the preparation of new Rolls and the date of the notification that the Rolls have been prepared, where the additions, alterations or corrections have not already been made in, or the removals have not been made from; the Rolls.

**Objections
and notices to
have effect in
relation to new
Rolls.**

35. Where objections have been lodged or notices of objection have been issued and action in respect of those objections or notices has not been completed prior to the notification of the preparation of new Rolls, the objections or notices shall have effect in relation to the new Rolls as if such Rolls had been in existence at the time of the lodging of the objections or the issuing of the notices.

**Printing of
Rolls.**

36.—(1.) Rolls shall be printed whenever the Minister so directs.

(2.) Supplemental Rolls, setting out additions since the latest print of the Rolls, shall be prepared, and, wherever practicable printed, immediately previous to a Senate Election or a General Election for the House of Representatives, and at such other times as the Minister directs.

37.—(1.) Copies of the latest print of the Division Roll and of all supplemental prints shall be open for public inspection at the office of the Divisional Returning Officer 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.

(2.) Every Roll kept by a Registrar shall be open for public inspection without fee at the office of the Registrar at all convenient times during his ordinary office hours.

38. All officers in the service of the Commonwealth, all police, statistical, and electoral officers in the service of any State, officers in the service of any local governing body, and all occupiers of habitations shall upon application furnish to the Commonwealth Electoral Officer for the State or to any officer acting under his direction all such information as he requires in connexion with the preparation, maintenance or revision of the Rolls. Officers and others to furnish information.

PART VI.—QUALIFICATIONS AND DISQUALIFICATIONS FOR ENROLMENT AND FOR VOTING.

39.—(1.) Subject to the disqualification set out in this Part, all persons not under twenty-one years of age, whether male or female, married or unmarried— Persons entitled to enrolment and to vote.

(a) who have lived in Australia for six months continuously, and

(b) who are natural-born or naturalized subjects of the King,

shall be entitled to enrolment subject to the provisions of Part VII. of this Act.

(2.) In addition to the persons specified in the last preceding sub-section, all persons who are or have been members of the Forces within the meaning of the *Commonwealth Electoral (War Time) Act 1917* and who—

(a) have lived in Australia for six months continuously, and

(b) are natural-born or naturalized subjects of the King,

shall be entitled to enrolment subject to the provisions of Part VII. of this Act. This provision shall have effect only during the continuance of the present state of war and for a period of three years thereafter.

(3.) All persons whose names are on the roll for any Electoral Division shall, subject to this Act, be entitled to vote at elections of Members of the Senate for the State of which the Division forms part and at elections of Members of the House of Representatives

for the Division, but no person shall be entitled to vote more than once at any Senate election or any House of Representatives election, or at more than one election for the Senate or for the House of Representatives held on the same day.

(4.) No person who is of unsound mind, and no person attainted of treason, or who has been convicted and is under sentence for any offence punishable under the law of any part of the King's dominions by imprisonment for one year or longer, shall be entitled to have his name placed on or retained on any roll or to vote at any Senate election or House of Representatives election.

(5.) No aboriginal native of Australia, Asia, Africa, or the Islands of the Pacific (except New Zealand) shall be entitled to have his name placed on or retained on any roll or to vote at any Senate election or House of Representatives election unless so entitled under section forty-one of the Constitution.*

PART VII.—ENROLMENT.

Addition of names to Rolls.

40.—(1.) Names may be added to Rolls pursuant to claims for enrolment or transfer of enrolment.

(2.) A claim may be in the prescribed form, and shall be signed by the claimant with his personal signature, and attested by a prescribed person who shall sign his name as witness in his own handwriting.

Claims for enrolment or transfer of enrolment.

41.—(1.) Any person qualified for enrolment, who lives in a Subdivision, and has so lived for a period of one month last past, shall be entitled to have his name placed on the Roll for that Subdivision.

(2.) Any elector whose name is on the Roll for any Subdivision and who lives in any other Subdivision, and has so lived for a period of one month last past, shall be entitled to have his name transferred to the Roll for the Subdivision in which he lives.

(3.) No person is entitled to have his name placed on more than one Roll or upon any Roll other than the Roll for the Subdivision in which he lives.

(4.) Notwithstanding anything contained in this Act, any Senator may, if he so desires, have his name placed upon and retained upon the Roll for any Subdivision of any Division of the State which he represents instead of upon the Roll for the Subdivision in which he lives, and any Member of the House of Representatives, may, if he so desires, have his name placed upon and retained upon the Roll for any Subdivision of the Division which he represents instead of upon the Roll for the Subdivision in which he lives.

* See Section 41 of the Constitution :—

Right of electors of States.

41. No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall while the right continues be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth.

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

42.—(1.) Every person who is entitled to have his name placed on the Roll for any Subdivision whether by way of enrolment or transfer of enrolment, and whose name is not on the Roll, shall forthwith fill in and sign, in accordance with the directions printed thereon, a claim in the prescribed form, and send or deliver the claim to the Registrar for the Subdivision.

Compulsory
enrolment and
transfer.

(2.) Every person who is entitled to have his name placed on the Roll for any Subdivision whether by way of enrolment or transfer of enrolment, and whose name is not on the Roll upon the expiration of twenty-one days from the date upon which he became so entitled, or at any subsequent date while he continues to be so entitled, shall be guilty of an offence unless he proves that his non-enrolment is not in consequence of his failure to send or deliver to the Registrar for the Subdivision for which he is entitled to be enrolled, a claim in the prescribed form, duly filled in and signed in accordance with the directions printed thereon.

Penalty: For a first offence, Ten shillings; and for any subsequent offence, Two pounds.

(3.) Every person who changes his place of living from one address in the Subdivision for which he is enrolled to another address in that Subdivision, and who, at any time after the expiration of twenty-one days from the date of making the change, has failed to notify the Registrar for the Subdivision in the prescribed form of the new address, shall be guilty of an offence.

Penalty: For a first offence, Ten shillings; and for every subsequent offence, Two pounds.

43.—(1.) Upon receipt of a claim for enrolment or transfer of enrolment, the Registrar shall—

Registration of
claim.

- (a) note on the claim the date of its receipt by him; and
- (b) if the claim is in order and he is satisfied that the claimant is entitled to be enrolled, forthwith—
 - (i) enter on the Subdivision Roll the name of the claimant and the particulars relating to him; and
 - (ii) notify the claimant in the prescribed form that he has been enrolled; and
 - (iii) in the case of a transfer of enrolment give notice of the transfer to the Registrar keeping the Subdivision Roll from which the elector's name has been transferred.

(2.) The Registrar keeping the Subdivision Roll from which an elector's name has been transferred shall, upon the receipt of notice of the transfer in the prescribed form, remove the elector's name from the Roll kept by him.

Reference of
claims to
Divisional
Returning
Officer.

44.—(1.) The Registrar, on receipt of a claim, shall, if he is not satisfied that the claimant is entitled to be enrolled in pursuance of the claim forthwith—

- (a) refer the claim, with such observations as he thinks proper, to the Divisional Returning Officer for his decision, and
- (b) send to the claimant a notification in the prescribed form that the claim has been so-referred.

(2.) After the Divisional Returning Officer has made such inquiry as may be necessary to enable him to decide the claim, he shall forthwith return the claim to the Registrar, and notify the Registrar of his decision, and, if he decides to reject the claim, the reason for such decision.

(3.) If the Divisional Returning Officer decides that the claimant is entitled to enrolment pursuant to the claim, the Registrar shall forthwith enrol the claimant, and send to him a notification in the prescribed form that he has been so-enrolled.

(4.) If the Divisional Returning Officer decides that the claimant is not entitled to enrolment pursuant to the claim, the Registrar shall forthwith send to the claimant a notification in the prescribed form that his claim has been rejected, specify the reason for the rejection, and advise the claimant that he is entitled, at any time within one calendar month after the receipt of the notification, to appeal to a court of summary jurisdiction for an order directing that his name be added to the Roll.

Time for
altering Rolls.

45. Notwithstanding anything contained in either of the last two preceding sections—

- (a) claims for enrolment or transfer of enrolment which are received by the Registrar after six o'clock in the afternoon of the day of the issue of the writ for an election shall not be registered until after the close of the polling at the election; and
- (b) except by direction of the Divisional Returning Officer no name shall be removed from a Roll pursuant to a notification of transfer of enrolment received by the Registrar after six o'clock in the afternoon of the day of the issue of the writ for an election and before the close of the polling at the election.

Penalty on
officer
neglecting
to enrol
claimants.

46. Any officer who receives a claim for enrolment or transfer of enrolment and who without just excuse fails to do everything necessary on his part to be done to secure the enrolment of the claimant in pursuance of the claim shall be guilty of an offence.

Penalty: Ten pounds.

Alteration
of Rolls.

