

No. , 1920.

A BILL

To consolidate and amend enactments relating to Parliamentary elections ; and for purposes connected therewith.

[MR. DOOLEY ;— 2 *December*, 1920, A.M.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Parliamentary Elections Act, 1920," and is divided into Parts as follows :—

PART I.—PRELIMINARY—ss. 1-3.

PART II.—NUMBER OF MEMBERS AND OF ELECTORATES — DISTRIBUTION OF ELECTORATES — ss. 4-19.

PART III.—QUALIFICATION OF ELECTORS AND OBLIGATION TO VOTE—ss. 20-22. 5

PART IV.—OFFICERS AND ROLLS—ss. 23-47.

PART V.—ELECTIONS—ss. 48-137.

PART VI.—ELECTION PETITIONS—ss. 138-157.

PART VII.—MISCELLANEOUS—ss. 158-170.

PART VIII.—AMENDMENTS OF CONSTITUTION 10 ACT, 1902—ss. 171-172.

Repeal and savings.

2. (1) The Acts mentioned in Schedule One are repealed.

(2) All persons appointed under the said Acts, and holding office at the commencement of this Act, 15 shall be deemed to have been appointed under this Act.

(3) All lists, rolls, regulations, notices, proceedings, and all other matters and things duly granted, made, commenced, or done under the authority of the said Acts and in force, current, operative, or pending at 20 the commencement of this Act shall, in so far as they are not inconsistent with this Act, be deemed to have been granted, made, commenced, or done under the authority of this Act.

Interpretation.
No. 41, 1912,
s. 3.

3. In this Act, unless the context or subject-matter 25 otherwise indicates or requires,—

“Assembly” means Legislative Assembly of New South Wales.

“Authorised agent” includes any person holding the written authority of any candidate to act 30 on his behalf for the election then pending.

“By-election” means election held for the return of a member pursuant to any writ not issued in respect of a general election.

“Election” means election of member of the 35 Assembly.

“Elector” means any person whose name appears on a roll. “Electoral

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- “Electoral district” or “district” means district for the election of a member.
- “Enrolled” means named on the electoral roll.
- 5 “General election” means election for the return of members pursuant to writs issued by the Governor upon the dissolution or expiry of the Assembly.
- “Marksman” means person unable to write his name.
- 10 “Member” means member of the Assembly.
- “Natural-born subject” means person born in His Majesty’s dominions or the son or daughter of a father or mother so born.
- 15 “Naturalised subject” means person made a denizen or naturalised in New South Wales.
- “Prescribed” means prescribed by this Act or by regulation thereunder.
- “Proclaimed” means published by proclamation.
- 20 “Proclamation” means proclamation by the Governor in the Gazette.
- “Registrar” means registrar for a district.
- “Returning officer” includes any person lawfully authorised to act for a returning officer, or in his place.
- 25 “Roll” means roll of electors entitled to vote at elections.
- “Speaker” means Speaker of the Assembly.
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PART II.

NUMBERS OF MEMBERS AND OF ELECTORATES—
DISTRIBUTION OF ELECTORATES.

Number of
members and
electorates.
No. 41, 1912, s. 4.

4. In every Parliament the number of members of the Assembly shall be ninety, each member representing an electoral district. 5

Ibid. s. 5.

5. New South Wales shall from time to time be distributed into ninety electoral districts.

Appointment
of Electoral
Districts
Commis-
sioners.

Ibid. s. 6.

6. (1) When any distribution of electoral districts becomes necessary under the provisions of this Act, the Governor shall appoint three persons, each of whom shall be qualified as an elector, to be commissioners, and to be called "the Electoral Districts Commissioners." 10

(2) Such persons shall be persons holding some office in the Public Service of New South Wales. 15

(3) The names of the persons so appointed shall be published in the Gazette.

Duration of
office.

Ibid. s. 7.

7. (1) The office of a commissioner shall be tenable for the period named in such commission, and, if necessary for the completion of the distribution, for an extended period, to be named in a further commission. 20

(2) The office of a commissioner shall be vacated if he ceases to be qualified as an elector, or to hold office in the Public Service.

Chairman.

Ibid. s. 8.

8. The commissioners shall appoint one of themselves to be their chairman as occasion may require. 25

Rules.

Ibid. s. 9.

9. The commissioners may, subject to the provisions of this Act, make rules for the conduct of their proceedings, but no such rule shall have any force until the same has been approved of by the Governor. 30

Quorum and
casting vote.

Ibid. s. 10.

10. At all meetings of the commissioners two shall form a quorum, and in the event of an equality of votes the chairman shall have a casting vote in addition to his original vote.

Disqualifica-
tions.

Ibid. s. 11.

11. (1) No person who has been adjudged bankrupt under any law in force in New South Wales relating to bankruptcy, and who has not obtained a certificate of discharge or release of his estate, or who has been convicted of felony or misdemeanour, shall be appointed a commissioner. 35
(2) 40

(2) If any commissioner becomes bankrupt under any such law, or assigns his estate for the benefit of his creditors, or is convicted of felony or misdemeanour, he shall vacate his office.

5 **12.** If any commissioner dies or becomes permanently incapable of performing his duties, or resigns or vacates his office, the Governor shall appoint a person eligible under the sixth section of this Act as commissioner in his stead.

Appointment to fill vacancies. No. 41, 1912, s. 12.

10 **13.** It shall be the duty of the commissioners, and they are hereby directed, to distribute New South Wales into electoral districts for the purposes of this Act whenever directed by the Governor by proclamation, and in the event of the Governor not so directing, such distribution shall be made after the expiration of nine years from the last distribution.

Redistribution of electoral districts. No. 40, 1918, s. 3 (v).

14. The prescribed notice of any proposed alteration of an electoral district shall be given by the commissioners in the Gazette, and in some newspaper published or circulating in such district, and objections in writing may be lodged with the commissioners against such proposed alteration, to which objections the commissioners shall give due consideration before coming to a final determination.

Notice of proposed alteration to be given. No. 41, 1912, s. 14.

25 **15.** The commissioners shall report to the Governor the names and boundaries of the electoral districts determined by them.

Report of commissioners. *Ibid.* s. 15. No. 40, 1918, s. 3 (vi).

16. The Governor shall thereupon cause a proclamation of the names of such districts and the boundaries thereof to be published in the Gazette, and upon such publication such districts shall, until altered by further distribution, be the electoral districts.

Districts to be proclaimed *Ibid.*

17. (1) The Minister shall forthwith, after each such proclamation, cause to be deposited in the office of the Clerk of the Assembly a properly authenticated map of every electoral district named and described in such proclamation.

Maps of districts to be deposited, number of Members and quota. No. 41, 1912, s. 17.

(2) Every distribution shall be made on the following basis, and be subject to the provisions herein-
after expressed, that is to say,—

(a) the number of Members shall be ninety;

(b)

- (b) New South Wales shall be distributed into ninety electoral districts, each to be represented by one Member only, and every such district shall have such an area that, at the time of making such distribution, the number of electors shall, subject to the margin of allowance hereinafter contained, reach the prescribed quota ; 5
- (c) due consideration shall be given to the then existing boundaries of electoral districts, to community or diversity of interest, lines of communication, and physical features ; 10
- (d) for the purpose of ascertaining the quota of electors, the divisor shall be ninety, with a margin of allowance not exceeding one thousand two hundred ; and no reasons for the addition to or deduction from the quota of any such margin of allowance need be given or appended to any report by the commissioners. 15

Existing district and rolls to continue until dissolution. No. 41, 1912 s. 18.

18. All electoral districts existing, and all rolls in force, at the time of any distribution of electoral districts under this Act shall continue, and remain in force, until the dissolution or expiration of the Parliament existing at the time when such distribution is made. 20 25

Evidence may be taken by commissioners. *Ibid.* s. 19.

19. The provisions of the Royal Commissioners Evidence Act, 1901, shall, in so far as they are applicable, apply to the commissioners making any such distribution and to any inquiry held by them for that purpose. 30

PART III.

QUALIFICATION OF ELECTORS AND OBLIGATION
TO VOTE.

20. (1) Subject to the provisions of this Act every Qualification
of electors.
No. 41, 1912,
s. 20.
5 person not disqualified under any other Act who is
twenty-one years of age and is a natural-born subject
who has, or a naturalised subject who after natural-
isation has, resided or had his principal place of
abode—

- 10 (a) within the Commonwealth of Australia for a
continuous period of six months; and
(b) in New South Wales for a continuous period
of three months; and
15 (c) in an electoral district for a continuous period
of one month immediately prior to the day on
which he applies for enrolment,
shall be entitled to be enrolled for such district and
to vote at any election for the district for which he is
enrolled.

20 (2) Notwithstanding anything contained in this Disqualifica-
tion.
section, any person who, at the time of the holding of
any election for his district—

- (a) is of unsound mind; or
25 (b) is in the receipt of aid from any public
charitable institution, except as a patient
under treatment for accident or disease at a
hospital; or
(c) is in prison under any conviction; or
30 (d) has been convicted of an offence wherever
committed, for which, if the same had been
committed in New South Wales, he might have
been sentenced to death or penal servitude,
and has not received a free pardon therefor,
or served the sentence passed on him; or
35 (e) during the preceding six months has been
imprisoned without the option of a fine for an
aggregate period of three months; or
(f) within the preceding year has been convicted
of bribery, intimidation, impersonation, or any
40 similar offence at any election; or (g)

- (g) during the preceding year has been convicted of being an habitual drunkard, an idle and disorderly person, or incorrigible rogue or a rogue and vagabond ; or
- (h) has against him an unsatisfied order of any court for the maintenance of his wife or children (whether legitimate or illegitimate), or an unsatisfied order enforceable in this State under the Interstate Destitute Persons Relief Act, 1919 ; or
- (i) has been convicted of having committed an aggravated assault upon his wife within one year ;

shall not be entitled to vote at the holding of any such election.

Restriction on
right to vote.
No. 41, 1912,
s. 21.

21. (1) Save as hereinafter provided, no person shall be entitled to vote unless he—

- (a) is enrolled for the district for which he claims to vote ; and
- (b) retains the qualification and fulfils the conditions and requirements in respect of voting herein prescribed.

(2) Any person tendering his vote, if still resident in a district, shall be entitled to vote for such district notwithstanding that he has changed his place of residence to another in the same district, and the term “qualification” in this section shall be held to mean residence in the district.

Elector who
has moved to
a new district.

(3) An elector who has changed his residence from the district for which he is enrolled to another district shall not on that account be debarred from voting at an election for the district for which he is enrolled, until a period of one month has elapsed from such change of residence :

Provided that where the issue of a writ for an election prevents an elector getting his name placed on the roll for the new district, his right to record his vote in the old district shall hold good until after such election.

22.

22. (1) Any elector for any district who without sufficient excuse, the proof of which shall lie upon him, omits to record his vote at the holding of any election for such district at which he is entitled to vote, shall be
5 liable to a penalty of *two* pounds.

Voting compulsory.

(2) It shall be the duty of the returning officer for each district, at the conclusion of any election for his district, to compile a list, in the form prescribed, of the electors for such district who have omitted to record
10 their vote.

Lists to be made of electors omitting to vote.

(3) At such election any such list shall be prima facie evidence in any proceedings in any court that the persons named and described therein have omitted to record their vote at such election for the district to
15 which such list refers.

Lists prima facie evidence.

PART IV.

OFFICERS AND ROLLS.

23. (1) The Governor may appoint an officer, to be called the Chief Electoral Officer, who shall, subject to
20 the Minister, have the responsibility of administering this Act and any provisions of any other Act so far as this Act and the said provisions relate to the enrolment of electors, the preparation of rolls, and the conduct of elections.

Appointment of electoral registrars and officers.

No. 40, 1918, s. 8.

25 (2) The Minister shall appoint a registrar for each district, deputy-registrars to keep the parts of the roll for specified polling-place areas, and such assistant registrars, assistant deputy-registrars, and other officers as may be necessary.

30 (3) The Governor may appoint a principal electoral registrar, and every registrar, deputy-registrar, and their assistants shall perform the duties imposed upon them by this Act under the general supervision and direction of the principal electoral registrar.

(4)

(4) The registrar shall keep the parts of the roll for the respective polling-place areas for his district for which no deputy-registrars have been appointed.

(5) An assistant registrar shall have the powers of the registrar, and an assistant deputy-registrar shall have the powers of the deputy-registrar. 5

Rolls to be prepared, printed, and published.

No. 41, 1912, ss. 36, 38, 45.

24. (1) There shall be rolls for each polling-place area in a district. The polling-place area rolls for a district shall together form the roll for the district.

(2) A roll for all districts or for any particular district shall be printed whenever the Minister so directs. 10

(3) Supplemental rolls setting out additions and alterations since the last print shall also be prepared and, whenever practicable, printed immediately previous to any election, and at such other times as the Minister directs. 15

(4) A supplemental roll shall be deemed to be part of the roll for the district to which it relates.

(5) The date to which any roll or supplemental roll is made up shall appear in such roll or supplemental roll. 20

(6) The rolls shall be in the form of Schedule Two, and shall describe the surname, christian name, place of residence, occupation and sex of each elector, and shall contain such other particulars as may be prescribed. 25

(7) The surname of electors on every roll shall be arranged in alphabetical order.

(8) The last printed copies of the rolls and of the supplemental rolls for each district shall be open for public inspection at the office of the registrar and at the offices of each deputy-registrar for the district, and at such other places as the Chief Electoral Officer directs, without fee, and shall be obtainable at the office of such registrar and deputy-registrars and of the Government Printer, and at such other places as the Chief Electoral Officer may direct, at the prices prescribed. 30 35

Every roll kept by a registrar or deputy-registrar shall be open for public inspection at their respective offices at such times as may be prescribed, without fee. 40

(9)

(9) No roll shall be invalidated by reason only that it is not prepared, printed, issued, kept, or published in the place or manner required by this Act, nor by reason of any error in the copying or printing of the same.