47.—(1.) In addition to other powers of alteration conferred by this Act, a Registrar may alter any Roll kept by him by—

- (a) correcting any mistake or omission in the particulars of the enrolment of an elector;

- (b) altering, on the written application of an elector, the original name, address, or occupation of the elector on the same Subdivision Roll ;
- (c) removing the name of any deceased elector ;
- (d) striking out the superfluous entry where the name of the same elector appears more than once on the same Subdivision Roll ;
- (e) reinstating any name removed by mistake as the name of a deceased elector ;
- (f) reinstating, by direction of the Divisional Returning Officer, any name removed as the result of an objection :

Provided that the Divisional Returning Officer shall not direct the reinstatement of any such name unless he is satisfied that the objection was based on a mistake as to fact and that the person objected to still retains and has continuously retained his right to the enrolment in respect of which the objection was made ;

- (g) reinstating by direction of the Divisional Returning Officer any other name removed by mistake ; and
- (h) removing a name from the Roll by direction of the Divisional Returning Officer upon the certificate of the Commonwealth Electoral Officer :

Provided that the Commonwealth Electoral Officer shall not issue such a certificate unless he is satisfied that the elector has ceased to be qualified for enrolment on that Roll and has secured enrolment on another Roll :

Provided further that where a Registrar removes any such name he shall send by post to the elector whose name is so removed notice of the fact.

(2.) Where the name of an elector has, pursuant to a claim, been incorrectly placed on the Roll for a Subdivision other than the Subdivision in which he was living at the date of the claim, and the elector was entitled on that date to have his name placed on the Roll for the Subdivision in which he was living, the Divisional Returning Officer may, where the two Subdivisions are in the same Division—

- (a) direct the Registrar keeping the Roll on which the elector is entitled to be enrolled to place the name on that Roll and to notify the elector of the change of enrolment ; and
- (b) direct the Registrar keeping the Roll on which the elector is not entitled to be enrolled to remove the name from that Roll.

(3.) No alteration pursuant to this section shall without the authority of the Divisional Returning Officer be made at any time after six o'clock in the afternoon of the day of the issue of the writ for an election and before the close of the polling at the election.

48. Every alteration of a Roll shall be made in such a manner that the original entry shall not be obliterated, and the reason for each alteration and the date thereof shall be set against the alteration, together with the initials of the Registrar.

Alterations to be initialed.

Lists of deaths
and marriages
to be
forwarded.

49. The Registrar-General shall as soon as practicable after the beginning of each month or at such other times as are arranged with the Chief Electoral Officer—

(a) forward to each Divisional Returning Officer in the State (either direct or through the Commonwealth Electoral Officer as may be arranged) a list of the names, addresses, occupations, ages, and sexes and dates of death of all persons of the age of twenty-one years or upwards whose deaths have been registered during the preceding month in respect of the Division for which the Divisional Returning Officer has been appointed ;

(b) forward to the Commonwealth Electoral Officer particulars of all marriages of women of the age of twenty-one years or upwards which have been registered in the State during the preceding month.

Lists of
convictions to
be forwarded.

50. The Controller-General of Prisons shall as soon as practicable after the beginning of each month forward to the Commonwealth Electoral Officer a list of the names, addresses, occupations, and sexes of all persons who during the preceding month have been convicted in the State and are under sentence for any offence punishable by imprisonment for one year or longer.

Officer to act on
receipt of
information.

51. The Commonwealth Electoral Officer or the Divisional Returning Officer, as the case requires, shall, upon receipt of information pursuant to the last two preceding sections, take action under this Act to effect such alterations of the Rolls as are necessary.

PART VIII.—OBJECTIONS.

Names on Roll
may be
objected to.

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

Objection.

53. The objection may be in the prescribed form, and shall be signed by an elector enrolled on the same Subdivision Roll as the person objected to, or by the Divisional Returning Officer or Registrar, or other prescribed officer.

Duty to
object.

54. It is the duty of the Divisional Returning Officer and of each Registrar or other prescribed officer 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.

55.—(1.) When an objection is made by or lodged with a Divisional Returning Officer, the Divisional Returning Officer shall forthwith give notice of the objection to the person objected to.

(2.) The notice may be in the prescribed form, and may be served by being posted to the place of abode for the time being of

the person objected to, if that place of abode is known to the Divisional Returning Officer, or, if it is not known to the Divisional Returning Officer, then to the place of living as appearing on the Roll.

(3.) Where the Divisional Returning Officer is satisfied that the ground of objection 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.

(4.) An objection on the ground that a person does not live in the Subdivision for which he is enrolled shall be deemed not to be good unless it alleges that the person objected to does not live in the Subdivision, and has not so lived for at least one month last past.

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

Answer to
objection.

57.—(1.) The Divisional Returning Officer shall determine the objection forthwith on receipt of the answer of the person objected to, or if no answer is received within a period of twenty days after the posting of the notice, then after the expiration of that period, and if it appears that the person objected to is not entitled to be enrolled on the Roll in respect of which the objection has been made, the Divisional Returning Officer shall direct the Registrar to remove the name of such person from that Roll :

Determination
of objection.

Provided that no name shall be removed from a Roll in pursuance of this section after the issue of the writ for an election and before the close of the polling at the election.

(2.) If any objection lodged by any person other than an officer is held by the Divisional Returning Officer to be frivolous, the person objected to shall be entitled to such reasonable allowance, not exceeding Five pounds, as the Divisional Returning Officer thinks fit to award.

(3.) In default of payment the sum awarded may be recovered by the person objected to in any civil court as a debt due by the objector.

PART IX.—APPEALS.

58.—(1.) Any person—

(a) who has sent or delivered to a registrar a claim for enrolment or transfer of enrolment, and who has not been enrolled pursuant thereto, or

(b) whose name has been removed from a Roll by direction of the Divisional Returning Officer pursuant to an objection,

may, at any time within one calendar month after the receipt of the notice of the rejection of the claim or of notice of the determination of the objection, as the case may be, in the prescribed manner make application to a court of summary jurisdiction, constituted by a Police, Stipendiary, or Special Magistrate, or by two or more Justices

Appeal to courts
of summary
jurisdiction.

of the Peace authorized by the Governor-General to hear and determine electoral appeals, for an order directing that his name be enrolled or reinstated on the Roll, as the case requires.

(2.) Where an objection has been determined by the Divisional Returning Officer adversely to the person objecting, that person, if not an officer, may in the prescribed manner apply to a court of summary jurisdiction, constituted as provided in the last preceding sub-section, for an order sustaining the objection.

(3.) Where the application has reference to the decision of the Divisional 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.

(5.) Any costs ordered by the court to be paid may be recovered in the same manner as the costs of any other proceeding before the court.

(6.) 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 direct the Registrar to make such entries (if any) upon the Roll as are necessary to give effect to the order.

(7.) A Police, Stipendiary, or Special Magistrate, or two or more Justices of the Peace authorized by the Governor-General to hear and determine electoral appeals, 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 and the clerk shall, for the purposes of this section, have all the powers and functions of the clerk or other proper officer of a court of summary jurisdiction.

PART X.—WRITS FOR ELECTIONS.

59.—(1.) Writs* for the election of Senators or Members of the House of Representatives may be in the Form A or Form B respectively in the Schedule, and shall fix the dates for—

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

* 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.

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 writ shall be issued within ten days of the expiry of a House of Representatives or from the proclamation of a dissolution thereof.

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.

Forms of writs.

Issue of writs.

Writs for general election.

Writs for vacancies.

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

60. Writs for the election of Senators shall be addressed to the respective Commonwealth Electoral Officers for the States for which the elections are to be held.

Address of writ
for election of
Senators.

61.—(1.) Writs for the election of Members of the House of Representatives shall be addressed to the respective Divisional Returning Officers for the Divisions for which the elections are to be held, and may be issued through the Chief Electoral Officer.

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

(2.) The Chief Electoral Officer may advise any Divisional Returning Officer by telegram of the issue of the writ for a House of Representatives election and the particulars thereof, and for the purposes of section sixty-seven of this Act the Divisional Returning Officer may act on such advice as if the writ had been received by him.

62. 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
nomination.

63. The date fixed for the polling shall not be less than seven days nor more than thirty days after the date of nomination.

Date of polling.

64. The day fixed for the polling shall be a Saturday.

Polling to be on
a Saturday.

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

Date of return
of writ.

66. 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.

General
election to be
held on same
day.

67. On the receipt of a writ the officer to whom it is directed shall indorse thereon the date of its receipt; and shall—

Duty of
Returning
Officer on receipt
of writ.

(a) in the case of a writ for a Senate election, advertise its receipt and particulars in not less than two newspapers circulating in the State, and forward a copy of the writ to each Divisional Returning Officer and Assistant Returning Officer in the State;

(b) in the case of a writ for a House of Representatives election, advertise its receipt and particulars in not less than two newspapers circulating in the Division, and forward a copy of the writ to each Assistant Returning Officer in the Division.

PART XI.—THE NOMINATIONS.

68. 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.

Qualification for nomination.

69. 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.

State Members not entitled to be nominated.

70. 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.

Mode of nomination.

71. A nomination may be in Form C or Form D 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.

To whom nominations made.

72.—(1.) Nominations of Senators may be made to the Commonwealth Electoral Officer for the State for 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 for which the election is to be held.

(2.) Nominations may be made at any time after the issue of the writ and before the hour of nomination.