South
Australian
Act, 1908,
s. 64.

25. Names may be added to rolls pursuant to—

Additions of
new names.
No. 41, 1912,
s. 47.

(a) claims; or

(b) applications to transfer.

26. (1) A claim shall be in the form of Schedule Three, and shall be signed by the claimant in the presence of, and witnessed by, an elector.

Claim for
enrolment.
Ibid. s. 48.

(2) If the claim is in order, the registrar or deputy-registrar receiving the claim shall, pursuant thereto, enter the claimant's name and the particulars relating to him on the roll, and shall file the claim; but before entering the name on the roll he shall, unless he thinks such course unnecessary, refer the claim to the officer in charge of the police within the district.

27. (1) Any elector whose name is on the roll for any district and who has resided in any other district for one month shall transfer his name to the roll for the district in which he resides.

Transfer to
another
district.
Ibid. s. 49.

(2) Every transfer shall be made by application to transfer in the form of Schedule Three, and shall be signed by the elector in the presence of, and witnessed by, an elector, and sent to the registrar or deputy-registrar keeping the part of the roll to which the elector's name is to be transferred.

(3) The registrar or deputy-registrar receiving such application shall note thereon the date of its receipt by him, and shall enter the elector's name on the roll for the district and file the application, and shall give notice of the transfer to the registrar or deputy-registrar keeping the part of the roll from which the elector's name has been transferred, who shall thereupon remove the elector's name from the roll.

(4) Before entering the name on the roll the registrar or deputy-registrar receiving the application shall, unless he thinks such course unnecessary, refer the application to the officer in charge of the police within the part of the district in which the elector resides.

28.

Change to
another polling-
place area roll.
No. 41, 1912,
s. 51.

28. (1) Any elector whose name is on a polling-place area roll may make application in the form of Schedule Three to be changed to another polling-place area roll for the same district.

(2) The application to change shall be signed 5 by the elector in the presence of and witnessed by an elector and sent to the registrar or deputy-registrar keeping the polling-place area roll to which the elector's name is to be changed.

(3) The registrar or deputy-registrar receiving 10 such application shall note thereon the date of its receipt by him, and if it appears to him that the applicant is entitled to the change, shall enter the elector's name on the roll and file the application, and shall give notice of the change to the registrar 15 or deputy-registrar keeping the polling-place area roll from which the elector's name has been changed, who shall thereupon remove the elector's name from that roll.

Applicant to
be notified.
Ibid

29. The registrar or deputy-registrar receiving a claim or application to transfer, or to change a name to 20 another polling-place area shall, as soon as practicable, notify by post to the claimant or applicant in the form prescribed that his name has been added to the roll, or that his claim or application has been refused, as the case may be. 25

Penalty for
false state-
ment in claim
or application
to transfer.

Ibid. s. 52.

30. (1) If any person, making any claim or applica- 30 tion to transfer or to be changed to another polling-place area, makes therein any statement which is untrue in any material particular, he shall be liable to imprisonment for a term not exceeding *six* months.

(2) If any person writes the signature of any other person on any such claim or application, or signs his name on any such claim or application unless he has seen the person whose signature he purports to witness write his signature or make his mark thereon, he shall 35 be liable to imprisonment for a term not exceeding *six* months. This subsection shall not affect the liability of any person to be proceeded against for forgery, provided that he shall not be liable to be punished twice in respect of the same offence. 40

81.

31. (1) Every person who is not enrolled for the district for which he is entitled to be enrolled shall fill in a claim for enrolment or application to transfer, as the case requires, and forward the same to the registrar or 5 deputy-registrar of the district in which he resides.

Enrolment compulsory.

(2) Any person who fails to comply with the requirements of this section within twenty-eight days after he has become entitled to apply for enrolment or transfer, shall be liable to a penalty not exceeding *two* 10 pounds.

32. (1) The Inspector-General of Police when directed to do so by the Minister shall prepare lists of the names of persons who are not enrolled for the district for which they are entitled to be enrolled.

Lists of persons not enrolled to be compiled.

No. 41, 1912, s. 60.

(2) The officer compiling any such list shall 15 make a declaration in the form prescribed.

(3) The lists shall be forwarded by the Inspector-General of Police to the registrar of the district for which the person named on the list is entitled to be 20 enrolled.

(4) It shall be the duty of the registrar to whom any such list is forwarded to cause the necessary proceedings to be taken to enforce the provisions of this Act with regard to compulsory enrolment.

33. The roll may be altered by the registrar or 25 deputy-registrar as follows:—

Alteration of rolls.

Ibid. s. 53.

- (a) by correcting any obvious mistake or omission;
- (b) by changing, on the written application of the elector, the original name or address of the 30 elector to an altered name or address;
- (c) by striking out the names of dead persons;
- (d) by reinstating any name struck out by mistake as the name of a dead person.

34. When—

- 35 (a) a polling-place is appointed or abolished; or
- (b) a polling-place area is established, altered or abolished; or
- (c) the boundaries of a district are altered;

Change of electors from one polling-place to another.

Ibid. s. 55.

the Minister may, by notice in the Gazette, give such 40 directions as are thereby rendered necessary or expedient for the change of electors from one roll to another, and effect shall be given to those directions in the prescribed manner.

35.

Time for
altering rolls.
No. 41, 1912,
, 56.

35. (1) Claims and applications to transfer received before the issue of the writ may be registered after the issue of the writ, but otherwise no addition to or alteration of the roll for any district shall be made during the period between the issue of the writ for an election in the district and the close of the polling at the election. 5

(2) For the purposes of this section a writ shall be deemed to issue at six o'clock in the afternoon of the day upon which the writ was issued. 10

Lists of
deaths to be
forwarded.
Ibid. s. 58.

36. The Registrar-General, under the Registration of Births, Deaths, and Marriages Act, 1899, shall in the months of January, April, July, and October in each year, forward or cause to be forwarded to the registrar of each electoral district a list of the names, addresses, 15 and occupations of all persons of the age of twenty-one years or upwards whose deaths have been registered in the district during the preceding three months; and the registrar shall cause the names of the persons specified in the list to be struck off the roll. 20

List of per-
sons in gaol,
&c.
Ibid. s. 59.

37. (1) The Comptroller-General of Prisons and the Inspector-General of Police shall, in the months of January, April, July, and October in each year, forward to the Chief Electoral Officer a list of all persons, apparently of or above the age of twenty years, 25 imprisoned in any gaol, lock-up, or other place of detention in New South Wales under their charge respectively; and such list shall contain a statement of the offence for which each prisoner is imprisoned, his last-known place of residence at date of conviction, 30 and similar particulars regarding any previous convictions against such prisoner.

(2) Upon the receipt of the list the Chief Electoral Officer shall forward to the registrar for each district such names and particulars from such list as may 35 be necessary for the purification of the roll for such district, and the conduct of elections therein.

(3) The registrar, on receipt of a list of such names and particulars, shall write opposite the names of persons on the roll for the district, who appear 40 from the particulars in such list to be disqualified from voting

voting under this Act, the words "in custody, disqualified," and opposite the names of persons whose names appear upon such list, but who do not appear by such particulars to be disqualified, the words "in custody"; and shall forward a certified copy of such roll to the returning officer of the district when required for an election.

38. (1) The Inspector-General of Police when directed to do so by the Minister shall cause a scrutiny to be made of the roll for each district.

Scrutiny by police.
No 41, 1912,
s. 60.

(2) The officer making the scrutiny shall mark on the roll the names of all persons who have died or ceased to reside in the district, and such other particulars as may be prescribed, and shall make a declaration in the form prescribed.

(3) The roll so marked shall be forwarded by the Inspector-General of Police to the registrar of the district, who shall cause action to be taken for any alteration of the rolls thereby rendered necessary.

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

Alterations,
how made.
Ibid. s. 57.

40. Any name on a roll may be objected to by objection in writing lodged with or made by the registrar:

Names on roll may be objected to.
Ibid. s. 61.

Provided that a sum of one shilling shall be deposited in respect of each objection lodged by any person other than a member of the police force or an officer appointed under this Act, to be forfeited to His Majesty if the objection is held by the registrar to be frivolous.

41. The objection may be in the form of Schedule Four, and shall be signed by an elector enrolled on the same roll, or by the registrar or a member of the police force, or an officer appointed under this Act.

Objection.
Ibid. s. 62.

42. Each registrar shall lodge or make an objection in writing setting forth the grounds of such objection in respect of any name which he has reason to believe ought not to be retained on the roll.

Duty to object.
Ibid. s. 63.

43.

Notice of
objection.
No. 41, 1912,
s. 64.

43. (1) The registrar shall forthwith give notice of the objection to the person objected to. The notice may be in the prescribed form, and be served by posting it to the last-known place of abode of the person objected to, or, if that is not known, then to the place of abode 5 appearing on the roll. The regulations may provide for the publication and advertisement of lists of persons objected to and of objectors.

Common-
wealth Act,
1918-1919,
s. 55 (4).

(2) An objection on the ground that a person does not reside in a district for which he is enrolled shall 10 not be entertained unless it alleges that the person objected to does not reside in any part of the district and has not so resided for at least one month last past.

Answer to
objection.
No. 41, 1912,
s. 65.

44. The person objected to may, orally or in writing, in the prescribed manner, answer the objection. 15

Determina-
tion of
objection.
Ibid. s. 66.

45. (1) On receipt of the answer of the person objected to, or after the expiration of twenty days from the posting of the notice, or if lists of persons objected to are published or advertised pursuant to the regulations after the expiration of a period fixed by the regulations, 20 the registrar shall determine the objection, and, if it appears that the person objected to is not qualified or entitled to be enrolled on the roll, shall strike out his name.

(2) If any objection is held by the registrar to 25 be frivolous, the person objected to shall be entitled to a reasonable allowance, not exceeding five pounds, and the registrar shall award such sum to be paid by the objector, and, in default of payment, such sum may be recovered in any civil court as a debt due by the objector. 30

Appeal to
court of
summary
jurisdiction.
Ibid. s. 67.

46. (1) Any person—
(a) who has made and sent in a claim to be enrolled upon a roll, and who has not been enrolled pursuant to the claim; or
(b) whose name has been struck off a roll by the 35 registrar upon an objection by any person, may, in manner prescribed, make application to a court, consisting of a stipendiary or police magistrate, authorised by the Governor to hear and determine electoral appeals, for an order that his name may be 40 added or restored to the roll.

(2)

(2) Where an objection has been determined by the registrar adversely to the person objecting, that person (not being a member of the police force or an officer appointed under this Act) may, in manner
5 prescribed, apply to such court for an order sustaining the objection.

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

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

(5) The clerk or other proper officer of the court shall send by post to the registrar a certified copy of the order of the court, and it shall be the duty of the registrar to make such entries (if any) upon the roll as
20 are necessary to give effect to the order.

(6) A stipendiary or police magistrate sitting as such court shall, for the purposes of this section, be deemed to be, and shall have all the powers of a court of petty sessions; and the Minister may appoint a clerk to such court who shall, for the purposes of this section,
25 have all the powers and functions of a clerk of petty sessions.

47. Where a person is entitled to have his name changed to another polling-place area in the district for
35 the roll unless such change has been completed.

Removal of
name from
roll.

PART V.

ELECTIONS.

Governor to
issue writs in
certain cases.
Within what
time writs for
general elections
to be issued and
made returnable
No. 41, 1912,
s. 68.

No. 40, 1918,
s. 8.

48. (1) For the purpose of every general election—
and also in the case of any seat in the Assembly becoming
vacant after any such general election, and before the
meeting of Parliament—the writs for the election of
members shall be issued by the Governor.

(2) All writs for general elections shall be issued
within four clear days after the publication in the
Gazette of the proclamation dissolving Parliament, or
after the Assembly has been allowed to expire by
effluxion of time, and every such writ shall be made
returnable on a day not later than the sixtieth clear day
after the date of the issue thereof or on such later day
as the Governor may by proclamation in the Gazette
direct.

When
Parliament to
meet after return
of writs.
No. 41, 1912,
s. 69.

49. The day to be fixed for the meeting of Parlia-
ment after the return of writs for general elections shall
not be later than the seventh clear day after the date on
which such writs have been made returnable as aforesaid.

Speaker to
issue writs to
fill vacancies.
Ibid. s. 70.

50. When and so often as a vacancy occurs in the
Assembly, the Speaker shall, upon a resolution by the
Assembly declaring such vacancy, and the reason thereof,
cause a writ to be issued for filling such vacancy; and
on the death or resignation of any member, the Speaker
shall, in like manner, upon a resolution of the Assembly,
issue such writ, and in case the Assembly be not in
session, or when such vacancy occurs during any
adjournment for a longer period than seven days, he
shall also issue the writ.

If no Speaker,
Governor to
issue writ.
Ibid. s. 71.

51. If at the time of the occurrence of any such
vacancy, caused by death or resignation, there be no
Speaker, and the Assembly be not in session, or if the
Speaker be absent from New South Wales, the Governor
shall, if satisfied of the existence of such vacancy, issue
a writ for the election of a member to fill such vacancy

52.

52. Every writ for the election of a member to serve in the Assembly shall be directed to the returning officer of the district for which the election is to be held. And in every such writ shall be named the day on which all nominations of candidates at and for any election must be made (hereinafter called the day of nomination), the day for taking the poll at the several polling-places in the event of the election being contested, and the day on which the writ shall be returnable to the Governor or Speaker, as the case may be.