Requisites for nomination.

73. No nomination shall be valid unless—

- (a) the person nominated consents to act if elected, and declares that he is qualified under the Constitution to be elected as a Senator or a Member of the House of Representatives, as the case may be ;

Qualifications of senator.

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

Qualifications of members.

Section 31. 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 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.

Member of one House ineligible for other.

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.

Disqualification.

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.

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

74. The consent of the person nominated to act if elected and the declaration of qualification shall be sufficient if he signs the form of consent and declaration 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 and declaration whether accompanying the nomination paper or not that he deems satisfactory, and such acceptance shall be final.

Form of consent to act.

75. 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.

Formal defects.

76.—(1.) The deposit made by or on behalf of a candidate at an election for the Senate shall be retained pending the election, and after the election shall be returned 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.

Deposit to be forfeited in certain cases.

(2.) The deposit made by or on behalf of a candidate at an election for the House of Representatives shall be retained pending the election, and after the election shall be returned to him or to some person authorized by him in writing to receive it unless he was not elected and the number of votes polled in his favour as first preferences is not more than one-fifth of the total number of first preference votes polled by the successful candidate.

77.—(1.) In elections for the Senate the place of nomination shall be stated in the writ.

Place of nomination.

(2.) In elections for the House of Representatives the chief polling place for the Division shall be the place of nomination therein.

78. The hour of nomination shall be twelve o'clock noon on the day of nomination.

Hour of nomination.

79.—(1.) In the case of a Senate election, the Commonwealth Electoral Officer for the State for which the election is being held shall, at the hour of nomination, attend at the place of nomination,

Declaration of nominations.

and shall there publicly produce all nomination papers received by him, and declare the names and residences of all candidates nominated.

(2.) In the case of a House of Representatives election, the Divisional Returning Officer for the Division for 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.

Withdrawal of consent to nomination.

80. 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.

81. 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.

Proceedings on nomination day.

82.—(1.) In the case of a Senate election, if the number of candidates nominated is not greater than the number of candidates required to be elected, the Commonwealth Electoral Officer shall declare the candidates nominated duly elected.

(2.) In the case of a House of Representatives election, if one candidate only is nominated, the Divisional Returning Officer shall declare that candidate duly elected.

(3.) If in any election the number of candidates nominated is greater than the number required to be elected, the proceedings shall, subject to the provisions of this Act, and the regulations relating to voting before polling day, stand adjourned to polling day.

Death of candidate after nomination.

83. 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.

Failure of election.

84.—(1.) Whenever an election wholly or partially fails a new writ shall forthwith be issued for a supplementary election.

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

(3.) 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 XII.—VOTING BY POST.

85.—(1.) An elector who—

- (a) will not throughout the hours of polling on polling day be within ten miles by the nearest practicable route of any polling booth open in the Commonwealth for the purposes of an election ; or
- (b) will throughout the hours of polling on polling day be travelling under conditions which will preclude him from attending at any polling booth to vote ; or
- (c) is seriously ill or infirm, and by reason of such illness or infirmity will be precluded from attending at any polling booth to vote, or, in the case of a woman, will by approaching maternity be precluded from attending at any polling booth to vote,

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

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

(2.) The application must contain a declaration by the elector setting out the grounds upon which he applies for the postal vote certificate and postal ballot-paper, and may be in the prescribed form, and must be signed by the elector in his own handwriting in the presence of an authorized 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 Divisional Returning Officer for the Division for which the elector is enrolled or to some other Divisional Returning Officer if the elector has reason to believe that the application may not, in the ordinary course of post, reach the Divisional Returning Officer for the Division for which he is enrolled so as to enable him to receive a postal vote certificate and postal ballot-paper from that officer in time to permit of the elector voting at the election.

(3.) 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, or in the declaration contained in such application.

Penalty : Fifty pounds, or imprisonment for one month.

86.—(1.) Subject to sub-section (2.) of this section the following persons are authorized witnesses within the meaning of this Act :—

Authorized
witnesses.

- (a) all Commonwealth Divisional Returning Officers, Assistant Returning Officers, and Officers of the Public Service of the Commonwealth permanently employed in the office of any Commonwealth Electoral Officer of a State or Divisional Returning Officer ; all Commonwealth Electoral Registrars ; all Postmasters or Postmistresses or postal officials 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 Wardens' 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 Lighthouses ; 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 service of the Commonwealth or of a State ; all Superintendents of Mercantile Marine and their deputies while permanently employed in the Public Service of the Commonwealth or of a State ; 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.

(2.) No person who is a candidate at any election shall be an authorized witness at that election.

Duty of
authorized
witnesses.

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

- (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 knows that the statements contained in the application are true, or has satisfied himself by inquiry from the applicant or otherwise that the statements contained in the application are true.

Penalty : Fifty pounds, or imprisonment for one month.

(2.) The authorized witness shall sign his name in his own handwriting on the application in the space provided for the purpose, and shall add the title under which he acts as an authorized witness and the date.

(3.) An authorized witness shall not persuade or induce, or associate himself with any person in persuading or inducing, any person to make application for a postal vote certificate and postal ballot-paper.

Penalty : Fifty pounds, or imprisonment for one month.

Issue of
certificate and
ballot-papers.

88.—(1.) The Divisional Returning Officer who receives the application if he is satisfied that it is properly signed by the applicant elector and is properly witnessed, shall deliver or post to the elector a postal vote certificate printed on an envelope addressed to the Divisional Returning Officer for the Division for which the applicant declares that he is enrolled, 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.

(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 form.

89.—(1.) All applications for postal vote certificates and postal ballot-papers received by a Divisional Returning Officer shall, if they relate to the Division for which he is Divisional Returning Officer, be kept by him, or if they relate to another Division, shall, after being indorsed by him with the date of the issue of the postal vote certificate and postal ballot-paper, forthwith be sent by him to the Divisional Returning Officer for that Division.

Inspection of applications.

(2.) All applications for postal vote certificates and postal ballot-papers shall be open to public inspection at all convenient times during office hours, until the election can be no longer questioned.

90.—(1.) The Divisional Returning Officer shall number all applications for postal vote certificates and postal ballot-papers received by him in consecutive order and shall number each postal vote certificate with a number corresponding with the number on the application.

Numbering of applications and certificates.

(2.) The Divisional 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.

91.—(1.) The Returning Officer for the Division in respect of which postal vote certificates and postal ballot-papers have been issued shall, if there is time conveniently to do so, note on the certified lists of voters the names of all electors to whom postal vote certificates and postal ballot-papers have been issued.

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

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

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

Directions for postal voting. Cf. No. 26, 1905, s. 36.

- (a) The elector shall exhibit his postal ballot-paper (unmarked) and his postal vote certificate to an authorized witness;
- (b) The elector shall then and there, 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 ;

- (c) The authorized witness shall then and there 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 ;
- (d) The elector shall then and there, 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 the ballot-paper so that the vote cannot be seen, and hand it so folded to the authorized witness ;
- (e) The authorized witness shall then and there place the ballot-paper in the envelope addressed to the Divisional Returning Officer, fasten the envelope, and hand it to the voter who shall forthwith post or deliver it, or cause it to be posted or delivered, to the Divisional Returning Officer ;
- (f) 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 the elector's vote on the ballot-paper in the presence of a witness and shall then and there fold the ballot-paper so that the vote cannot be seen, and deal with it in the manner provided in the last preceding paragraph ;
- (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 (f) 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.

93. 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 : and
- (c) refrain from disclosing any knowledge of the vote of any elector voting by post before him.

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

94. Any person to whom an envelope containing or purporting to contain a postal ballot-paper is entrusted by a voter for the purpose of posting or delivery to a Divisional Returning Officer, and who fails to forthwith post or deliver the envelope, shall be guilty of an offence.

Penalty : Fifty pounds, or imprisonment for one month.

Duty of
authorized
witness.

Penalty for
failure to post
or deliver postal
ballot-paper.

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

Duty of persons present when an elector votes by post.

- (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 (f) of section ninety-two, refrain from looking at the elector's vote or from doing anything whereby he might become acquainted with the elector's vote.

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

96. At the scrutiny the Divisional 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—

Preliminary scrutiny of postal ballot-papers.

- (a) 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 allow the scrutineers to inspect both signatures ;
- (b) if 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, and that the elector is enrolled for the Division, accept the ballot-paper for further scrutiny, but, if not so satisfied, disallow the ballot-paper without opening the envelope in which it is contained ;
- (c) withdraw from the envelopes bearing the postal vote certificates all postal ballot-papers accepted for further scrutiny, and, without inspecting or unfolding the ballot-papers or allowing any other person to do so, place them in a locked and sealed ballot-box by themselves for further scrutiny ;
- (d) seal up in separate parcels and preserve—
 - (i) all envelopes bearing postal vote certificates relating to postal ballot-papers accepted for further scrutiny, and
 - (ii) all unopened envelopes containing postal ballot-papers disallowed ; and
- (e) proceed with the scrutiny of the postal ballot-papers which have been accepted for further scrutiny.