Writs directed to returning officer.
No. 41, 1912, s. 72.

53. The polling-day for every general election shall be so appointed that the election shall take place on the twenty-eighth day from the date of the issue of the writs.

Polling-day at general elections.
Ibid. s. 73.

54. (1) Every returning officer shall, upon the receipt by him of any such writ as aforesaid, indorse thereon the day of such receipt, and shall forthwith give public notice of the purport of such writ, of the day of nomination, the day of the polling, and the return day mentioned respectively in such writ; and also of some place within the district (to be appointed by such returning officer) at which he will receive the nomination papers hereinafter prescribed.

Duties of returning officer on receipt of writ, &c.
Ibid. s. 74.

(2) Public notice for the purpose of this section shall mean notice in any newspaper published in the district to which such writ relates, or if there be none such, then in any newspaper circulating in such district, or failing that, then by the exhibition of printed or written placards in such places as the returning officer may think most likely to attract notice.

55. The Governor shall appoint a returning officer for each district, and every such appointment shall be notified in the Gazette. And, in case of the death of any returning officer, or in case of sickness or other cause disabling any returning officer from acting at any election, the Governor may appoint some person as returning officer in his stead.

Returning officers for districts.
Ibid. s. 75.
No. 40, 1918, s. 8.

56. No returning officer, nor any person who has been a returning officer and has not, by writing under his hand addressed to the Governor, resigned such office at least fourteen days before the day of nomination for any

Returning officer or deputy not to be a candidate.
No. 41, 1912, s. 76.

any election, nor any deputy returning officer, shall be a candidate, or be elected or returned, or be or continue a member for the district for which he is or has been such returning officer, or deputy returning officer, as the case may be.

Returning officer to appoint substitute.

No. 41, 1912, s. 77.

57. (1) The returning officer shall forthwith, on the receipt by him of any such writ as aforesaid, appoint, by writing under his hand, some fit person to be the substitute, as hereinafter mentioned, of such returning officer, and such returning officer shall, in person or by such substitute, attend at all reasonable hours in the daytime, in the interval between the receipt of such writ and noon on the day of nomination, at the place so appointed for receiving the said nomination papers, and if at any time during such interval the returning officer is absent at the time or place hereby appointed for the doing or suffering by him of any act or thing relating to such election, then such substitute may and shall do or suffer such act or thing, or if the returning officer, by reason of sickness or other disability, is unable to do or suffer any acts or things relating to such election, and the same is notified to such substitute, or if the returning officer dies, then such substitute at any time may and shall, as and for the returning officer, do and suffer all such acts and things, and subject in every such case to the like provisions, as if he were the returning officer.

(2) The returning officer may in like manner appoint one or more persons to count or assist in counting the absent or postal votes.

Returning officer to exhibit names of candidates.

Ibid. s. 78.

58. The returning officer shall, upon each day between the receipt by him of any writ and noon on the day of nomination for such election mentioned in the writ, exhibit and keep exhibited, outside the place so named as aforesaid for receiving the nomination papers, in some public and conspicuous position, the names and residences of all persons who have duly become candidates for such election.

Every voter qualified to be elected as a member.

Ibid. s. 79.
No. 40, 1918, s. 8.

59. (1) Every person qualified to vote at an election for any district shall be qualified to be nominated as a candidate and to be elected for that or any other district,

(2)

(2) A candidate for election for any district shall be nominated by not fewer than six persons named on the roll for such district.

Candidates to be nominated by six electors.

(3) Every nomination of a candidate shall be made by delivering to the returning officer, or the person acting as his substitute (who, if required, shall give a receipt for the same), a nomination-paper at some time after the issue of the writ and before noon on the day of nomination.

Nomination of candidate.

(4) Such nomination-paper shall be in the following form, namely:—

We, the undersigned, electors of the electoral district of do hereby nominate (*here state name in full, occupation, and place of residence of the person nominated*) for election as a member of the Legislative Assembly for the abovenamed district.

Dated this day of 19 .

Signatures of nominators.	Place of residence as enrolled.	Occupation.	Polling-place area.

I, the abovenamed hereby consent to such nomination.

(Signed)

And no person, unless nominated in accordance with the requirements of this section, shall be deemed to be a candidate for election pursuant to this Act.

(5) No elector shall nominate more than one candidate for an electoral district.

(6) A member of the Parliament of the Commonwealth shall be incapable of being summoned or being nominated or elected as a member of the Legislative Council or Legislative Assembly.

Members of Parliament of Commonwealth not to sit in State Parliament.

If No. 41, 1912, s. 79.

If any member of the said Council or Assembly in any such Parliament is elected to the Parliament of the Commonwealth, his seat in the said Council or Assembly shall—

- (a) if no petition is lodged against such election, 5
be vacant on the expiration of the time limited for lodging such petition;
- (b) if such petition is lodged, be vacant if and when such petition is finally determined in his favour. 10

And where such vacancy occurs in the said Assembly the election of such member to the said Assembly shall thereupon be void, and a writ shall forthwith issue for a new election.

Proceedings
on nomination
if one
candidate
only.

No. 41, 1912.
s. 80.

60. If only one candidate is so nominated, the 15
returning officer shall, at noon on the day of nomination at the place so named for the delivery of nomination papers, publicly declare the candidate nominated to be duly elected, and shall publish such declaration in some newspaper published or circulating in the district, and 20
shall make his return accordingly.

When poll to
be taken.
Ibid. s. 81.

61. If there are more candidates nominated than one, it shall be open to any candidate to withdraw his name from nomination by delivering a notice under his hand to the returning officer or the person acting as his 25
substitute before noon on the nomination day, and if after such withdrawal there are two or more candidates a poll shall take place on the days named in the writ for that purpose, and at the several polling-places for the district; and the returning officer shall, at noon on the 30
nomination day, and at the place named as aforesaid for the delivery of the nomination-papers, publicly announce that a poll will be so taken and the names of the persons who have become candidates, and shall also forthwith publish in some newspaper published or circulating in 35
the district a like announcement, together with a list of the polling-places and the date of the poll.

Ballot-
papers.
Ibid. s. 82.

62. (1) Ballot-papers to be used in an election shall be provided by the returning officer after a poll has been appointed. 40

(2) Such papers shall be in the form of Schedule Five. **63.**

63. In printing the ballot papers—

- (a) the names of all candidates duly nominated shall be printed in alphabetical order according to their surnames ;
- 5 (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 ;
- 10 (c) where similarity in the names of two or more candidates is likely to cause confusion, the chief electoral officer or the returning officer for the district may arrange the names, with such description or addition as will distinguish them from one another ;
- 15 (d) a square shall be printed opposite the name of each candidate.

Printing
ballot-papers.
No. 41, 1912,
s. 83.

64. The Minister may, by notice in the Gazette—

- (a) appoint a chief polling-place for each district at which the returning officer may preside ;
- 20 (b) appoint such other polling-places for each district as he thinks necessary ;
- (c) abolish any polling-place ;
- (d) establish any polling-place area and fix its boundaries ;
- 25 (e) alter the boundaries of any polling-place area :
Provided that no polling-place shall be appointed or abolished, or polling-place area be established, altered or abolished after the issue of the writ and before the time appointed for its return.

Polling-
places.
Ibid. s. 84.
No. 40, 1918,
s. 8.

- 30 **65.** (1) The returning officer shall cause such booths to be erected, or rooms to be hired or otherwise provided, for taking the poll at any election at each polling-place, as the convenient conduct of the election may require.

Polling-
booths.
No. 41, 1912,
s. 85.

- (2) If under this provision there is more than
35 one booth at any polling-place, there shall be affixed over the entrance of each booth in succession so many letters of the alphabet in their alphabetical order as shall denote the booth at which each elector, according to the
initial

initial letter of his surname, is to vote, and no elector shall be permitted to vote in any booth save that which is so denoted by the initial letter of his surname.

(3) No polling-booth shall be in any house for or in respect of which any license for the sale of 5 fermented or spirituous liquor under the Liquor Act, 1912, or any Act amending the same, is held by any person, or upon the premises appertaining to such house.

Booths, how arranged, &c. No. 41, 1912, s. 86.

66. Every booth shall be so arranged as to have one or more inner compartments opening only into that part 10 in which the ballot-box is kept; and the returning officer or his deputy shall provide in every such compartment pencils for the use of voters, and shall also provide for each booth a ballot-box having a lock and key, and with a cleft or opening therein capable of receiving the ballot-papers. 15

Returning officer may preside at one booth and shall appoint deputies at others.

Ibid. s. 87.

67. The returning officer may preside and take the poll at some one booth of a polling-place within the district; and he shall, by writing under his hand, appoint one or more deputies to act for him and take the poll at each of the other booths of the several polling-places, 20 and may also in like manner appoint one or more persons to be poll clerks, and by himself and his several deputies assist in taking the poll as he may see fit.

Poll clerks appointed. Substitute deputy returning officer and poll clerk to make declarations.

Ibid. s. 88. No. 40, 1918, s. 8.

68. (1) Every returning officer, substitute of a returning officer, and every deputy returning officer 25 and poll clerk shall, before he enters upon any of the duties hereby assigned to him with regard to any election, make and sign before some justice of the peace, clergyman, school teacher, or postmaster, a declaration to the effect following:— 30

I [A.B.] do solemnly declare that I will faithfully and impartially, according to the best of my skill and judgment, exercise and perform all the powers, authorities, and duties reposed in or required of me by the Parliamentary 35 Elections Act, 1920, as returning officer, [*or* substitute of the returning officer, *or* deputy returning officer, *or* poll clerk, *as the case may be*] with regard to the election of a member for the electoral district of , and I do 40 further solemnly promise and declare that I will not

not at the said election attempt to ascertain
[save in the case in which I am expressly by law
authorised so to do] for what candidate any
person intends to vote or has voted at the said
election; and that if in the discharge of my
duties at or concerning the said election I shall
have learned, or have the means of learning, for
what candidate any person intends to vote or has
voted thereat, I will not by word or act, or by
any other means whatsoever, directly or in-
directly, divulge or disclose, or aid in divulging
or disclosing the same, save in answer to some
question which I am legally bound to answer.

And every declaration made under this section shall be
transmitted by the returning officer or his substitute to
the Minister.

(2) Any clergyman, school teacher, or post-
master is authorised to receive any such declaration.
Part IV of the Oaths Act, 1900, shall apply to such
declaration as if it were made under the said Act.

69. (1) Before the date of polling the returning
officer shall deliver to each of the deputies, for use at
each polling-booth, sufficient copies of all rolls in force
for the district in and for which the poll is to be taken
thereat, certified under his hand to be true copies; and
also one set at least for the general use of scrutineers,
and shall also deliver to each deputy, and himself retain,
such numbers respectively of the ballot-papers as are
sufficient for the use of the electors entitled to vote at
each booth at which such returning officer and deputies
respectively are to take the poll; and every returning
officer and deputy shall keep an exact account of all
such ballot-papers.

(2) It shall be the duty of such returning officer
or his deputy to sign or initial every ballot-paper when
issued to each voter at the booth at which such
returning officer or his deputy may be presiding, and also
to write, or cause to be written, any additional ballot-
papers that may be required, and such written ballot-
papers shall also be signed or initialled as hereinbefore
mentioned.

70.

Scrutineers.
No. 40, 1918,
s. 8.

70. (1) Each candidate shall be entitled to appoint, by writing under his hand, scrutineers on his behalf at each polling-booth; save as is hereinafter provided such scrutineers shall be entitled to be present in that part of the booth in which the ballot-papers are received. 5

(2) A scrutineer shall not—

- (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.

(3) 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 only one scrutineer for each candidate shall be entitled to be present in a polling-booth at any one time.

(4) 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 shall be liable to a penalty not exceeding *five* pounds, and may be removed from the polling-booth by any member of the police force or person authorised by the presiding officer to remove him.

Scrutineer to
make
declaration.
No. 41, 1912,
s. 91.

71. Every scrutineer, before acting as such at any polling-booth, shall make and sign before the returning officer or deputy (as the case may be) who takes the poll at such booth, a declaration to the effect following:—

I [A.B.] (scrutineer for C.D., a candidate at the present election for the electoral district of 30) do solemnly declare that I will faithfully observe all the provisions of the Parliamentary Elections Act, 1920, which relate to my office of scrutineer; and I do further solemnly promise and declare that I 35 will not, as such scrutineer, attempt to ascertain for what candidate any person intends to vote or has voted at the said election, and that if, in the discharge of my duties at or concerning the said election, I shall have learned, or have the 40 means

means of learning, for what candidate any person intends to vote or has voted thereat, I will not by word or act, or by any other means whatsoever, directly or indirectly, divulge or disclose, or aid in divulging or disclosing the same, save in answer to some question which I am legally bound to answer.

And every such declaration shall be transmitted to the Minister by the returning officer or his substitute.

10 **72.** The day appointed for polling-day shall be a public holiday, as from twelve o'clock, noon, of such day.

Polling-day a public holiday. No. 41, 1912, s. 92.

73. (1) There may, at any time during the taking of a poll, be present at the polling-booth—
15 (a) the returning officer or deputy;
(b) the poll clerks and scrutineers;
(c) the registrar or deputy-registrar;
(d) any member of the police force designated by the returning officer;
20 (e) voters, not more than six in number, actually engaged in voting, such voters to be designated, if thought necessary, by the returning officer or deputy:

Who may be present at polling-booth. *Ibid.* s. 93.

Provided that a registrar, deputy-registrar, or such member of the police force shall, before entering the polling-booth, make and sign the prescribed declaration.