97. A postal vote shall not be rejected because in the case of any candidate his surname only has been written thereon if no other candidate has the same surname, or by reason of any mistake in spelling where the elector's intention is clear.

Mistakes.

PART XIII.—THE POLLING.

Returning office
to make
arrangements.

98.—(1.) 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, and in particular shall—

- (a) appoint a presiding officer to preside at each polling place, and all necessary assistant presiding officers, poll clerks, and doorkeepers ;
- (b) provide and furnish proper polling booths and ballot-boxes ; and
- (c) provide ballot-papers and all necessary certified lists of voters.

(2.) In any emergency on polling day due to the absence of any assistant presiding officer, poll clerk, or doorkeeper, or to any unforeseen and continued pressure at the polling which cannot be met by the duly appointed officers, the presiding officer may appoint any person to act as assistant presiding officer, poll clerk, or doorkeeper, and the person so appointed or acting shall be deemed to have been duly appointed if the Divisional Returning Officer afterwards ratifies the appointment by appointing that person to be assistant presiding officer, poll clerk, or doorkeeper, as the case may be.

(3.) No person under the age of twenty-one years shall be appointed to be a presiding officer or assistant presiding officer.

(4.) Any assistant presiding officer may, subject to the direction of the presiding officer, exercise all or any of the powers of the presiding officer, and shall, in respect of the exercise of those powers, be deemed to be the presiding officer.

Substitute.

99. Any presiding officer may appoint a substitute to perform his duties during his temporary absence, and such substitute may, while so acting, exercise all the powers of the presiding officer, and shall, in the exercise of those powers, be deemed to be the presiding officer.

No licensed
premises to
be used.

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

Separate voting
compartments.

101. 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.

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

Certified lists
of voters.

103. The certified list of voters to be used by a presiding officer at a polling place shall be the list of the electors on the roll enrolled for the Subdivision for which the polling place is prescribed certified by the Divisional Returning Officer, and shall before the hour of commencing the poll be delivered to the presiding officer for his guidance during the polling.

104. Ballot-papers to be used in a Senate election may be in the Form E in the Schedule.

Senate ballot-papers.

105. Ballot-papers to be used in a House of Representatives election may be in the Form F in the Schedule.

House of Representatives ballot-papers.

106. In printing the ballot-papers—

Ballot-papers.

- (a) the names of all candidates duly nominated shall be printed in alphabetical order according to their surnames ;
- (b) 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, which shall in such case be arranged and stated on the ballot-paper ;
- (c) where similarity in the names of two or more candidates is likely to cause confusion, the names of such candidates may be arranged with such description or addition as will distinguish them from one another ; and
- (d) except as otherwise provided by the regulations, a square shall be printed opposite the name of each candidate.

107.—(1.) No ballot-paper shall be delivered to any voter without being first initialed by the proper officer, and an exact account shall be kept of all initialed ballot-papers.

Ballot-papers to be initialed.

(2.) The initials of the 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.

108.—(1.) 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.

Scrutineers at the polling.

(2.) Appointments of scrutineers shall be made by notice in writing or by telegram addressed to the Returning Officer, or presiding officer, and such notice or telegram shall be signed by the candidate, and shall give the name and address of the scrutineer.

109.—(1.) A scrutineer shall not—

Provision relating to scrutineers.

- (a) interfere with or attempt to influence any elector within the polling booth ; or
- (b) communicate with any person in the polling booth except so far as is necessary in the discharge of his functions.

Penalty: Five pounds.

(2.) A scrutineer shall not be prevented from entering or leaving a polling booth during the polling, and, during his absence, a relieving scrutineer may act in his place, but so that only one scrutineer for each candidate shall be entitled to be present in the polling booth or subdivision of the polling booth at any one time.

(3.) A scrutineer who commits any breach of this section, or who misconducts himself, or who fails to obey the lawful directions of the presiding officer, may be removed from the polling booth by any constable or person authorized by the presiding officer to remove him.

Persons
present at
polling.

110. No candidate shall in any way take part in the conduct of an election, and no person, other than the presiding officer, assistant presiding officers, 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.

The polling.

111. The polling shall be conducted as follows :—

- (a) Before any vote is taken the presiding officer shall exhibit the ballot-box empty, and shall then securely fasten its cover ;
- (b) The poll shall open at eight o'clock in the morning, and shall not close until all electors present in the polling booth at eight o'clock in the evening, and desiring to vote, have voted ;
- (c) The doors of the polling booth shall be closed at eight o'clock in the evening, and no person shall be admitted after that hour to the polling booth for the purpose of voting ;
- (d) At the close of the poll the presiding officer shall, in the presence of the poll clerk and of any scrutineers who may be in attendance, publicly close, fasten, 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.

Elections at
which electors
are entitled
to vote.

112.—(1.) In the case of a Senate election, an elector shall only be admitted to vote for the election of Senators for the State for which he is enrolled.

(2.) In the case of a House of Representatives election, an elector shall only be admitted to vote for the election of a member for the Division 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 fifteen that he is not entitled to vote.

Where electors
may vote.

113.— 1.) On polling day, an elector shall be entitled to vote at any prescribed polling place for the Subdivision for which he is enrolled or he shall be permitted to vote at any other polling place within the Commonwealth at which a polling booth is open, under and subject to the regulations relating to absent voting.

(2.) The regulations relating to absent voting may prescribe all matters (not inconsistent with this Act) necessary or convenient to be prescribed for carrying this section into effect, and in particular may provide for—

- (a) the forms of absent voters' ballot-papers ;
- (b) the manner in which votes are to be marked on absent voters' ballot-papers ;
- (c) the method of dealing with absent voters' ballot-papers, including the scrutiny thereof, and the counting of the votes thereon ; and
- (d) the grounds upon which absent voters' ballot-papers are to be rejected as informal.

(3.) Absent voters' ballot-papers containing votes and enclosed in any prescribed envelope may, if so provided by the regulations, be placed in any ballot-box in use at the polling booth at which the votes were cast, but notwithstanding anything contained in this Act a prescribed envelope containing an absent voter's ballot-paper shall (unless the regulations otherwise provide) only be opened and the ballot-paper dealt with, as regards the scrutiny thereof and the counting of the votes thereon, by the Divisional Returning Officer for the Division for which the voter declares that he is enrolled.

(4.) Nothing in this section shall authorize any elector to vote more than once at any election.

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

Persons claiming to vote to give names and other particulars.

115.—(1.) The presiding officer shall put to every person claiming to vote the following question :—Have you already voted either here or elsewhere at this election ? (or these elections ? as the case requires), and may, and, at the request of any scrutineer shall, also put all or any of the following questions :—

Questions to be put to voter.

- (a) Are you the person whose name appears as (here state name under which the person claims to vote) on the certified list of voters for this polling place ? (or the Roll for the Division of _____ ? as the case requires).
- (b) Are you of the full age of twenty-one years ?
- (c) Are you a natural-born or naturalized subject of the King ?
- (d) Are you qualified to vote ?

(2.) If any person refuses to answer fully any question put to him by the presiding officer under the authority of this section, or by his answer shows that he is not entitled to vote, his claim to vote shall be rejected.

(3.) The voter's answer to any question put to him by the presiding officer under the authority of this section shall be conclusive, and the matter shall not be further inquired into during the polling.

116. No omission in the Roll or in the certified list of voters of any christian name, or entry of a wrong christian name, or

Errors not to forfeit vote.

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.

Right of elector to receive ballot-paper.

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

- (a) if the name under which he claims to vote is on the certified 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 certified list of voters for the polling place and his right to vote is challenged, and his answers to the prescribed questions show that he is entitled to vote ; or
- (c) if he claims to vote under the regulations relating to absent voting and complies with 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 ballot-paper being issued.

118. 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 certified list of voters if his name is on that list.

Vote to be marked in private.

119. Except as otherwise prescribed the voter upon receipt of the ballot-paper 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 hereinafter described ;
- (b) fold the ballot-paper so as to conceal his vote and to show clearly 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 ; and
- (c) quit the booth.

Assistance to certain voters.

120. 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, or, if there be no scrutineers present, then in the presence of—

- (a) the poll clerk, or
 - (b) if the voter so desires, in the presence of a person appointed by such voter, instead of the poll clerk,
- shall mark, fold, and deposit his ballot-paper for him.

121.—(1.) Notwithstanding anything contained in this Act, when any person who is entitled to be enrolled on the Roll for a Subdivision claims to vote at an election at a polling place prescribed for that Subdivision, and his name has been omitted from or struck out of the certified list of voters for that polling place owing to an error of an officer or a mistake of fact, he may, subject to the Act and the regulations, be permitted to vote if—

Vote of person whose name is not on certified list, or has been struck out of certified list.

(a) in the case of a person whose name has been omitted from the certified list—

(i) he sent or delivered to the Registrar for the Subdivision a duly completed claim for enrolment or transfer of enrolment, as the case requires, in respect of the Subdivision, and the claim was received by the Registrar before the issue of the writ for the election ; and

(ii) he did not after sending or delivering the claim and before the issue of the writ become qualified for transfer of enrolment to another Subdivision ; or

(b) in the case of a person whose name has been struck out of the certified list—

(i) his name was not, to the best of his knowledge, removed from the Roll for the Subdivision owing to objection, or transfer or duplication of enrolment, or disqualification ; and

(ii) he had, from the time of his enrolment for the Subdivision to the date of the issue of the writ for the election, continuously retained his right to enrolment for that Subdivision,

and makes a declaration in the prescribed form before the presiding officer at the polling place.

(2.) Where a voter claims to vote under the provisions of this section, he shall mark and fold his ballot-paper in the manner prescribed in this Act and return it so folded to the presiding officer.

(3.) The presiding officer shall thereupon, in the presence of the voter and of such scrutineers as are present, and without unfolding the ballot-paper, enclose it in an envelope bearing the declaration of the voter and addressed to the Returning Officer for the Division for which the voter claims to be entitled to vote, and shall forthwith securely fasten the envelope and deposit it in the ballot-box.

4.) The Assistant Returning Officer who is authorized under the provisions of this Act to open the ballot-box shall without opening the envelope forthwith transmit it to the Divisional Returning Officer for the Division for which the voter claims that he is entitled to vote.

(5.) The Divisional Returning Officer, on receipt of the envelope containing the ballot-paper as aforesaid, shall, before opening the envelope or allowing any other person to do so, examine the declaration of the voter, and, if it is in order and he is satisfied, after making such inquiry as may be necessary, that the voter is a person

to whom paragraph (a) or (b) of sub-section (1.) of this section applies, shall deal with the ballot-paper in the manner prescribed in connexion with the scrutiny of absent voters' ballot-papers, and forthwith direct that the necessary correction be made in the Roll by the Registrar, and the correction shall be made accordingly.

Spoilt ballot-papers.

122. If any voter before depositing his ballot-paper in the ballot-box satisfies the presiding officer that he has spoilt the ballot-paper 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 the spoilt ballot-paper, and deal with it as prescribed.

Marking of votes in a Senate election.

123.—(1.) In a Senate election a voter shall mark his vote on his ballot-paper as follows :—

- (a) where his ballot-paper is a ballot-paper in accordance with Form E in the Schedule—by making a cross in a square opposite the name of each candidate for whom he votes ;
- (b) where he votes at a polling place on polling day in accordance with the regulations relating to absent voting—in the manner prescribed by those regulations ; and
- (c) where he votes by post under the provisions of Part XII. of this Act—in the manner prescribed by the regulations relating to voting by post.

(2.) In a Senate election a voter must vote for the full number of candidates to be elected.

Marking of votes in a House of Representatives election.

124. In a House of Representatives election a voter shall mark his vote on his ballot-paper as follows :—

- (a) where his ballot-paper is a ballot-paper in accordance with Form F in the Schedule—he shall place the number 1 in the square opposite the name of the candidate for whom he votes as his first preference, and shall give contingent votes for all the remaining candidates by placing the numbers 2, 3, 4 (and so on, as the case requires) in the squares opposite their names so as to indicate the order of his preference for them ;
- (b) where he votes at a polling place on polling day in accordance with the regulations relating to absent voting—he shall mark his vote on his ballot-paper in the manner prescribed by those regulations ; and
- (c) where he votes by post under the provisions of Part XII. of this Act—he shall mark his vote on his ballot-paper in the manner prescribed by the regulations relating to voting by post.

Adjournment of polling on account of riot.

125. 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.

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

Adjournment in other cases.

127. Where for any reason the polling is adjourned at any polling place, those electors only who are enrolled for the Sub-division for which 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.

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

Arrangements where elections held in some Divisions only.

PART XIV.—THE SCRUTINY.

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

Scrutiny.

130. Each candidate may by notice in writing or by telegram addressed to the Assistant Returning Officer or Divisional Returning Officer, as the case requires, appoint one scrutineer to represent him at the scrutiny at each polling booth or other place at which the scrutiny is being conducted, and such notice or telegram shall be signed by the candidate and shall give the name and address of the scrutineer.

Scrutineers at the scrutiny.

131. The scrutiny shall be conducted as follows :—

Scrutiny, how conducted.

- (a) It shall commence as soon as practicable after the closing of the poll ;
- (b) Such scrutineers as have been duly appointed pursuant to the preceding section, and any persons approved by the officer conducting the scrutiny, may be present ;
- (c) All the proceedings at the scrutiny shall be open to the inspection of the scrutineers ;
- (d) The scrutiny may be adjourned from time to time as may be necessary until the counting of the votes is complete.

132.—(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.

133.—(1.) A ballot-paper shall (except as otherwise provided by the regulations relating to absent voting on polling day or to voting by post) be informal if—

Informal ballot-papers.

- (a) it is not authenticated by the initials of the presiding officer, or by an official mark as prescribed ;

- (b) in elections for the Senate it has no vote marked on it or has votes marked on it for a greater or lesser number of candidates than the number required to be elected ;
- (c) in elections for the House of Representatives it has no vote indicated on it, or it does not indicate the voter's first preference for one candidate and in the case of any election where there are more than two candidates his contingent votes for all the remaining candidates :

Provided that in elections for the House of Representatives at which there are not more than two candidates, the voter's preference for one candidate shall be deemed to be sufficiently indicated in the case of a ballot-paper marked so as to indicate the voter's first preference only :

Provided further that for the purpose of the last preceding proviso a cross in the square opposite the name of one candidate shall be deemed to indicate the voter's first preference for that candidate ;
or

- (d) it has upon it any mark or writing (not authorized by this Act or the regulations to be put upon it) by which, in the opinion of the Returning Officer, the voter can be identified :

Provided that paragraph (d) shall not apply to any mark or writing placed upon the ballot-paper by an officer, notwithstanding that the placing of the mark or writing upon the ballot-paper is a contravention of this Act.

(2.) A ballot-paper shall not be informal for any reason other than the reasons specified in this section, but shall be given effect to according to the voter's intention so far as his intention is clear.

134. Except as authorized by this Act or the regulations, an officer shall not place upon any ballot-paper any mark or writing which would enable any person to identify the voter by whom it is used.

Penalty : Ten pounds.

135. In elections for the Senate, the scrutiny shall, subject to the provisions of the regulations relating to absent voting on polling day and to voting by post, be conducted in the manner following:—

- (1) Each Assistant Returning Officer shall in the presence of an Assistant Presiding Officer or a Poll Clerk, and of such authorized scrutineers as may attend—

(a) open all ballot-boxes received from polling places within or for that portion of the Division in which he exercises his powers ; .

Officers not to mark ballot-papers so that voter can be identified.

Scrutiny of votes in Senate elections.

- (b) examine and count all the votes contained in the ballot-boxes, rejecting all informal ballot-papers ;
 - (c) make out and sign a statement (which may be countersigned by an Assistant Presiding Officer or a poll clerk, and if they so desire by such scrutineers as are present) setting out the number of votes given for each candidate and the number of informal ballot-papers, and certify by indorsement on the copy of the writ received by him the like particulars ;
 - (d) make up in the manner prescribed in parcels, all ballot-papers scrutinized by him ;
 - (e) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement ; and
 - (f) transmit with the least possible delay the ballot-papers so parcelled and sealed, together with the statement, and the copy of the writ indorsed as aforesaid, to the Divisional Returning Officer.
- (2) Any ballot-box not opened by an Assistant Returning Officer may be opened by the Divisional Returning Officer, who shall conduct the scrutiny in the manner aforesaid as far as applicable.
- (3) All ballot-papers used for voting in pursuance of—
- (a) Part XII. of this Act ;
 - (b) the regulations relating to absent voting on polling day ; or
 - (c) section one hundred and twenty-one of this Act shall be examined and counted by the Divisional Returning Officer, and dealt with as prescribed by this Act or the regulations.
- (4) Each Divisional Returning Officer shall certify by indorsement on the copy of the writ received by him the number of votes given for each candidate by electors enrolled for the Division for which he is the Divisional Returning Officer, and the number of informal ballot-papers, and shall forthwith forward the copy of the writ so indorsed to the Commonwealth Electoral Officer for the State.
- (5) From the copies of the writ forwarded to him by the Divisional Returning Officers for all the Divisions of the State, the Commonwealth Electoral Officer shall ascertain the total number of votes given for each candidate.
- (6) In the event of an equality of votes the Commonwealth Electoral Officer shall give a casting vote for the purpose of deciding the election, but except as provided in this sub-section he shall not vote at the election.
- (7) The candidates to the number required to be elected who receive the greatest number of votes shall be elected.