(2) Any person who, without lawful authority, the proof of which shall be on him, enters any polling-booth or, being therein, refuses to quit such booth forthwith on being required by the returning officer or deputy, or by any member of the police force acting under the direction or authority of such returning officer or deputy, may be removed from the polling-booth, and shall be liable to a penalty not exceeding *ten* pounds.

25 **74.** Immediately before proceeding to take the poll at any booth the returning officer or deputy (as the case may be) shall exhibit for the inspection of the candidates, scrutineers, and poll clerks present, the ballot-box open and

Returning officer to exhibit ballot-box before taking poll. *Ibid.* s. 94.

and empty, and shall immediately afterwards close and lock, and place the same empty and keep the same unopened upon the table at which he is to preside, and in full view of all persons present in the polling-booth, and he shall keep the key of the said box. 5

Hours of
polling.
No. 41, 1912,
s. 95.

75. Every polling shall commence on the day appointed for the same at eight o'clock in the forenoon, and shall, unless lawfully adjourned, finally close at seven o'clock in the evening of the same day :

Provided that if at the said time any electors are in 10 the polling-booth and desiring to vote, the votes of such electors shall be taken, for which purpose the polling shall not close until such electors have voted.

Permission to
be granted to
employees to
go to polling-
booth.
Ibid. s. 96.

76. Every employer shall at the request of any elector employed by him allow such elector to go, at a 15 reasonable time, to a polling-place and record his vote at any election.

If any person contravenes the above provision he shall be liable to a penalty not exceeding *fifty* pounds :

Provided that the above provision shall not apply 20 where the elector has a half-holiday on the day of the election.

Where
electors may
vote.
No. 41, 1912,
s. 97.
No. 40, 1918,
s. 8.

77. (1) Any elector may vote at any polling-place within the polling-place area for which he is enrolled, or, if he is absent from such area and makes and signs 25 before the presiding officer a declaration in the form of Schedule Six, may vote at any other polling-place for the same district.

(2) If the elector is of Jewish persuasion and has made the declaration prescribed under section 30 eighty-nine of this Act, the declarations under sections ninety-five and one hundred and eight may be made orally, and the signature of the elector provided for in these declarations may be made by the presiding officer.

Appointment
of polling-
places outside
electoral
districts.
No. 41, 1912,
s. 98.
No. 40, 1918,
s. 4 (v).

78. (1) The Governor, in any case in which he is 35 satisfied that the convenience of a large number of electors of any district would be furthered by appointing polling-places outside such district, may, by notice as aforesaid, appoint such polling-places.

(2) Where an elector votes outside his district 40 at a polling-place duly appointed under the last subsection,

section, he shall deposit such ballot-paper in a ballot-box specially set apart for ballot-papers for the district in respect of which the voter claims to vote, and upon the close of the poll such ballot-papers, together with all documents received by the deputy returning officer in connection with the poll, shall be dealt with in accordance with the provisions of section one hundred and sixteen.

79. Every person claiming to vote at any polling-booth shall state his christian and surname, and, if so desired by the presiding officer, any other particulars necessary for the purpose of identifying such person with the name upon the roll under which the vote is claimed. He shall also demand a ballot-paper.

Persons claiming to vote to give name and address.
No. 41, 1912, s. 99.

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

Questions to be put if voter challenged.
No. 41, 1912, s. 100.

(a) Are you the person whose name appears as [here state name under which the person claims to vote] on the roll for [this district or the district of]?

No. 40, 1918, s. 8.

(b) Are you of the full age of twenty-one years?
(c) Have you already voted, either here or elsewhere, at this election?

(d) Are you disqualified from voting?

(e) Have you left the electoral district for which you are enrolled for a longer period than one month prior to the day of one thousand nine hundred and (Stating the day next before the day of the issue of the writ for the election)?

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

Consequence of answers.

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

Answer conclusive.

(4) If any person claiming to vote—

(a) refuses or omits to answer any such questions put to him by the presiding officer; or

(b)

(b) does not answer absolutely in the affirmative the first two of the said questions, or does not answer absolutely in the negative the last three of the said questions so put to him, he shall be liable to a penalty not exceeding *twenty* 5 pounds.

Errors not to
forfeit vote.
No. 41, 1912,
s. 101.

81. (1) No omission of any christian name, or entry of a wrong christian name, or address, or occupation, and no mistake in the spelling of any surname, shall warrant the rejection at any polling of any claim to vote if the 10 voter is sufficiently identified in the opinion of the presiding officer. No female elector shall be disqualified from voting under the name appearing on the roll because her surname has been changed by marriage, but in such case a note of the fact shall be made by the 15 presiding officer.

Person
notified that
his name is
on the roll
may vote.

(2) Where a claimant or applicant has been notified in the form prescribed under section twenty-nine that his name has been added to the roll, such claimant or applicant upon production of the notification 20 and upon making a declaration in the form of Schedule Seven shall be entitled to vote at any election for the district mentioned in the notification notwithstanding that his name is not on the roll for such district. But no person shall be entitled at any election to vote for 25 more than one district.

Ballot-papers
initialled.
Ibid. s. 102.

82. No ballot-paper shall be delivered to any voter without being first initialled by the presiding officer, and an exact account shall be kept of all initialled ballot-papers. The initials of the presiding officer shall 30 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.

Vote, how
given.
Ibid. s. 103

83. Upon receipt of the ballot-paper the voter shall, without delay,— 35

(a) retire alone to some unoccupied compartment of the booth, and there in private mark his vote on the ballot-paper by making a cross in the square opposite the name of the candidate for whom he votes; 40

(b)

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

(c) quit the booth.

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

Spoilt ballot-papers.
No. 41, 1912,
s. 104.

85. An elector shall be entitled to vote for one and
15 only one candidate at an election, and any ballot-paper purporting to record more votes than one shall be rejected at the close of the poll.

Only one vote to be given.
Ibid. s. 105.

86. If, at any polling-booth, any ballot-paper has been delivered to any person having tendered a vote,
20 and if any other person subsequently tenders a vote at such booth in the name of, or as purporting to be, such first-mentioned person, the returning officer or deputy shall put to the person so subsequently tendering a vote the prescribed questions; and such person may be dealt
25 with in all respects in like manner as any other person having tendered a vote; but the ballot-paper of such person shall not be deposited in the ballot-box or allowed by the returning officer or deputy, but shall be set aside by him for separate custody.

Duty of returning officer when a second vote is tendered for one name.
Ibid. s. 106.

87. (1) If any person whose name appears on any electoral roll for the district with the word "dead," or the words "in custody," or "in custody, disqualified," written upon a copy thereof opposite such name, pursuant to the provisions of this Act, tenders his vote,
30 the returning officer or deputy shall require such person, before he receives a ballot-paper, to make a solemn declaration in the form following :—

Where claim to vote is that of a person apparently dead or in custody.
Ibid. s. 107.

I [A.B.] do solemnly and sincerely declare that I am the person [A.B.] whose name appears
40 upon the roll in force for the electoral district of with the word "dead" [or the words "in

"in custody," or "in custody, disqualified"] written upon a copy thereof opposite such name; and I make this solemn declaration, conscientiously believing the same to be true.

(2) If any person wilfully make any false statement in such declaration, or personate any deceased elector or any elector then being in custody as herein-before mentioned, for the purpose of voting at any election, such person shall be guilty of a misdemeanour, and may be imprisoned for any term not exceeding two years.

(3) Before any person makes any such declaration, the returning officer or deputy shall warn such person that by making a false declaration such person will be guilty of a misdemeanour, and be liable to the punishment provided by law in that behalf.

Vote of blind or physically incapacitated voter.

No. 41, 1912, s. 108.

No. 40, 1918, s. 4 (viii).

88. If any person to whom a ballot-paper has been delivered as aforesaid is blind, or is incapacitated by any other physical cause from voting in the usual way, or is unable to write, and signifies the same to the returning officer or deputy, such returning officer or deputy may, and shall at the request of such person and for him, and in presence of the poll clerk and scrutineers, if any, mark the ballot-paper according to the instruction of such person, and shall forthwith cause the ballot-paper of such voter to be deposited in the ballot-box; and the name and number on the electoral roll of every voter whose vote is given pursuant to this section shall be entered on a list to be called the "list of open votes."

Provision when poll falls on Saturday.

No. 41, 1912, s. 109.

No. 40, 1918, s. 4 (ix).

89. If, when the day appointed for taking any poll falls on a Saturday or on any day on which occurs a Jewish fast or festival, any person to whom a ballot-paper has been delivered, declares at the prescribed time and in the form prescribed that he is of Jewish persuasion, and objects on religious grounds to vote in the manner provided by this Act, the returning officer or deputy shall, at the request of such person, and in presence of such person, and for him, and in presence of the poll clerk and scrutineers (if any), mark the ballot-paper according to the instruction of such person, and deal with such ballot-paper as in the last preceding section mentioned.

90.

90. If upon examination of the several rolls used at any election or of any other documents or writings in his possession, or if from evidence satisfactory to him (from whatever source derived) it appears to the returning officer or officers that any person has voted in more than one district at and for one and the same election, the vote given outside the proper district of such person shall, if ascertainable from any such evidence as aforesaid, be rejected.

When votes
to be rejected
No. 41, 1912,
s. 110.

91. (1) During the polling at any election no person shall take any ballot-paper out of the polling-booth save into one of the compartments of the polling-booth; no person shall enter any such compartment while any other person shall be therein; and no person being in any such compartment shall remain there for a longer time than shall be reasonably required for the purpose of marking his ballot-paper.

Ballot-paper
not to be
taken out of
booth, &c.
Ibid. s. 111.

(2) Any person wilfully violating any enactment in this section, or otherwise obstructing or unnecessarily delaying the proceedings at any such polling, may be removed from the polling-booth, and shall for every such offence incur a penalty not exceeding *ten* pounds.

Offences.

92. If any person—

- 25 (a) to whom any of the prescribed questions is so put as aforesaid wilfully makes a false answer to the same or any part thereof; or
- (b) wilfully makes a false declaration in respect of any matter or thing for which a declaration is required by this Part; or
- 30 (c) personates any elector for the purpose of voting at any election; or
- (d) votes twice at any election; or
- (e) knowingly deposits in the ballot-box at any polling-place more ballot-papers than one;
- 35 he shall be guilty of a misdemeanour, and be liable to imprisonment for a term not exceeding *six* months.

False answer
to questions,
&c., or double
voting a mis-
demeanour.
Ibid. s. 112.

93. Any person who, on polling-day, or on a day to which the polling is adjourned, obstructs any elector desiring to vote from access to the polling-booth shall be liable

Obstructing
access to poll-
ing-booth.
Ibid. s. 113.

liable to a penalty not exceeding five pounds, and may, on complaint made, be removed by any police officer from proximity to the polling-booth.

Arrest of
offenders.
Ibid. s. 114.

94. Every returning officer and deputy, and every member of the police force of or above the rank of 5 senior-sergeant, shall have power and authority to maintain order and keep the peace at any election or polling, and, without any other warrant than this Act, to cause to be arrested and taken before a justice of the peace any person reasonably suspected of committing or 10 attempting to commit at any polling-place any offence under this Act, and also to cause to be removed any person who obstructs the approaches to any polling-booth, or wilfully or unnecessarily obstructs or delays the proceedings at the polling, or conducts himself in a 15 disorderly manner, or causes a disturbance at any election, and all constables and peace officers shall aid and assist the respective persons hereby empowered in the performance of their duties.

Application
for a postal
vote certi-
cate and
postal ballot-
paper.
No. 40, 1918,
s. 5.

95. (1) An elector who—

- (a) will not throughout the hours of polling on 20 polling day be within fifteen miles by the nearest practicable route of any polling-booth open in the State for the purposes of an election; or 25
- (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 30 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, 35

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 40 ballot-paper, and may be in the prescribed form, and must be

be signed by the elector in his own handwriting in the presence of an authorised witness, and must be made and sent, after the issue of the writ for the election and before the polling day for the election, to the returning officer for the district for which the elector is enrolled or to some other district returning officer if the elector has reason to believe that the application may not, in the ordinary course of post, reach the returning officer for the district 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.

Any person contravening any provision of this subsection shall be liable to a penalty not exceeding *fifty* pounds or to be imprisoned for a term not exceeding *one* month.

96. (1) Subject to subsection two of this section the following persons are authorised witnesses within the meaning of this Act:—

Authorised
witnesses.
No. 40, 1918,
s. 5.

- (a) All State returning officers, and officers of the Public Service permanently employed in the State electoral office, and all Commonwealth divisional returning officers; all State and Commonwealth electoral registrars and deputy 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

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 authorised witnesses within the meaning of this Act.

(2) No person who is a candidate at any election shall be an authorised witness at that election. 20

Duty of
authorised
witnesses,
No. 40, 1918,
s. 5.

97. (1) An authorised 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; 25
(b) he has seen the applicant sign the application in the applicant's own handwriting; and
(c) he knows, or has satisfied himself by inquiry from the applicant or otherwise, that the statements contained in the application are true. 30

Any person contravening any provision of this subsection shall be liable to a penalty not exceeding *fifty* pounds or to be imprisoned for a term not exceeding *one* month.

(2) The authorised 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 authorised witness and the date.

98.

98. (1) The 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 returning officer for the district for which the applicant declares that he is enrolled, and one postal ballot-paper.

Issue of certificate and ballot-paper.
No. 40, 1918, s. 5.

(2) The postal vote certificate and postal ballot-paper may be in the prescribed form.

99. (1) All applications for postal vote certificates and postal ballot-papers received by a returning officer shall, if they relate to the district for which he is returning officer, be kept by him, or if they relate to another district, 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 returning officer for that district.

Inspection of applications.
Ibid.

(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.

100. (1) The returning officer shall number all applications for postal vote certificates and postal ballot-papers issued 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.
Ibid.

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

101. (1) The returning officer for the district 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 copies of the roll 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.
Ibid.

(2) If there is not time conveniently to note on the certified copies of the roll the issue of a postal vote certificate and postal ballot-paper, the returning officer shall immediately advise the presiding officer to whom

whom the certified copies of the roll have 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. 5

Directions for
postal voting.
No. 40, 1918,
s. 5.

102. The following directions for regulating voting by means of postal ballot-papers are to be substantially 10 observed :—

- (a) The elector shall exhibit his postal ballot-paper (in blank) and his postal vote certificate to an authorised witness.
- (b) The elector shall then and there, in the 15 presence of the authorised 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 authorised witness shall then and there 20 sign his name in his own handwriting on the postal vote certificate in the place provided for the signature of the authorised witness, and shall add the title under which he acts as an authorised witness and the date. 25
- (d) The elector shall then and there, in the presence of the authorised witness, but so that the authorised witness cannot see the vote, mark his vote on the ballot-paper in the prescribed manner, and shall fold the ballot-paper so that 30 the vote cannot be seen, and hand it so folded to the authorised witness.
- (e) The authorised witness shall then and there place the ballot-paper in the envelope addressed to the returning officer, fasten the envelope, 35 and hand it to the voter who shall forthwith post or deliver it, or cause it to be posted or delivered, to the returning officer.
- (f) If the elector's sight is so impaired that he cannot vote without assistance, the authorised 40 witness, if so requested by the elector, shall mark

- mark the elector's vote on the ballot-paper in the prescribed manner in the presence of a witness and shall then and there fold the ballot-paper so that the vote cannot be seen.
- 5 (g) The authorised 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
- 10 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.

15 **103.** Every authorised 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
- 20 (c) refrain from disclosing any knowledge of the vote of any elector voting by post before him.

Any person contravening any of the provisions of this

25 section shall be liable to a penalty not exceeding *one hundred* pounds, or to imprisonment for *three* months.

104. 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

30 returning officer, and who fails to forthwith post or deliver the envelope, shall be guilty of an offence, and liable to a penalty not exceeding *fifty* pounds, or to imprisonment for *one* month.

105. Any person present when an elector is before

35 an authorised witness for the purpose of voting by post shall—

- (a) obey all directions of the authorised witness ;
- (b) refrain from making any communication whatever to the elector in relation to his vote ;
- 40 (c) refrain from assisting the elector or in any manner interfering with him in relation to his vote ; and
- (d)

Duty of authorised witness.
No. 40, 1918, s. 5.

Penalty for failure to post postal ballot-paper.
Ibid.

Duty of persons present when an elector votes by post.
Ibid.

- (d) except as provided in paragraph (f) of section one hundred and two refrain from looking at the elector's vote or from doing anything whereby he might become acquainted with the elector's vote.

5

Any person contravening any of the provisions of this section shall be liable to a penalty not exceeding *one hundred* pounds, or to imprisonment for *three* months.

Preliminary
scrutiny of
postal
ballot-papers.
No. 40, 1918,
s. 5.

106. At the scrutiny the returning officer or the officer assisting him shall produce all applications for 10 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—

- (a) compare the signature of the elector on each postal vote certificate with the signature of the 15 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 20 for the certificate and that the signature purports to be witnessed by an authorised witness, and that the elector is enrolled for the district, accept the ballot-paper for further scrutiny, but, if he is not so satisfied, disallow the ballot- 25 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 30 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— 35
 - (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 40
- (e) proceed with the scrutiny of the postal ballot-papers which have been accepted for further scrutiny.

107.

107. A postal ballot-paper or an absent voter's ballot-paper shall not be informal because of any mistake in spelling, if the elector has made clear his intention.

Postal and absent voters ballot-papers not to be informal because of certain omissions or mistakes.
Ibid.

108. (1) An elector who on polling-day is absent from the electoral district for which he is enrolled may, subject to the following provisions, vote at any polling-place in any other electorate :—

Voting outside district.
No. 41, 1912, s. 115.
No. 40, 1918, ss. 4, 8.

- (a) The elector must state his name, and place of residence in the electoral district for which he is qualified to vote, together with his occupation therein.
- (b) The returning officer or deputy may, if he thinks fit, and at the request of any scrutineer shall put to the elector any of the questions prescribed by section eighty of this Act which are applicable to the case.
- (c) If the elector answers the questions satisfactorily, or if no questions are put to him, he may be allowed to vote as an absent voter upon making a declaration in the form of Schedule Eight hereto.
- (d) The form of declaration may be printed or written on an envelope addressed to the returning officer for the district for which the elector is enrolled, and must, after being filled in, be signed by the elector in his own handwriting in the presence of the returning officer or deputy, and completed and attested by him.
- (e) After the declaration has been made, the returning officer or deputy shall hand to the elector a ballot-paper. The form of the ballot-paper may be prescribed. Each ballot-paper shall be signed or initialled on the back by the returning officer or deputy.
- (f) The elector, after receiving the ballot-paper, shall without delay retire alone into an unoccupied compartment of the polling-booth, and there in private mark his vote on the ballot-paper, and shall then fold and fasten the ballot-paper

ballot-paper so that the vote cannot be seen without unfastening it, and at once return the ballot-paper so fastened to the returning officer or deputy before whom he made the declaration, and shall again state his name if so required 5 by the returning officer or deputy.

- (g) The returning officer or deputy shall then, in the presence of the elector, forthwith enclose the ballot-paper in the envelope bearing the declaration of the elector and securely fasten 10 the envelope.

(2) If the returning officer or deputy is unable to supply the elector with a printed or written ballot-paper, he shall, after the declaration has been made by the elector in pursuance of paragraph (d) of the last 15 preceding subsection, supply the elector with a blank paper in the form of Schedule Nine signed or initialled by him on the back.

The elector, on receiving such paper shall thereupon retire alone into an unoccupied compartment of the 20 polling-booth, and there in private record his vote in the manner prescribed, and then fold and fasten such paper as above prescribed.

The paper shall thereafter be dealt with as a ballot-paper. 25

Forwarding
of absent
voters'
ballot-papers.
No. 41, 1912,
s. 116.
No. 40, 1918,
s. 8.

109. Every absent voter's ballot-paper containing a vote shall be promptly forwarded under registered cover where practicable to the returning officer for the district for which the voter declares that he is enrolled.

Immediately after the close of the poll, the returning 30 officer or deputy shall, by telegraph or other expeditious means, send to each returning officer to whom he has forwarded envelopes containing absent voter's ballot-papers, advice of the number of envelopes so forwarded.

Returning
officer
satisfied to
accept ballot-
paper for
further
scrutiny.
No. 41, 1912,
s. 117.

110. The returning officer for the district for which 35 the voter declares that he is enrolled, or the officer assisting him, shall in the presence of the scrutineers examine the declaration on the envelope containing the absent voter's ballot-paper, and if it appears to him that a person of the same name and description as the person 40 whose name is signed to the declaration is enrolled for the

the district, and that the declaration is duly attested, he shall accept the ballot-paper for further scrutiny, but otherwise he shall reject the ballot-paper without opening the envelope. If he accepts the ballot-paper
5 for further scrutiny, he shall open the envelope without destroying the declaration and extract the ballot-paper, and without unfolding it, place the ballot-paper in the ballot-box.

111. (1) When the absent voters' ballot-papers
10 have been dealt with as above directed, the returning officer, or the officer assisting him, shall open and proceed with the scrutiny of the absent voters' ballot-papers which have been accepted for further scrutiny.
Further scrutiny.
No. 41, 1912,
s. 118.
No. 40, 1918,
s. 8.

(2) At the scrutiny the returning officer shall
15 open the absent voters' ballot-papers, and shall allow and count those which are formal, and shall disallow and reject those which are informal.

(3) An absent voters' ballot-paper shall be deemed informal in the following cases:—

- 20 (a) If it is not initialled by the presiding officer;
or
(b) if it has no cross in the square opposite the name of a candidate or has crosses in squares opposite the name of more than one candidate;
25 or
(c) if it has upon it any mark or writing not authorised by this Act which, in the opinion of the returning officer, will enable any person to identify the voter.

30 **112.** The decision of the returning officer, as to the allowance or disallowance of any absent voters' ballot-paper under this Act, shall be final, subject only to review by the Elections and Qualifications Committee.
Decision of returning officer re validity of ballot-paper.
No. 41, 1912,
s. 119.

113. A returning officer shall seal up in separate
35 parcels—
Certain duties of returning officer.
Ibid. s. 120.

- (a) all envelopes from which absent voters' ballot-papers have been taken;
(b) all unopened envelopes containing absent voters' ballot-papers;
40 (c) all absent voters' ballot-papers allowed as formal; and

(d)

(d) all absent voters' ballot-papers rejected as informal;

and shall deal with the parcels and their contents as in the case of other ballot-papers used at the election.

How and
when number
of votes to be
ascertained.
No. 41, 1912,
s. 121.

114. Immediately upon the close of the poll the 5
returning officer and every deputy at the polling-place
at which each presides shall, in the presence and subject
to the inspection of such of the scrutineers as choose to
be present, and the poll clerks (if any), but of no other
persons, open the ballot-box and proceed to count the 10
number of votes for each candidate.

Informal
ballot-papers.
Ibid. s. 122.

115. (1) A ballot-paper shall be informal if—

(a) it is not duly initialled by the presiding officer;
or

(b) it has no cross in the square opposite the name 15
of a candidate or has crosses in squares opposite
the name of more than one candidate; or

(c) it has upon it any mark or writing not author-
ised by this Act to be put upon it, which, in
the opinion of the returning officer, will enable 20
any person to identify the voter.

(2) Informal ballot-papers shall be rejected
at the scrutiny.

Sealing and
transmission
by deputies
of separate
parcels of
ballot-papers,
&c.

Ibid. s. 123.

116. Immediately after ascertaining the total
number of votes each deputy shall make up— 25

(a) in one parcel the ballot-papers which have
been used in voting at his polling-booth during
the election;

(b) in a second separate parcel, the ballot-papers
which have remained unused thereat; and 30

(c) in a third separate parcel, the certified copies
of rolls supplied to the said deputy, signed by
him, and all books, rolls, and papers kept or
used by him during the polling;

What to be
done with
books,
papers, rolls,
&c.

and shall seal up the said several parcels; and shall 35
permit any of the scrutineers who may desire to do so to
affix his or their seals to such parcels; and shall indorse
the same severally with a description of the contents
thereof, and with the name of the district and polling-
booth, and the date of the polling; and sign with his 40
name the said indorsement; and shall transmit the said
parcels to the returning officer.

117.

117. Each deputy shall together with the parcels aforesaid, transmit to the returning officer a list of the total number of votes received by each candidate and also an account in which such deputy shall charge himself with the number of ballot-papers originally delivered to him, and the number (if any) written out by him, specifying therein the number thereof delivered to and used by voters and the number not so delivered or left unused; and every such list and account respectively shall be verified as well by the signatures of the said deputy and the poll clerk (if any) as also by the signatures of such of the scrutineers as are present and consent to sign the same.

Account of
ballot-papers
and
verification
thereof and of
list of votes.
No. 41, 1912,
s. 124.

118. The returning officer shall, in respect of the polling-booth at which he himself has presided, make up in separate parcels in like manner as is herein required of deputy returning officers the list, all ballot-papers used or unused, and all books, rolls, and papers kept or used by him at such polling-booth; and shall seal up, and also permit to be sealed up by the scrutineers, and shall indorse in like manner as aforesaid, the several parcels, and deal with the same as hereinafter provided.

Returning
officers'
parcels.
Ibid. s. 125.

119. (1) The returning officer shall make up the general state of the poll from the list made out by him and from the lists transmitted by the deputy returning officers; and shall, subject to the provisions of section one hundred and twenty-three, as soon as conveniently may be after taking the poll, by notice signed by him and posted in some conspicuous position at the principal polling-place, and inserted in some newspaper published or circulating in the district, announce the number of votes given to each candidate, and declare that candidate who has received the greatest number of votes to be duly elected.

Declaration
of poll.
Ibid. s. 126.

(2) If two or more candidates have received an equal number of votes, the returning officer shall give a casting vote, but shall not otherwise vote at such election.

Casting vote
of returning
officer.

(3) The name of the person so elected shall be indorsed on the writ by the returning officer, and the writ shall be by him returned to the Governor, or Speaker, as the case may be, within the time specified therein.

(4)

Information
by cable or
wireless as to
votes polled
at Lord Howe
Island.

(4) The writ for the electoral district which includes Lord Howe Island may be returned, notwithstanding that the result of the poll has not been received from Lord Howe Island, if the result of the election for the district cannot be affected thereby. It shall be permissible for the returning officer to accept information as to the votes polled at Lord Howe Island which is transmitted to him by cable or wireless and which he is satisfied is authentic in lieu of the list referred to in section one hundred and seventeen. 5 10

Separate
parcels to be
inclosed in
packets,
sealed, &c.
No. 41, 1912,
s. 127.