136. In elections for the House of Representatives the scrutiny shall, subject to the provisions of the regulations relating to absent voting on polling day and to voting by post, be conducted in the manner following:—

- (1) Each Assistant Returning Officer shall, in the presence of an Assistant Presiding Officer or a Poll Clerk, and of such authorized scrutineers as may attend—
 - (a) open all ballot-boxes received from polling places within or for that portion of the Division in which he exercises his powers;
 - (b) reject all informal ballot-papers, and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those in which a first preference is indicated for the same candidate;
 - (c) count the first preference votes given for each candidate on all unrejected ballot-papers;
 - (d) make out and sign a statement (which may be countersigned by an Assistant Presiding Officer or a Poll Clerk, and if they so desire, by such scrutineers as are present) setting out the number of first preference votes given for each candidate and the number of informal ballot-papers, and certify by indorsement on a copy of the writ received by him the like particulars;
 - (e) place in a separate parcel all the ballot-papers which have been rejected as informal;
 - (f) transmit the following information by telegram or in some other expeditious manner to the Divisional Returning Officer:—
 - (i) the number of first preference votes given for each candidate; and
 - (ii) the total number of ballot-papers rejected as informal;
 - (g) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement; and
 - (h) transmit the parcels to the Divisional Returning Officer with the least possible delay, together with the statement, and the copy of the writ indorsed in accordance with paragraph (d) of this sub-section.
- (2) Any ballot-box not opened by an Assistant Returning Officer may be opened by the Divisional Returning Officer who shall conduct the scrutiny in the manner aforesaid as far as applicable.
- (3) All ballot-papers used for voting in pursuance of—
 - (a) Part XII. of this Act;
 - (b) the regulations relating to absent voting on polling day; or

- (c) section one hundred and twenty-one of this Act ; shall be examined and counted by the Divisional Returning Officer, and dealt with as prescribed by this Act or the regulations.
- (4) From the copies of the writs forwarded to the Divisional Returning Officer by the Assistant Returning Officers in or for the Division, and the result of the scrutiny of the votes counted by him, the Divisional Returning Officer shall ascertain the total number of first preference votes given for each candidate for the Division.
- (5) The candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected.
- (6) If no candidate has received an absolute majority of first preference votes, the Divisional Returning Officer shall open the sealed parcels of ballot-papers received from Assistant Returning Officers, and proceed with the scrutiny and counting of the votes as follows :--
- (i) the first preference votes given for each candidate shall be counted ;
 - (ii) the candidate who has received the fewest first preference votes shall be excluded, and each ballot-paper counted to him shall be counted to the candidate next in the order of the voter's preference ;
 - (iii) if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes, and counting each of his ballot-papers to the unexcluded candidate next in the order of the voter's preference, shall be repeated until one candidate has received an absolute majority of votes ; and
 - (iv) the candidate receiving an absolute majority of votes shall be elected.
- (7) Where the Divisional Returning Officer is satisfied that the votes—
- (a) on any absent voters' ballot-papers which have not been received by him, or
 - (b) on any ballot-papers used for voting in pursuance of section one hundred and twenty-one of this Act, in relation to which he has not completed the action specified by sub-section (5.) of that section,
- cannot, having regard to the number of those ballot-papers, possibly affect the result of any particular count, he may, subject to the concurrence of the Chief Electoral Officer, proceed with that count without awaiting the receipt of the absent voters' ballot-papers or completing the action, as the case may be.

- (8) If the votes can possibly affect the result of any subsequent count, the Divisional Returning Officer shall await the receipt of the absent voters' ballot-papers, and complete the action before proceeding with that count.
- (9) If on any count two or more candidates have an equal number of votes and one of them has to be excluded, the Divisional Returning Officer shall decide which is to be excluded; and if in the final count two candidates have an equal number of votes, the Divisional Returning Officer shall decide by his casting vote which shall be elected, but except as provided in this sub-section he shall not vote at the election.
- (10) An absolute majority of votes means a greater number than one-half of the whole number of ballot-papers other than informal ballot-papers. The casting vote of the Divisional Returning Officer shall be included in reckoning an absolute majority of votes.

Re-count at
Senate
elections.

137.—(1.) At any time before the declaration of the result of a Senate election the Commonwealth Electoral Officer for the State may, if he thinks fit, on the written request of any candidate setting forth the reasons for the request, 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.

(2.) If the Commonwealth Electoral Officer for the State refuses, on the request of a candidate, to direct a re-count of any ballot-papers, the candidate may, in writing, appeal to the Chief Electoral Officer to direct a re-count of those ballot-papers, and the Chief Electoral Officer may, as he thinks fit, either direct a re-count of the ballot-papers or refuse to direct a re-count.

Re-count at
House of
Representatives
elections.

138. At any time before the declaration of the result of a House of Representatives election the Divisional Returning Officer may, if he thinks fit, on the request of any candidate setting forth the reasons for the request, or of his own motion, and shall, if so directed by the Chief Electoral Officer or the Commonwealth Electoral Officer for the State, re-count the ballot-papers contained in any parcel.

Powers of
officer
conducting
re-count.

139. The officer conducting a re-count shall have the same powers as if the re-count were the scrutiny, and may reverse any decision in relation to the scrutiny as to the allowance and admission or disallowance and rejection of any ballot-paper.

Reservation
of disputed
ballot-papers.

140.—(1.) The officer conducting a re-count may, and at the request of any scrutineer shall, reserve any ballot-paper for the decision of the Commonwealth Electoral Officer for the State.

(2.) The Commonwealth Electoral Officer for the State shall decide whether any ballot-paper, reserved for his decision in pursuance of this section, is to be allowed and admitted or disallowed and rejected.

(3.) In the event of the validity of the election being disputed, the Court of Disputed Returns may consider any ballot-papers which were reserved for the decision of the Commonwealth Electoral Officer for the State, but shall not order any further re-count of the whole or any part of the ballot-papers in connexion with the election unless it is satisfied that the re-count is justified.

PART XV.—THE RETURN OF THE WRITS.

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

Return of writs
for election of
Senators.

- (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 writ the names of the candidates elected, and return the writ to the Governor of the State in respect of which it was issued.

(2.) Where the Commonwealth Electoral Officer for the State—

- (a) has been advised by a Divisional Returning Officer that certain absent voters' ballot-papers, issued at some remote polling place in connexion with the election, cannot reach him for the purpose of the scrutiny without unduly delaying the declaration of the poll, or
- (b) has been advised by a Divisional Returning Officer that he cannot complete his inquiries into the facts set out in the declarations of certain persons to whom ballot-papers were issued under the provisions of section one hundred and twenty-one of this Act, without unduly delaying the declaration of the poll, and
- (c) in either case, is satisfied that the votes recorded on those ballot-papers could not possibly affect the result of the election,

he may, subject to the concurrence of the Chief Electoral Officer, declare the result of the election and return the writ without awaiting the receipt of the absent voters' ballot-papers or the completion of inquiries, as the case may be.

142.—(1.) In a House of Representatives election the Divisional Returning Officer shall, as soon as conveniently may be after the result of the election has been ascertained—

Return of writs
for House of
Representatives.

- (a) at the chief polling place for 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 writ the name of the candidate elected, and return the writ through the Commonwealth Electoral Officer for the State.

(2.) Where the Divisional Returning Officer—

- (a) is satisfied that certain absent voters' ballot-papers, issued at some remote polling place in connexion with the election, cannot reach him for the purpose of the scrutiny without unduly delaying the declaration of the poll, or
- (b) cannot complete his inquiries into the facts set out in the declarations received by him in pursuance of the provisions of section one hundred and twenty-one of this Act, without unduly delaying the declaration of the poll, and
- (c) in either case, is satisfied that the votes recorded on those ballot-papers could not possibly affect the result of the election,

he may, subject to the concurrence of the Chief Electoral Officer, declare the result of the election and return the writ without awaiting the receipt of the absent voters' ballot-papers or the completion of inquiries, as the case may be.

Correction of errors.

143. Any delay, error, or omission in the printing, preparation, issue, transmission, or return of any roll, writ, ballot-papers, or certified 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.

144. 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 provisions so made shall be valid and sufficient:

Provided that—

- (a) public notice shall be immediately given in the State or Division for which the election is to be held of any extension of the time for holding the election; and
- (b) no polling day shall be postponed under this section at any time later than seven days before the time originally appointed.

PART XVI.—LIMITATION OF ELECTORAL EXPENSES.

Limit of expenditure.

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

- (a) in a Senate election, in excess of Two hundred and fifty pounds;
- (b) in a House of Representatives election, in excess of One hundred pounds.

146. No electoral expense shall be incurred or authorized except in respect of the following matters :— Expenses allowed.

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

147. "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 purchasing of electoral rolls, and the personal and reasonable living and travelling expenses of the candidate. Electoral expenses.

148. Any person incurring or authorizing any electoral expense on behalf of a candidate without the written authority of the candidate shall be guilty of a contravention of this Act. Expenditure on behalf of a candidate.

149.—(1.) A candidate or a person acting on behalf of, or in the interests of, a candidate, shall not employ, for reward, any person as canvasser or committeeman or in any capacity in connexion with an election, unless the expense incurred could be lawfully incurred by the candidate under this Part of this Act. Employment of paid canvassers or committeemen prohibited.

Penalty : One hundred pounds.

(2.) "Reward" in this section includes any payment or promise of payment direct or indirect to the person employed or to the wife or husband or any relative of that person.

150.—(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. Gifts by candidate.

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.

151.—(1.) 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 of candidates' expenses.

(a) all electoral expenses paid :

(b) all disputed and unpaid claims for electoral expenses.