120. The returning officer shall, as soon as practicable after the day of polling, enclose in separate packets in manner hereinafter mentioned, the parcels so transmitted to him, and those made up and sealed by himself in respect of the polling-booth at which he has presided, that is to say :—He shall enclose in one packet all parcels of used ballot-papers; in a second, all parcels of unused ballot-papers; and in a third, all parcels containing copies of rolls, books, or other papers as herein provided; and shall seal up the said several packets and indorse the same with a description of the contents thereof respectively, and the name of the district and the date of the polling, and sign with his name the said indorsement, and shall forthwith forward the said packets to the Clerk of the Assembly, to be by him safely kept until the dissolution of Parliament; and he shall also at the same time seal up and transmit to the said clerk a parcel containing all ballot-papers which have been printed or written for the said election and not used by the returning officer or distributed for use to his deputies; and the said clerk shall forthwith give or send to the returning officer a receipt under his hand for the said packets and parcels: 15 20 25 30

Provided that the returning officer may, for the purpose of ascertaining whether plural voting or personation has been practised, retain in his possession for a reasonable time, and after notice to the candidates and intimation that a scrutineer of each candidate shall be entitled to be present, break the seal of parcels containing copies of rolls, books, and other papers sealed up and transmitted to him in pursuance of this 35 40

Act

Act, and shall, after such investigation, re-seal the same, and forward them as hereinbefore in this section prescribed, and shall report to the Minister the result of such investigation.

- 5 **121.** Any ballot-paper, and any copy of a roll, and any book purporting to be taken from any such parcel as aforesaid, and having written thereon respectively under the hand of the Clerk of the Assembly a certificate of the several particulars hereby required to be indorsed
 10 upon such parcel, and that the same was so taken from such parcel, shall be evidence in any court or before any Committee of Elections and Qualifications that the same was so taken; and that the same, if a ballot-paper, was deposited or transmitted pursuant to this Act, and, if a
 15 roll or book, was kept or used at the election and booth to which such indorsement and writing relate; and every such ballot-paper so certified shall be evidence of a vote given at such election.

Ballot papers, &c., copies of rolls and books to be evidence. No. 41, 1912, s. 128.

- 122.** Any person who wilfully breaks the seal of, or
 20 opens, any such sealed parcel or sealed packet as aforesaid, unless by direction of some competent court or other tribunal or person authorised in that behalf, or unless called upon to produce some portion of the contents of such parcel or packet to some such court or
 25 tribunal or person, shall be guilty of a misdemeanour, and be liable to a penalty not exceeding *one hundred* pounds, or to be imprisoned for any term not exceeding *six* months, or to both penalty and imprisonment.

Penalty of breaking seal of or opening parcel or packet. *Ibid.* s. 129. No. 40, 1918, s. 8.

- 123.** (1) When the proceedings for taking the poll
 30 at any election are interrupted or obstructed at any place by any riot or open violence, the returning officer or deputy (as the case may be) shall not for such cause finally close the poll, but shall adjourn the taking of the poll at the polling-place at which such interruption or
 35 obstruction has happened to the following day; and, if necessary, such returning officer or deputy shall further adjourn such poll from day to day until such interruption or obstruction have ceased, when such returning officer or deputy shall again proceed with the
 40 taking of the poll at the place at which the same has been so interrupted or obstructed.

When polling may be adjourned. No. 41, 1912, s. 130.

Poll clerk to
act for
returning
officer in
certain cases.

(2) If the returning officer or deputy (as the case may be) fails to open the polling at any booth of a polling-place for one half-hour after the time appointed for the same, or if he becomes incapable of performing his duties from any cause after polling has opened, and for a period of one half-hour, then in each and every such case the poll clerk (if one be present) or the senior poll clerk (if more than one be present) shall be and is hereby empowered to act as and for such returning officer or deputy in respect of all matters required to be done by such returning officer or deputy in respect of such polling. And such poll clerk so acting may forthwith appoint a poll clerk to assist him in the conduct of such polling. 5 10

For other
causes.
No. 40, 1918,
s. 8.

(3) If from any other cause than riot or open violence no polling has been opened at any booth of a polling-place for any district on the appointed day, or where the polling has been opened, but from the absence of necessary forms, documents, or materials the poll cannot be proceeded with, the polling at such booth shall be by the returning officer or deputy (as the case may be) adjourned to a day not later than seven clear days following such appointed day; and the returning officer or deputy (as the case may be) shall forthwith cause public notice thereof to be given. 15 20 25

On adjourn-
ment by
deputy,
notice to be
given to
returning
officer.

No. 41, 1912,
s. 131.

124. Where any poll has been so adjourned by any deputy, such deputy shall forthwith give notice thereof to the returning officer; and in every such case, and also where any polling stands adjourned as in the last-preceding section mentioned, the returning officer shall not notify the total number of votes given or finally declare which candidate has been elected until the poll so adjourned has been finally closed and the ballot-papers transmitted to the returning officer. 30

Limits of
adjourn-
ments.
Ibid. s. 132.

125. No adjournment of the proceedings at any election shall be made or extend to the day named as the return day in the writ for such election, and if the polling has not been completed before the day named, the returning officer shall forthwith indorse that fact upon the writ, and shall return the same. 35 40

126.

126. No election shall be liable to be questioned by reason only of any defect in the title, or any want of title, of the person by or before whom such election, or any polling for the same, has been held, if such person Election not to be questioned for want of or defect of title of officers.
 5 has been actually appointed to preside, or has been acting in the office giving the right so to preside at such election. No. 40, 1918, s. 133.

127. No election shall be void in consequence only of there having been no returning officer at the time of Nor for omission, &c., of a formal nature.
 10 the issue of the writ, or of any delay in the return of the writ; and where any accidental or unavoidable impediment, misfeasance, or omission has happened, the Ibid. s. 134.
 Governor may take all such measures as may be necessary for removing such impediment, or rectifying such
 15 misfeasance or omission; or may by proclamation declare any or all of the proceedings at or for any election valid as to and notwithstanding such impediment, misfeasance, or omission; and every such proclamation shall state specifically the nature of the impediment, misfeasance,
 20 or omission, and shall be forthwith published in the Gazette.

128. If any returning officer or the substitute of any returning officer, or any deputy returning officer, poll clerk, or scrutineer in the discharge of his duties Violation of secrecy by officers, &c.
 25 under this Act at or concerning any election, learns, or has the means of learning, for what candidate any person votes or has voted at such election, he shall not by word or act, or any other means whatsoever, directly or indirectly divulge or disclose, or aid in divulging or
 30 disclosing the same, save in answer to some question which he is legally bound to answer, or in compliance with the express provisions of the law relating to elections to the Assembly; and every such returning officer, substitute, deputy, poll clerk, or scrutineer who
 35 wilfully violates the provisions of this section shall be guilty of a misdemeanour, and be liable to a penalty not exceeding *one hundred* pounds, or to be imprisoned for any term not exceeding *six* months, or to both penalty and imprisonment. Ibid. s. 135.

Penalty for neglect, &c., by returning officer.

No. 40, 1918, s. 136.

Who guilty of the misdemeanour of bribery, &c.

Ibid. s. 147.

129. If any returning officer, or any person appointed to act as such returning officer, or his substitute, or deputy returning officer, at any election, is guilty of any wilful misfeasance, or wilful or negligent act of commission or omission in violation of any of the provisions herein contained and not otherwise provided for, he shall, for every such offence, be liable to a penalty of not less than *ten* nor more than *two hundred* pounds. 5

- 130.** Every person shall be guilty of bribery who—
- (a) directly or indirectly, by himself or by any other person on his behalf, gives or lends, or agrees to give or lend, or offers, promises, or procures, or promises or endeavours to procure, any money or valuable consideration to or for any elector or any other person on behalf of any elector, in order to induce any elector to vote or refrain from voting, or knowingly does any such act as aforesaid on account of such elector having voted or refrained from voting at any election; 20
 - (b) directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, offers, promises, or promises to procure, or to endeavour to procure any office, place, or employment to or for any elector or any other person, or who retains or dismisses any elector or other person in or from any office, place, or employment in order to induce such elector to vote or refrain from voting, or knowingly does any such act as aforesaid on account of any elector having voted or refrained from voting at any election; 30
 - (c) directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement, or agreement as aforesaid to or for any person in order to induce such person to procure or endeavour to procure the return of any person to serve as a member of the Assembly or the vote of any elector at any election; 35
 - (d) 40

- 5 (d) upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement procures or engages, promises, or endeavours to procure the return of any person to serve as a member of the Assembly or the vote of any elector at any election ;
- 10 (e) advances or pays, or causes to be advanced or paid, any money to or for the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at an election ;
- 15 (f) before, during, or after any election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election ;
- 20 (g) before or during any election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees, or contracts for any money or valuable consideration, office, place, or employment for himself or for any other person for voting or agreeing to vote, or for refraining or agreeing to refrain from voting, or for inducing any other person to vote or to refrain from voting at any election ;
- 25 and any person or elector so offending shall be guilty of a misdemeanour, and be liable to a penalty not exceeding *one hundred* pounds, or to be imprisoned for any term not exceeding *six* months, or to both penalty and
- 30 imprisonment, and shall also be incapable of voting at such election.
- 35

131. For the purposes of the last-preceding and three next-succeeding sections of this Act, the words "candidate at an election" and the words "candidate at any election" shall include all persons elected to serve in Parliament at such election, and all persons nominated

Extended meaning of term "candidate."

No. 40, 1918, s. 148.

nominated as candidates at such election, or who on or after the day of the issuing the writ for such election, or after the dissolution or vacancy in consequence of which such writ has been issued have declared their intention of becoming candidates at such election or their consent 5 so to do. And the words "at an election," "at any election," and "during any election" shall mean and include the whole period from the day of nomination up to the day on which the returning officer publishes and declares the result of such election, both days inclusive. 10

Offence of
"treating."
No. 40, 1918,
s. 149.

132. Every candidate at an election who corruptly, by himself or by or with any person, or by any other ways or means on his behalf, at any time either before or during any election, directly or indirectly gives or provides, or causes to be given or provided, or is accessory 15 to the giving or providing, or pays or allows any person to pay on his behalf wholly or in part any expenses incurred for any meat, drink, entertainment, or provisions to or for any person, or horse or carriage hire or conveyance for any voter whilst at such election or whilst 20 engaged in coming to or returning from such election, in order to ensure or forward his election, or for the purpose of corruptly influencing such person or any other person to give or refrain from giving his vote at such election, or on account of such person having voted 25 or refrained from voting, or being about to vote or refrain from voting at such election, shall be deemed guilty of the offence of treating; and every elector who corruptly accepts or takes any meat, drink, refreshment, or provision, horse or carriage hire or conveyance, so 30 paid for, given, or provided shall be incapable of voting at such election.

Penalty for
"treating."
Ibid. s. 150.

133. Any person who is guilty of the offence of treating as defined in the last preceding section, or who gives or causes to be given to any elector during any 35 election on account of such elector having voted or being about to vote, any meat, drink, or entertainment by way of refreshment, or any money or ticket to enable such elector to obtain refreshment, shall be liable to a penalty not exceeding *one hundred pounds*, 40

or

or to be imprisoned for any term not exceeding *six* months, or to both penalty and imprisonment, and shall also be incapable of voting at such election.

- 134.** Every person who directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens the infliction by himself or by or through any other person of any injury, damage, harm, or loss, or in any other manner practises intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who by abduction, duress, or any fraudulent device or contrivance impedes, prevents, or otherwise interferes with the free exercise of the franchise by any elector, or thereby compels or induces or prevails upon any elector either to give or refrain from giving his vote at any election, shall be guilty of a misdemeanour, and be liable to the respective punishments provided by the last preceding section.

- 135.** No action, suit, or other proceeding whatsoever shall be brought or maintained whereby to charge any person upon any contract or agreement for the loan of money, or the doing of any work or service, or the supply of any goods for or towards or concerning, or in carrying on, or prosecuting any election of a member under this Act: Provided that this section shall not apply to contracts, agreements, or payments by officers or others appointed by or under this Act in carrying out the several matters or things therein or thereby authorised and required.

- 136.** If any candidate at any election for any district is declared by any Committee of Elections and Qualifications to be guilty of bribery, treating, or undue influence at any election, such candidate shall be incapable of being elected or sitting as a member for any district until the following general election.

- 137.** Any person who makes or is concerned in any wager, bet, or other risk of any nature whatsoever upon the result of any election, shall, for every such offence, be

Intimidation.
No. 40, 1918,
s. 151.

No action
&c., for goods
or work or
service in
prosecuting
an election.
Ibid. s. 152.

Proviso as to
officers under
this Act.

Candidates
guilty of
offences
under this
Act incapable
of sitting or
being elected.
Ibid. s. 153.

Wagers, &c.,
on result of
elections
prohibited.
Ibid. s. 154.

be liable to a penalty not being less than *five* pounds nor exceeding *fifty* pounds; and every such wager, bet, or other risk shall be and is hereby declared an illegal act.

PART VI.

5

ELECTION PETITIONS.

Appoint-
ments of
Committee of
Elections and
Qualifica-
tions.
No. 41, 1912,
s. 155.

138. (1) In the first session of every Assembly, and within seven days after the election of a Speaker, and in every subsequent session within seven days after the commencement thereof, or in either case at any later period with the leave of the Assembly, the Speaker shall, by warrant under his hand, appoint nine members of the Assembly, against whose return no petition is then pending, and none of whom is a party to any petition complaining of any election or return, to be members of "The Committee of Elections and Qualifications" (hereinafter termed "the committee").

(2) Every such warrant shall be laid on the table of the Assembly, and, if not disapproved by the Assembly upon motion (without notice) in the course of the three next following days on which the Assembly meets for the despatch of business, shall take effect as an appointment of such committee.

(3) Every member who becomes a party to any petition complaining of an undue election or return, or respecting whose return, qualification, or disqualification an inquiry is pending, shall, for the time, be disqualified to serve on such committee.

Proceeding
on disap-
proval by the
Assembly.
Ibid. s. 156.