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

(3.) 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, for a period of six months from the date of polling at the election.

Return of
expenses by
political
organizations.

152.—(1.) Every trades union registered or unregistered, organization, association, league, or body of persons which has, or person who has, in connexion with any election, expended any money or incurred any expense—

(a) on behalf of, or in the interests of, any candidate, or

(b) on behalf of, or in the interests of, any political party,

shall in accordance with this section make a return of the money so expended or expense so incurred.

(2.) Every trades union registered or unregistered, organization, association, league, or body of persons which has, and every person who has, in connexion with any election, expended any money or incurred any expense in printing publishing or issuing electoral advertisements or notices, or procuring the insertion in any newspaper of any advertisement article or report or matter intended or calculated to affect the result of the election, shall in accordance with this section make a return of the money so expended or expense so incurred.

(3.) The return shall be in accordance with the prescribed form, and shall be signed and declared to before a Justice of the Peace by the President or Chairman and the Secretary or other officer of the trades union registered or unregistered, organization, association, league, or body of persons, or by the person concerned, and shall contain particulars of the money expended or expense incurred, and shall be filed with the Commonwealth Electoral Officer for the State in which the election took place within twelve weeks after the result of the election has been declared.

(4.) If any trades union registered or unregistered, organization, association, league, or body of persons satisfies the Chief Electoral Officer that it has in connexion with any political campaign expended money or incurred expense on behalf of or in the interests of a political party in all the States or in more than one State, he may permit it to file with him in lieu of any other return under this section a return of the whole of the money expended or expense incurred by it in the campaign.

(5.) If any trades union registered or unregistered, organization, association, league, or body of persons fails to comply with this section, every person who was an officer thereof at the time the money was expended or expense incurred shall be liable to a penalty of Fifty pounds.

(6.) If any person fails to comply with this section he shall be liable to a penalty of Fifty pounds.

(7.) Any person who wilfully makes an untrue statement in any return under this section shall be liable to a penalty of One hundred pounds or to imprisonment for six months.

(8.) The Chief Electoral Officer may by notice in writing in the prescribed form require the President or Chairman and the Secretary or other officer of any trades union registered or unregistered, organization, association, league, or body of persons, or any person, within such time, not being less than one month as is specified in the notice, to make a return in accordance with this section, of any money expended or expense incurred in respect of which a return is required to be made under sub-section (1.) or sub-section (2.) of this section, and the President or Chairman and Secretary or other officer or person who neglects or refuses to comply with the notice shall be guilty of an offence, and liable to a penalty not exceeding One hundred pounds, or to imprisonment for any period not exceeding six months.

(9.) Every return filed in pursuance of this section shall, subject to the regulations, be open to public inspection.

153.—(1.) The proprietor or publisher of a newspaper published in the Commonwealth shall, in accordance with this section, make or cause to be made a return setting out the amount of electoral matter in connexion with any election inserted in his newspaper in respect of which payment was or is to be made, the space occupied by such electoral matter, the amount of money paid or owing to him in respect of such electoral matter and the names and addresses of the trades unions registered or unregistered, organizations, associations, leagues, bodies of persons, or persons authorizing the insertion thereof.

Return by
newspaper
proprietors.

Penalty (on proprietor) : One hundred pounds.

(2.) In this section "electoral matter" includes advertisements, articles, and other matter intended or calculated to affect the result of the election.

(3.) Where an election for the Senate and a general election for the House of Representatives take place on the same day, the particulars as regards both elections may be included in one return.

(4.) The return shall be in accordance with the prescribed form, and shall be signed by the person making it, and shall be declared to before a Justice of the Peace, and shall be filed with the Commonwealth Electoral Officer for the State in which the newspaper is published within twelve weeks after the result of the election has been declared.

(5.) Every return made in pursuance of this section shall, subject to the regulations, be open to public inspection.

PART XVII.—ELECTORAL OFFENCES.

154. To secure the due execution of this Act and the purity of elections the following acts are hereby prohibited and penalized :—

Offences.

- (i) Breach or neglect of official duty ;
- (ii) illegal practices, including—
 - (a) bribery ;
 - (b) undue influence ;
- (iii) electoral offences.

Breach or neglect by officers.

155. "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;
- (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, or observe any direction issued by lawful authority, and any violation by any officer of any provision of this Act;
- (iv) any wilful misfeasance or wilful or grossly negligent act of commission or omission contrary to the provisions of this Act or the regulations thereunder.

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

Bribery.

156. Any person who—

- (a) 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;
- (b) 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; or
- (c) 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.

157. 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.

158. Any person who—

- (a) 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; or

- (b) 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.

159. Without limiting the effects 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.

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

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

- (a) Any publication of any electoral advertisement handbill 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 :
- (b) Printing or publishing any printed electoral advertisement handbill 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 XVI. of this Act relating to the limitation of electoral expenses :
- (d) Printing, publishing, or distributing any electoral advertisement, notice, handbill, pamphlet, or card containing any representation of a ballot-paper or any representation apparently intended to represent a ballot-paper, and having thereon any directions intended or likely to mislead or improperly interfere with any elector in or in relation to the casting of his vote :
- (e) Printing, publishing, or distributing any electoral advertisement, notice, handbill, pamphlet, or card containing any untrue or incorrect statement intended or likely to mislead or improperly interfere with any elector in or in relation to the casting of his vote :

Provided that nothing in paragraphs (d) and (e) of this section shall prevent the printing, publishing, or distributing of any card, not otherwise illegal, which contains instructions how to vote for any particular candidate, so long as those instructions are not intended or likely to mislead any elector in or in relation to the casting of his vote.

162. 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 ;

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

Heading to
electoral adver-
tisements.

163.—(1.) The proprietor of every newspaper shall cause the word “advertisement” to be printed as a headline in letters not smaller than ten point or long primer to each article or paragraph in his newspaper containing electoral matter, the insertion of which is or is to be paid for or for which any reward or compensation or promise of reward or compensation is or is to be made.

Penalty : Fifty pounds.

(2.) The words “electoral matter” include all matter intended or calculated to affect the result of the election, and any report of the speech of a candidate if the report is or is to be paid for.

Articles to be
signed.

164.—(1.) On and after the date of issue and before the return of any writ for the election of a Member of the Senate, or of the House of Representatives, or for the taking of any referendum vote, every article, report, letter, or other matter commenting upon any candidate, or political party, or the issues being submitted to the electors, printed and published in any newspaper, circular, pamphlet, or “dodger” shall be signed by the author or authors, giving his or their true name and address or names and addresses at the end of the said article, report, letter, or other matter, or where part only of the article, report, letter or matter appears in any issue of a newspaper, circular, pamphlet, or “dodger”, at the end of that part.

Penalty : Fifty pounds.

(2.) Any newspaper editor or proprietor who permits, in any newspaper which he edits or owns, the publication of any unsigned article, report, letter, or other matter commenting upon any candidate, or political party, or the issues being submitted to the electors after the issue and before the return of any writ for the election of a member of the Senate, or of the House of Representatives, or for the taking of a referendum vote, shall be deemed guilty of an offence against this Act.

Penalty : Fifty pounds.

Cards in polling
booth.

165.—(1.) A person shall not exhibit or leave in any polling booth any card or paper having thereon any direction or instruction as to how an elector should vote or as to the method of voting.

Penalty : Twenty pounds.

(2.) This section shall not apply to any official instructions exhibited by proper authority at any polling booth.

Untrue state-
ments in forms.

166.—(1.) A person shall not make any untrue statement in any electoral paper, or in answer to any question under this Act, or in any information supplied to any officer or canvasser for the purposes of the preparation, maintenance and revision of rolls.

Penalty : Twenty pounds.

(2.) Sub-section (1.) of this section shall not affect the liability of any person to be proceeded against in respect of any other offence but he shall not be liable to be punished twice in respect of the same offence.

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

167.—(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 :

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.

168.—(1.) A person shall not—

- (a) sign his name as witness on any blank electoral paper ; or
- (b) sign his name as witness on any electoral paper which has been wholly or partly filled up unless it has been signed by the person intended to sign it ; or
- (c) sign his name as witness on any electoral paper unless he has seen the person, whose signature he purports to witness, sign it ; or
- (d) write on any electoral paper as his own name—
 - (i) the name of another person ; or
 - (ii) any name not being his own name.

Witnessing
electoral papers.

Penalty : Fifty pounds.

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

169. Except where expressly authorized by this Act, a person (other than the elector to whom the ballot-paper has been lawfully issued) shall not make any mark or writing on the ballot-paper of any elector.

Making marks
on ballot-
papers.

Penalty : Fifty pounds.

Electoral offences.

170. 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.

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 paper or ballot-paper	Imprisonment not exceeding two years
Fraudulently putting any ballot-paper 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
Taking any ballot-paper out of any polling booth ...	Penalty not exceeding Fifty pounds
Forging or uttering, knowing the same to be forged, any nomination paper 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
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
Knowingly 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 sixty-one	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.

171. 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, or in any public or private place within twenty feet of the entrance of 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 ; or
- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

Penalty : Twenty-five pounds.