139. If the Assembly disapproves of any such warrant, the Speaker shall, on or before the third day on which the Assembly meets after such disapproval, lay upon the table of the Assembly a new warrant for the appointment of nine members, qualified as aforesaid, and so from time to time until nine members have been appointed by a warrant not disapproved of by the Assembly :

Provided

Provided that the disapproval of any warrant may be either general in respect of the constitution of the whole committee, or special in respect of any particular member named in the warrant, and that the Speaker may, if he think fit, name in the second or any subsequent warrant any of the members named in any former warrant whose appointment has not been so specially disapproved of.

- 140.** After the appointment of the committee, every member appointed shall continue to be a member thereof until the end of the then current session, or until he cease to be a member of the Assembly, or unless and until the committee report that he is disabled by continued illness from attending the committee, or until the committee report that he has failed to attend four consecutive meetings without the leave of the committee, or until the committee be dissolved as hereinafter provided, or until he resign his appointment (which he may do by letter to the Speaker, but which resignation shall not take effect until the appointment of another member in his place).

Duration of office of members of committee.
Ibid. s. 157.

- 141.** (1) If the chairman or any two members of the committee at any time report that by reason of the continued absence of more than four of its members, or by reason of irreconcilable difference of opinion, the committee are unable to proceed satisfactorily in the discharge of their duties, and if such report be adopted by the Assembly with or without notice, or if the Assembly resolve that the committee be dissolved, the same shall be forthwith dissolved, and every reappointment of the committee after the dissolution thereof, as well as every appointment to supply a vacancy in the committee by resignation or otherwise, shall be made by the Speaker by warrant under his hand laid upon the table of the Assembly on or before the third day on which the Assembly meets after the dissolution of the committee, or notification of the vacancy made to the Speaker, as the case may be.

Resolution of House to dissolve committee.
Reappointment, &c.
No. 41, 1912, s. 158.

- (2) Such warrant shall be subject to the disapproval of the Assembly in like manner as is hereinbefore provided in the case of the appointment of the first committee.

(3)

(3) Upon any reappointment of the said committee, the Speaker may reappoint any of the members of the former committee who are not then disqualified to serve thereon.

(4) Every such new committee or new member shall have power to take up and continue the business pending at the time of the dissolution or vacancy as aforesaid in the same manner as might have been done by the committee as previously constituted and composed. 5 10

Time of
meeting.
No. 41, 1912,
s. 159.

Oath of com-
mitteemen.

142. (1) The Speaker shall appoint the time and place of the first meeting of the committee, and the committee shall meet at the time and place so appointed; but no member shall act upon the committee until he has been sworn at the table of the Assembly by the clerk, well and truly to try and determine the matter of any petition or other question referred to the committee, and a true judgment to give according to the evidence, and truly and faithfully to perform the duties appertaining to a member of the committee to the best of his judgment and ability without fear or favour. 15 20

Quorum.

(2) The committee shall not be competent to transact any business unless at least five members are present together.

Powers of
adjournment.
Ibid. s. 160.

143. (1) The committee shall have power to adjourn their sittings from time to time as they shall think proper, provided that the interval of adjournment shall not in any instance exceed seven days, unless by leave first obtained from the Assembly upon motion (without notice) and special cause assigned for such adjournment. And in case five members have not met together within one hour of the time appointed for an original or adjourned meeting, it shall be competent to the members present to adjourn within the limits and subject to the restrictions aforesaid. 25 30 35

Election of
chairman.

(2) The committee shall select their own chairman from time to time, and shall have power to regulate the form and manner of their own proceedings.

Majority to
decide.

(3) Such proceedings shall be conducted openly, except when the committee think it necessary to deliberate among themselves before or after hearing evidence 40

evidence and argument if offered ; and all questions before the committee shall be decided by a majority of voices, and whenever the voices are equal the chairman shall have a second or casting voice, and no member of
 5 the committee shall refrain from voting on any question on which the committee may divide. Casting vote.

(4) The committee shall be attended by one of
 the clerks of the Assembly, and such clerk shall make a
 minute of all proceedings of the committee, in such form
 10 and manner as shall be from time to time directed by the committee, and a copy of the minutes so kept shall be laid from time to time before the Assembly. Minutes of proceedings.

144. (1) The committee shall have power to inquire
 into and determine upon all election petitions and upon
 15 all questions which may be referred to them by the Assembly respecting the validity of any election or return of any member to serve in the Assembly, whether the dispute relating to such election or return arise out of an error in the return of the returning officer or out
 20 of the allegation of bribery or corruption against any person concerned in any election, or out of any other allegations calculated to effect the validity of such election or return, and also upon all questions concerning the qualification or disqualification of any person who has
 25 been returned as a member of the Assembly. General powers of committee.
No. 41, 1912,
s. 161.

(2) In the trial of any such questions the committee shall be guided by the real justice and good conscience of the case, without regard to legal forms and solemnities, and shall direct themselves by the best
 30 evidence they can procure, or which is laid before them, whether the same be such evidence as the law would require or admit in other cases or not :

Provided that the committee may receive or reject as they may deem fit any evidence tendered to them.

35 **145.** (1) The committee shall determine finally on all questions referred to them, and if they determine and report to the Assembly that a person was not duly elected who was returned as elected by the returning officer, the person so declared not to be duly elected shall
 40 cease to be a member of the Assembly, and if they determine and report any person to have been duly elected Decisions of committee and their effect.
Ibid. s. 162.

elected who was not returned by the returning officer, the person so declared shall be sworn a member of the Assembly, and take his seat accordingly ; and if the said committee declare any election to have been wholly void, or declare any sitting member to be unqualified or disqualified, the Speaker may issue a new writ for the holding of another election, and the person thereafter elected and duly returned shall be the member for the electoral district concerned. 5

(2) If the committee come to any resolution other than the determination above mentioned, they shall, if they think proper, report the same to the Assembly for its opinion at the same time that they inform the Assembly of such determination, and the Assembly may confirm or disagree with such resolution and make such order thereon as seems proper. 10 15

Petition
against
sitting
member.

No. 41, 1912,
s. 163.

146. (1) Every petition complaining of the undue election or return of a member to serve in the Assembly, or complaining that no return has been made according to the requisition of the writ issued for the election of a member to serve in the Assembly, or complaining of any special matter contained in any such return, shall be subscribed by some person who voted or had a right to vote at the election to which the same relates, or by some person claiming to have had a right to be returned elected thereat, or alleging himself to have been a candidate at the election, and shall, in the case of a general election, be addressed to the Governor, and in the case of a by-election to the Speaker, and shall be presented to the Governor or Speaker within eight weeks after the day of the return of the writ to which such petition relates. 20 25 30

(2) Every such petition shall be forthwith notified in the Gazette, and shall, as soon as conveniently may be after such presentation, be laid by the Governor or the Speaker before the Assembly, and shall by the Assembly be referred to the committee either forthwith or as soon as the committee has been duly appointed and confirmed. 35

147.

147. It shall be competent to the Assembly upon any petition subscribed as aforesaid and presented to the Speaker to refer such petition and the question thereby raised to the committee, and the Assembly shall also have power upon the like petition to refer to the committee all questions respecting bribery or corruption alleged to have been committed at any election at any time within twelve months after such election, notwithstanding that the period in either of the above cases has elapsed for a petition against the election or the return thereof according to the provisions hereinbefore in that behalf contained.

Assembly may refer petition to committee. No. 41, 1912, s. 164.

148. Before presenting any such petition as aforesaid to the Governor or Speaker, the person by whom the same is subscribed shall pay into one of the banks regulated by law within New South Wales or into a branch thereof a sum of fifty pounds to the credit of the Speaker in relation to the said petition, which sum shall be payable towards the costs of the petition as herein-after regulated, and shall be liable to be withdrawn upon the order of the Speaker either for the purpose of such payment or for the purpose of restoring the same to the petitioner wholly or in part, as the case may require.

Deposit for cost of petition. *Ibid.* s. 165.

149. Every such petition shall have annexed thereto a bank deposit receipt for the sum of fifty pounds so deposited and shall contain a recital of the fact and particulars of such deposit. And any petitioner who wilfully annexes to any such petition a false receipt or who wilfully makes in any such petition any false recital shall be deemed guilty of forgery, and be liable to be punished therefor.

Receipt for deposit to accompany petition. *Ibid.* s. 166.

150. All persons subscribing any such petition shall be deemed to be parties to the reference, and the sitting member to whose election any such petition relates, or any person who voted, or who had a right to vote thereat, or any person complained against in any such petition, may, within four weeks after presentation thereof, by notice in writing to the Speaker, be admitted as a party to support or to oppose the same, or to defend the return of the sitting member, as the case may be, and every person so admitted shall be deemed to be a party to the reference.

Parties to petition. *Ibid.* s. 167.

151.

Parties with-
drawing
liable to costs
and expenses.
No. 41, 1912,
s. 163.

151. The parties to any such reference may, at any time after presentation of the petition so referred, jointly or severally withdraw their support or opposition, as the case may be, by written notice to that effect under their hands, or under the hand of their agent, to the Speaker, 5 and also to the sitting member whose election or return has been complained of, or his agent, and also to the adverse parties or their agent, and in all such cases the parties so withdrawing shall be liable to the payment of all such costs and expenses incurred by any of the 10 adverse parties, as the committee in its discretion deems reasonable and just.

Award of
costs and
expenses.
Ibid. s. 169.

152. It shall be lawful for the committee to determine and report to the Assembly upon all petitions so referred, and in all cases to award payment of such costs 15 or expenses incurred by any of the parties, as the committee in its discretion deems reasonable and just, and to name the parties in each case liable for such payments, and the parties (if any) to whom such payments are to be made. 20

Sitting mem-
ber liable for
costs and
expenses in
certain cases.
Ibid. s. 170.

153. Whenever no adverse parties have been admitted as aforesaid, and it appears to the committee that the sitting member whose election has been complained of, or his authorised agent, has been guilty of vexatious or corrupt conduct in respect of the election 25 to which the petition relates, such member shall be liable for the payment of all such costs and expenses incurred by any of the parties supporting the petition as the committee in its discretion deems reasonable and just.

Petitioners
liable to
penalties.
Ibid. s. 171.

154. Whenever it appears to the committee that a 30 petition so referred to them was frivolous or vexatious, or altogether groundless, or not sufficiently sustained by evidence, the committee may impose upon any of the parties supporting the petition such penalty (not exceeding *fifty* pounds) as the committee in its discretion 35 deems reasonable and just, and such penalty shall be paid by any such parties named by the committee to the Clerk of the Assembly, and may be recovered by the said clerk in the same manner as all costs and expenses awarded by the committee are hereinafter directed to be 40 recovered. And the money so recovered shall, after deducting

deducting costs and expenses necessary for the recovery thereof, be paid to the Treasurer, and form part of the Consolidated Revenue Fund.

155. The said committee shall, upon application
5 made to them deliver to any witnesses summoned before
the committee, or to any other person entitled under the
provisions of this Act to costs and expenses, or to the
Clerk of the Assembly, in case any penalty has been
awarded, a certificate thereof, signed by the chairman of
10 the committee, expressing the amount of the costs and
expenses allowed, or of the penalty awarded, with the
name of the party liable to pay the same, and the name
of the party entitled to receive the same, and such
certificate shall be conclusive evidence for all purposes
15 whatever, as well of the amount of the demand as of
the title of the party therein named in that behalf to
recover the same from the party therein stated to be
liable to the payment thereof.

Costs and
expenses how
to be
certified.
No. 41, 1912,
s. 172.

156. (1) The Speaker may, by order under his
20 hand, direct the payment of the said sum of fifty pounds
deposit according to the provisions hereinbefore con-
tained, or a sufficient portion or proportionate part
thereof, to any party who, by such certificate, appears
to be entitled to recover costs and expenses or any
25 penalty as against the person by whom such deposit
was made.

Recovery of
costs.
Ibid. s. 173.

(2) The party entitled to any such costs,
expenses, or penalty under such certificate may recover
the same, or so much thereof as shall not be paid out of
30 any deposit from the party liable to pay the same.

(3) If the party liable to pay such costs,
expenses, or penalty does not, upon demand being made,
within seven days thereafter pay the same, the Speaker
shall, by warrant under his hand directed to the sheriff,
35 command the sheriff to levy for the amount named in
such warrant upon the lands, goods, and chattels of the
party liable to pay the same; and thereupon the sheriff
shall forthwith levy for the said amount, and when the
same is recovered, pay over the same to the party entitled
40 thereto.

(4) Any person from whom the amount of
such costs, expenses, or penalty has been recovered, or
who

who has paid the same on demand thereof, shall be entitled to recover in any court from the other persons (if such there be) who are liable to the payment of the same a proportionate share thereof according to the number of persons so liable, and according to the extent 5 of the liability of each person.

(5) In every case in which the committee finally determines and reports to the Assembly upon any such petition without making any award as to costs or expenses, or imposing any penalty, the Speaker shall, 10 upon demand of the depositor, return to him, or his agent, the said sum of fifty pounds.

Powers in respect of witnesses, affidavits, and documentary evidence, contempt, disobedience, &c.

No. 41, 1912, s. 174.

157. (1) The committee shall have power to direct the attendance of witnesses, and to examine them upon oath (which oath it shall be competent for any member 15 of the said committee to administer), and also to send for and examine papers, records and other documentary evidence, and it shall be competent to the committee if they think fit to receive affidavits relative to any of the matters referred to them taken before any justice of the 20 peace (which affidavits such justice of the peace is hereby authorised to take).

(2) If any person summoned by the committee disobeys such summons, or refuses or neglects to produce any papers, records, or other documentary evidence, 25 relating to or affecting the matter under investigation which have been sent for by the committee, or refuses to submit himself to examination, or gives false evidence, or prevaricates or otherwise misconducts himself in giving or refusing to give evidence, he shall be deemed 30 guilty of a misdemeanour, and be liable accordingly.

(3) Any person wilfully or knowingly giving false evidence before the committee, or a quorum thereof, or in any such affidavit, shall be deemed guilty of wilful and corrupt perjury, and be liable to be punished therefor: 35 Provided that in any case where a witness, if examined before the Supreme Court, would be permitted to make a solemn declaration, or to give evidence in any other way than upon oath, a witness summoned under this Act shall be allowed to give evidence in like manner by 40 declaration or otherwise.

PART VII.

MISCELLANEOUS.

158. (1) The Governor may make regulations for carrying the provisions of this Act into full effect; and all such regulations, in so far as they are not inconsistent with the provisions of this Act, shall, on being published in the Gazette, have the full force of law, and shall be laid before both Houses of Parliament within fourteen days after such publication if Parliament be then sitting, and if not, then within fourteen days after the commencement of the next ensuing session. Regulations.
No. 41, 1912,
s. 176.

(2) The Governor may, in such regulations, provide for any proceeding, matter, or thing for which express provision has not been herein made, in order to give due effect to the intent and meaning of the provisions of this Act.

(3) Where any alteration of a form in the Schedules is found necessary, or where it is found that the time allowed to do any act is clearly insufficient, and an alteration or extension of such time and any alteration of dates consequent thereon is shown to be necessary, the Governor may, by regulation or notification in the Gazette, declare that such alteration shall be made, and thereupon the same shall be made and take effect accordingly.

159. Except as otherwise expressly provided in this Act any person who is required by or under this Act to sign his name, and who is unable to write, may make his distinguishing mark which shall be attested by some other person, and such mark, if it is identifiable as such and attested as herein provided, shall be deemed to be the signature of the person making it: Distinguish-
ing marks.
No. 40, 1918,
s. 8.

Provided that where any person is required to sign as a witness or as an official, or where any person is required to sign in his own handwriting he shall not sign by means of a distinguishing mark.

160. (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 Disorderly
conduct at
public
political
meetings.
Ibid.

an offence, and shall be liable to a penalty not exceeding *five* pounds or to imprisonment for a term not exceeding *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. 5

Offence of stuffing ballot-box.

No 41, 1912, s. 177.

161. Every person who knowingly places, or is privy to the placing, in a ballot-box any ballot-paper which has not been lawfully issued to an elector, and been marked, filled up, or otherwise dealt with by him as by this Act required, and any elector who places in the ballot-box any paper other than the ballot-paper issued to him for that purpose, shall be guilty of a misdemeanour, and be liable to be imprisoned for any term not exceeding *one* year. 10 15

Penalty on members of police force influencing voters, &c.

Ibid. s. 178.

162. If any person, being at the time a member of the police force, takes any part in any election (except by recording his vote) or seeks to influence in any manner any elector in giving his vote for any candidate, such person shall incur a penalty of not less than *ten* pounds nor more than *one hundred* pounds. 20

Payment of expenses.

Ibid. s. 179.

163. The Governor may, from time to time by warrant under his hand addressed to the Colonial Treasurer, authorise and direct that all such moneys as are from time to time required for paying any expenses lawfully incurred under and in the execution of the provisions of this Act be paid out of the consolidated revenue, and the same shall be so paid accordingly. 25 30

Summary penalties for neglect.

Ibid. s. 180.

164. If in the opinion of the Minister any registrar, or deputy registrar, or other officer, has been guilty of any negligent act of commission or omission, contrary to the provisions of this Act, the Minister may, by writing under his hand, after calling upon any such officer to furnish any explanation he may think fit, personally or in writing, and after considering such explanation, order that the whole or any portion of the salary payable to such officer under the authority of this Act during the year then current shall be forfeited. 35 40

165.

165. If any registrar, or other officer or person, or any member of the police force, is guilty of any wilful misfeasance, or wilful or grossly negligent act of commission or omission in contravention of the provisions of this Act, he shall be liable to a penalty of not more than *fifty* pounds, nor less than *five* pounds, or at the discretion of the court, to be imprisoned for any period not exceeding *three* months.

Penalty for disobedience.
No. 11, 1912,
s. 181.

166. (1) The Minister may make rules and regulations as to the days, hours, and places on and at which any registrar or deputy-registrar shall attend at his office or offices for the purposes of this Act, and as to what shall be deemed a reasonable price or payment for any rolls or other matters regarding which it is hereinbefore provided that a reasonable price be paid for the same.

Attendance of registrar regulated.
Ibid. s. 182.

(2) Where any accidental or unavoidable impediment, misfeasance, or omission has happened in the preparation or transmission or printing of any roll, of what kind soever, the Governor may take all such measures as may be necessary for removing such impediment or rectifying such misfeasance or omission.

Errors may be corrected.

167. Every penalty, fine, forfeiture, or sum of money recoverable or payable, pursuant to the provisions of this Act, may be recovered before, and every offence against or violation or breach of the provisions of this Act, or of any regulation made thereunder (not being a felony or misdemeanour) shall be heard and determined by and before a stipendiary or police magistrate having jurisdiction within the district or at the place where the proceedings are taken, in a summary manner according to the provisions of the Act or Acts for the time being regulating proceedings before justices.

Mode of recovering penalties.
Ibid. s. 183.

168. No person shall be liable to any penalty, forfeiture, or punishment imposed under this Act, unless the prosecution for the offence committed is commenced against such person within the space of six months next after such offence has been committed. And proceedings for or in respect of any offence under this Act may be taken by any member of the police force, or by any person

Limitation of time, &c., for recovery of penalties, &c.
Ibid. s. 184.

person whomsoever, save where by this Act in any particular case some other person is charged with the duty of taking such proceedings.

Appropriations of fees and penalties.
No. 41, 1912,
s. 185.

169. All moneys received by any officer under the provisions of this Act shall be paid to the Colonial Treasurer, and shall be deemed to be received on account of the Consolidated Revenue Fund. 5

Provision as to Sunday, Good Friday, and Christmas Day.
Ibid. s. 186.

170. Whenever any day or date provided or appointed by or under this Act, for any purpose falls on a Sunday, or Good Friday, or Christmas Day, then such provision and appointment shall take effect as for the day following; and all further changes of time rendered necessary by any such alteration may lawfully be made. 10

PART VIII.

AMENDMENTS OF CONSTITUTION ACT, 1902.

15

Exemption of Ministers from s. 27 of Constitution Act.
No. 41, 1912,
s. 187.

171. Section twenty-seven of the Constitution Act, 1902, is amended by adding the following paragraph, to stand as paragraph (c) :—

“Any member of the Legislative Assembly who accepts any of the offices enumerated in the Second Schedule hereto, or any office of profit under the Crown created by Act of Parliament as an office of the executive Government.” 20

Parliamentary allowances, how to be reckoned.
Ibid. s. 188.

172. Section twenty-eight of the Constitution Act, 1902, is amended by adding the following proviso :— 25
“Provided that in the case of every member elected after the first day of May, one thousand nine hundred and seven, such allowance shall be reckoned from the day of his election.”

SCHEDULES.

SCHEDULES.

SCHEDULE ONE.

No. of Act.	Name of Act.	Extent of repeal.
No. 41, 1912 ...	Parliamentary Electorates and Elections Act, 1912.	The whole.
5 No. 40, 1918 ...	Parliamentary Elections (Amendment) Act, 1918.	The whole.
No. 39, 1919 ...	Proclamations Validation Act, 1919.	Section 2 (2).!

10

SCHEDULE TWO.

State electoral roll.

District of [*here insert name of electoral district*].

Roll of electors who vote for the Polling-place area of [*here insert name of polling-place area*].

15

No	Surname of each elector.	Christian name of each elector at full length.	Residence.	Occupation.	Sex
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The sex may be indicated by letter, viz., "M" for male, and "F" for female.

20

SCHEDULE THREE.

STATE ELECTIONS.

Electoral claim

(for original enrolment, or for transfer, or for change of enrolment).

25

Electoral district of [*here insert name of electoral district*].
Polling-place area of [*here insert name of polling-place area*].
Surname
Christian name at full length
Place of residence
Occupation

sex

30

I claim to have my name placed on the electoral roll for the above district, to vote at [*here insert name of polling-place*].

Parliamentary Elections.

1. I am a { natural born } subject of the King [*strike out* "natural born" or "*naturalised*" as the case requires].
2. I am not under the age of twenty-one years.
3. I have resided, or had my principal place of abode immediately prior to the date of this claim— 5

For six months in the Commonwealth of Australia, and for three months in New South Wales, and for one month in the electoral district abovementioned.

[In the case of a *naturalised subject* add the words "after my 10 naturalisation"].

4. I formerly resided at , and was enrolled for polling-place area, in the electoral district of

NOTE.—If not already enrolled for the State electoral roll for New South Wales strike out paragraph 4. 15

Dated the day of 19 .
(Usual signature)

NOTE.—The claimant making any false statement in the above declaration shall be liable to six months imprisonment.

I [*here insert name in full*], an elector enrolled for the electoral 20 district of , certify that I have seen the abovenamed claimant sign the above claim.

(Witness to signature of claimant)
(Occupation)
(Address as enrolled) 25

Received the day of 19 .
Registrar (*or* Deputy Registrar).

NOTE.—If any person writes the signature of any other person on any such claim or application or signs his name as a witness on any such claim or application unless he sees the person whose signature he purports to witness write his 30 signature or make his mark thereon he shall be liable to six months imprisonment.

SCHEDULE FOUR.

Notice of objection.

I object to the name of [*here insert the name, residence, and occupation of person objected to, as in the list or roll, as the case may be*] being 35 retained on the electoral list or roll (*as the case may be*) for the district of [*here insert name of district and polling-place*] on the ground that [*here state grounds of objection*].

Dated this day of 19 .
(Signed) A.B., of [*here state residence and occupation of objector*]. 40

SCHEDULE

SCHEDULE FIVE.

Ballot-paper.

NEW SOUTH WALES.

Electoral district of [here insert name of district].

5 Election of Member of the Legislative Assembly.

CANDIDATES.

- 10
- | | |
|--------------------------|-----------------|
| <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 |

N.B.—Indicate your vote by making a cross in the square opposite the name of the candidate for whom you vote.

SCHEDULE SIX.

15 Form of declaration to be signed by a voter before voting at any polling-place for the district but outside the polling-place area for which he is enrolled.

Electoral district of.....

.....Polling-place.

20 I declare that I am the person whose name appears in the polling-place area roll for the electoral district of [here insert name of district], as set out opposite my signature, and that I have not voted either here or at any other polling-place at this election; and I promise that if I am permitted to vote here, I will not vote at this election at any other
25 polling-place.

Declared before me, the day of 19 .

Presiding Officer—

Parliamentary Elections.

Signature of Elector.	Place of Residence.	No. on Roll.*	Polling-place.

* If the number refers to a supplemental roll add the letter S after the number.

NOTE.—If any person wilfully makes any false declaration he is liable to imprisonment for six months.

SCHEDULE SEVEN.

5

Declaration where person, notified under s. 29 that his name has been added to roll, applies to vote.

Electoral District of.....

.....Polling-place.

I declare that I am the person referred to in the notification now produced by me as set forth below, and that I am still qualified to vote for the same district, that I have not voted here or at any other polling-place at this election, and I promise that if I am permitted to vote here I will not vote at this election at any other polling-place.

(Signature of declarant). 15

Declared before me the day of 192 .

Presiding Officer.

Surname.	Christian Name.	Place of Residence.	Occupation.	Polling-place area.
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NOTE.—If any person wilfully makes a false declaration he is liable to imprisonment for six months. 20

SCHEDULE

SCHEDULE EIGHT.

Absent Voter's Form of Declaration.

I DECLARE that I am the person enrolled as —

(Surname)

5 (Christian names at full length)

(Residence as enrolled)

(Occupation)

on the State Electoral Roll for polling-place
area in the Electoral District of and that I have not
10 ceased to reside in the district for a longer period than one month
prior to the day next before the day of the issue of the writ for this
election ; that I have not voted at either this or any other polling-place,
and I declare that if I am permitted to vote at this polling-place I will
not vote elsewhere at this election.

15 (Signature of Elector)

Dated before me this day of 192 , at
Polling-place, in the electoral district of

Returning (or Deputy Returning) Officer.

PENALTY.—If any person wilfully makes any false declaration he is
20 liable to imprisonment for six months.

SCHEDULE NINE.

Absent voter's ballot-paper.

NEW SOUTH WALES.

Electoral district of [here insert name of district].

25 Election of member of the Legislative Assembly.

☒ Insert name of candidate for whom the elector votes.

Parliamentary Elections

SCHEDULE EIGHT

Model Form of Declaration

I declare that I am the person entitled to

(Name)

(Residence as at day of)

(Address as entered)

(Occupation)

on the State Electoral Roll for
area in the Electoral District of
I cannot reside in the district for a longer period than one month
prior to the day next before the day of the issue of the writ for this
election; that I have not voted at either this or any other polling place,
and I declare that if I am permitted to vote at this polling place I will
not vote elsewhere at this election.

(Signature of Elector)

1922

Dated before me this
day of
Polling place in the electoral district of

Returning (or Deputy Returning) Officer

PENALTY.—If any person wilfully makes any false declaration he is
liable to imprisonment for six months.

SCHEDULE NINE

Model form of ballot paper

New South Wales

Electoral district of (To be inserted name of district)

Election of members of the Legislative Assembly

Local name of candidate for whom the voter votes

X