172. The person witnessing any claim for enrolment or transfer of enrolment shall, before he affixes his signature thereto, satisfy himself, by inquiry from the claimant or otherwise, that the statements contained in the claim are true unless he knows that the statements contained in the claim are true.

Penalty : Fifty pounds.

Witness to application must satisfy himself of truth of statements.

173. Any person who accepts, for transmission to a Registrar, the custody of a claim for enrolment or transfer of enrolment shall forthwith transmit the claim to the Registrar.

Penalty : Fifty pounds.

Failure to transmit claim.

174.—(1.) A person shall not—

(a) forge any electoral paper, or

(b) utter any forged electoral paper, knowing it to be forged.

Penalty : Imprisonment for two years.

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

Forging or uttering electoral papers.

175.—(1.) If an employé 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 employé 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 employé to vote at the election.

(2.) No employé 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.

Employers to allow employees leave of absence to vote.

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

(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 lawful authority, 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 a forged 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

Protection of the official mark.

the possession of any person without lawful authority (proof whereof shall lie upon him) 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.

177.—(1.) Any person who, at any public meeting to which this section applies, acts in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting is held shall be guilty of an offence against this Act.

Penalty: Five pounds, or imprisonment for one month.

(2.) This section applies to any lawful public political meeting held in relation to any election of members of the Parliament between the date of the issue of the writ for the election and the date of the return of the writ.

178. Any officer who, contrary to his duty, fails to initial any ballot-paper, correctly mark any certified list of voters, or properly attest any declaration shall be guilty of an offence.

Penalty: Ten pounds.

179. Any person who in any polling booth on polling day misconducts himself, or fails to obey the lawful directions of the presiding officer, shall be guilty of an offence and may be removed from the polling booth by any constable or by any person authorized by the presiding officer.

180. Any person who has been removed from a polling booth by direction of the presiding officer under the authority of the preceding section, and who re-enters the polling booth without the permission of the presiding officer, shall be guilty of a further electoral offence, punishable on conviction by twice the penalty prescribed in the table for the original offence.

181.—(1.) A person shall not make or publish any false and defamatory statement in relation to the personal character or conduct of a candidate.

Penalty: One hundred pounds, or imprisonment for six months:

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.

Disorderly
behaviour at
meeting.

Neglect to
initial ballot-
paper, &c.

Offender may
be removed
from polling
booth.

Further
punishment.

Defamation of
candidate.

182. 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. Liability for indirect acts.

PART XVIII.—COURT OF DISPUTED RETURNS.

Division 1.—Disputed Elections and Returns.

183.—(1.) The validity of any election or return may be disputed by petition addressed to the Court of Disputed Returns and not otherwise. Method of disputing elections.

(2.) 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.

184.—(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. The Court of Disputed Returns.

(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.

(3.) 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.

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

- (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 XVI. of this Act) within forty days after the filing by the candidate of the return of his electoral expenses.

186. 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.

No proceedings unless requirements complied with.

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

Right of Chief Electoral Officer to be represented.

188. The Chief Electoral Officer shall be entitled by leave of the Court of Disputed Returns to enter an appearance in any proceedings in which the validity of any election or return is disputed, and to be represented and heard thereon, and in such case shall be deemed to be a party respondent to the petition.

Powers of Court.

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

- (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.

(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.

Inquiries by Court.

190. 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.

Voiding election for illegal practices.

191.—(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.

192. 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.

193. 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.

Real justice to be observed.

194. 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.

Immaterial errors not to vitiate election.

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

Decisions to be final.

196. 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.

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

197.—(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.

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

Costs.

199. 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.

200. 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.

Other costs.

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

- (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.

202.—(1.) 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.

(2.) 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.

Division 2.—Qualifications and Vacancies.

203. 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.

204. 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.

205. 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.

206. 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 eighty-nine of this Act so far as they are applicable, and in addition thereto shall have power—

Powers of Court.

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

207. 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.

Order to be sent to House affected.

208. The provisions of sections one hundred and ninety-three, one hundred and ninety-five, one hundred and ninety-seven, one hundred and ninety-eight, two hundred, two hundred and one and two hundred and two shall apply so far as applicable to proceedings on a reference to the Court of Disputed Returns under this Part of this Act.

Application of certain sections.

PART XIX.—MISCELLANEOUS.

209. The Chief Electoral Officer shall, in every case where the Crown Law authorities so advise, institute legal proceedings against any person committing any offence against this Act :

Institution of proceedings for offences.

Provided that this section shall not affect the right of any person to institute proceedings in respect of any offence against this Act.

210. On any prosecution under this Act the certificate of the Chief Electoral Officer, Commonwealth Electoral Officer for a State, or Divisional 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.

Certificate evidence.

211. 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

Disqualification for bribery or undue influence.

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.

Rates of telegrams.

212. Telegrams despatched after an election and containing the names of Divisions and Subdivisions, the names of candidates, the number of votes polled by each candidate, and the number of informal votes, may, subject to the regulations, be transmitted on payment of the rates prescribed in column two of the Second Part of the Second Schedule to the *Post and Telegraph Rates Act 1902-1913*, if the telegrams are transmitted within any State, or in column four of the said Part of the said Schedule if the telegrams are transmitted from one State to any other State.

Electoral matter to be sent free by post.

213. 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 may be sent by telegraph.

214. 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.

Averments deemed to be proved.

215. In any prosecution in a court of summary jurisdiction in respect of a contravention of the provisions of this Act or the regulations relating to compulsory enrolment, instituted by an officer or by any person acting under the direction of an officer, the averments of the prosecutor contained in the information or complaint shall be deemed to be proved in the absence of evidence to the contrary.

Defendant may be called upon to give evidence

216. Where any person has secured enrolment in pursuance of an electoral claim, or has made a claim for enrolment or transfer of enrolment and any proceedings arise in any court of competent jurisdiction in respect of such claim for enrolment or transfer of enrolment the elector may be called upon to give evidence upon oath to the court as to the truth of the statements contained in the claim for enrolment or transfer of enrolment.

Forms.

217.—(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.

(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.

(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 attestation or witnessing further than is provided for in the repealed form.

(5.) In the last preceding sub-section "repealed form" includes—

- (a) a form prescribed under any Act repealed by this Act and in force at the commencement of this Act ; and
- (b) a form prescribed by any regulations made under this Act and subsequently repealed.

218. All ballot-papers, certified lists of voters, and declarations used at or in connexion with an election shall be preserved as prescribed, until the election can no longer be questioned when they shall be destroyed :

**Preservation of
ballot-papers.**

Provided that such ballot-papers, certified lists of voters, and declarations shall be preserved for a period of at least six months from the date of the declaration of the poll.

219. The Governor-General may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act, and in particular—

Regulations.

- (a) prescribing penalties not exceeding Two pounds for any contravention of any regulation made in pursuance of this Act ;
- (b) prescribing the procedure in relation to the imposition and recovery of penalties for offences against the compulsory enrolment provisions of this Act ; and
- (c) the grounds upon which postal ballot-papers are to be rejected as informal.

THE SCHEDULE.

Section 59.

FORM A.

Writ for the Election of Senators.

COMMONWEALTH



OF AUSTRALIA.

HIS MAJESTY THE KING.

To _____ the Commonwealth Electoral Officer for the State of
[*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 the office of the Commonwealth Electoral Officer 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

THE SCHEDULE—continued.

FORM B.

Section 59.

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 C.

Section 71.

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*], and entitled to vote at the election of Senators for the said State do hereby nominate [*here insert the christian name or names in full, surname, place of 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 this day of 19

Signature of Nominator.	Place of Living.	Subdivision for which enrolled.	Number on Roll.

I, of consent to the above nomination, and to act if elected and declare that I am qualified under the Constitution to be elected as a Senator.

[*Signature of Candidate.*]

Witness—

Address—

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

A nomination must be signed by not less than six persons entitled to vote at the election for which the candidate is nominated.

THE SCHEDULE—*continued*.
FORM E.

Section 104.

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).

FORM F.

Section 105.

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 placing the number 1 in the square opposite the name of the candidate for whom he votes as his first preference; and must give contingent votes for all the remaining candidates by placing the numbers 2, 3, 4 (and so on, as the case requires), in the squares opposite their names, so as to indicate the order of his preference for them.

CANDIDATES.

<input type="checkbox"/>	BROOKMAN, JOHN.
<input type="checkbox"/>	CRANE, JOSEPH.
<input type="checkbox"/>	FRENCH, CHARLES.
<input type="checkbox"/>	KING, WILLIAM.
<input type="checkbox"/>	WILSON, HENRY.

THE SCHEDULE—continued.

FORM G.

Section 151.

COMMONWEALTH OF AUSTRALIA.

State of

The Commonwealth Electoral Act 1918.

Return of Electoral Expenses.

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.

‡ 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.

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

§ 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.

(2) § 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.

(3) || 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.

(4) ¶ Paid for public meetings and halls therefor

THE SCHEDULE—*continued.*

Expenditure—continued.

£ s. d.

(5) ** Paid for scrutineers

** 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.

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

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

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.