

PARLIAMENTARY ELECTORATES AND ELECTIONS (AMEND- MENT) ACT.

Act No. 55, 1928.

An Act to make further provisions relating to the ^{George V.} _{No. 55, 1928.} Electoral Districts Commissioners and the redistribution of electoral districts; to validate the non-proclamation of the names and boundaries of the electoral districts as determined under the Parliamentary Electorates and Elections (Further Amendment) Act, 1927; to provide for the appointment of an Electoral Commissioner; to provide for the compilation of a joint roll for the purposes of Commonwealth elections and elections to the Legislative Assembly; to provide for the compulsory expression of preferences in voting

voting at elections to the Legislative Assembly; to provide for compulsory voting at such elections; to provide for the establishment of a Court of Disputed Returns; to repeal the provisions of the Parliamentary Electorates and Elections Act, 1912, as amended by subsequent Acts relating to the appointment and functions of the Committee of Elections and Qualifications; to repeal the Parliamentary Electorates and Elections (Further Amendment) Act, 1927; to amend the Parliamentary Electorates and Elections Act, 1912, and certain other Acts; and for purposes connected therewith.
[Assented to, 4th January, 1929.]

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.

Short title.

1. (1) This Act may be cited as the "Parliamentary Electorates and Elections (Amendment) Act, 1928," and shall be read with the Parliamentary Electorates and Elections Act, 1912, as amended by subsequent Acts.

(2) The Parliamentary Electorates and Elections Act, 1912, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Parliamentary Electorates and Elections Act, 1912, as amended by subsequent Acts including this Act, may be cited as the "Parliamentary Electorates and Elections Act, 1912-1928."

(4) This Part of this Act shall commence upon the passing of this Act.

2.

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

Division of
Act.

PART I.—PRELIMINARY.

PART II.—REDISTRIBUTION OF ELECTORAL DISTRICTS.

DIVISION 1.—*Electoral districts commissioners.*

DIVISION 2.—*Method of distribution.*

PART III.—ELECTORAL COMMISSIONER.

PART IV.—COMPILATION OF JOINT ROLLS BY THE COMMONWEALTH AND THE STATE.

DIVISION 1.—*Date of commencement, &c.*

DIVISION 2.—*Power to arrange with the Commonwealth.*

DIVISION 3.—*Method of preparation of rolls, &c.*

DIVISION 4.—*Qualifications of electors, &c.*

DIVISION 5.—*Miscellaneous.*

PART V.—COMPULSORY EXPRESSION OF PREFERENCES.

PART VI.—COMPULSORY VOTING.

PART VII.—COURT OF DISPUTED RETURNS.

PART VIII.—MISCELLANEOUS AMENDMENTS.

PART

PART II.

REDISTRIBUTION OF ELECTORAL DISTRICTS.

DIVISION 1.—*Electoral districts commissioners.*

Commencement.

3. This part of this Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of
Act No. 41, 1912.

Sec. 6.

Appointment of
commissioners for re-
distribution
of seats.

4. The Principal Act is amended—

(1) by omitting section six and by inserting in lieu thereof the following sections:—

(1) When any distribution of electoral districts becomes necessary under the provisions of this Act the Governor shall, by commission under the Great Seal, appoint three persons to be commissioners for the purposes of this Part, and to be called the "Electoral Districts Commissioners."

(2) The persons so to be appointed shall be the persons who for the time being hold the offices of Electoral Commissioner, Government Statistician, and Surveyor-General respectively.

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

6A. For the purposes of carrying out the powers and duties conferred and imposed upon the Electoral Districts Commissioners by this or any other Act, the Electoral Districts Commissioners may, with the approval of the Minister of the department concerned, make use of the services of any of the officers and employees of the Public Service including members of the police force.

Sec. 7 (2).

(2) by omitting subsection two of section seven and by inserting in lieu thereof the following subsection:—

(2) The office of a commissioner shall be vacated if for any cause he ceases to possess the qualification for appointment mentioned in subsection two of section six of this Act.

(3)

(3) by omitting section eight and by inserting Sec. 8.
the following section in lieu thereof :—

8. At any meeting of the commissioners the ~~Chairman~~
Electoral Commissioner shall, when present, be
chairman; and in his absence the commis-
sioners shall appoint one of themselves to be
chairman as occasion may require.

DIVISION 2.—*Method of distribution.*

5. (1) The Principal Act is further amended—

Further amend-
ment of Act
No. 41, 1912.

(a) by omitting subsection two of section seventeen, Sec. 17 (2).
and by inserting the following section next
after section seventeen :—

17A. (1) Every distribution shall be made Sec. 17A.
on the following basis, that is to say— Method of
distribution,

(a) the total number of members to be &c.
elected to serve in the Assembly shall
be ninety;

(b) New South Wales shall be distributed
into ninety electoral districts, each of
which shall be represented by one
member only.

(2) In carrying out a distribution of
electoral districts, the following provisions
shall be observed—

(a) New South Wales shall be divided into
three parts which are respectively
referred to in this section as “the
Sydney area,” “the Newcastle area,”
and “the country area.”

(b) The Sydney area shall comprise that
portion of New South Wales which is
included within the boundaries set out
in Division A of Schedule Twenty-one
to this Act.

(c) The Newcastle area shall comprise that
portion of New South Wales which is
included within the boundaries set out
in Division B of Schedule Twenty-one
to this Act.

(d)

**Parliamentary Electorates and Elections (Amendment)
Act.**

- (d) The country area shall comprise that portion of New South Wales which is not included within either the Sydney area or the Newcastle area.
- (e) The Sydney area shall be divided into forty-three electoral districts.
- (f) The Newcastle area shall be divided into five electoral districts.
- (g) The country area shall be divided into forty-two electoral districts.

(3) In dividing the Sydney area into forty-three electoral districts the following provisions shall be observed :—

- (a) Every such district shall have such an area that, at the time of making the distribution, the number of persons enrolled for the district shall, subject to the margin of allowance referred to in paragraph (c) of this subsection, reach the quota as ascertained under that paragraph.
- (b) 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.
- (c) For the purpose of ascertaining the quota of electors for the Sydney area, the total number of electors enrolled in the Sydney area at the time of the distribution shall be divided by forty-three, with a margin of allowance not exceeding twelve hundred.

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 making such distribution.

(4)

(4) In dividing the Newcastle area into five electoral districts the following provisions shall be observed :—

- (a) Every such district shall have such an area that, at the time of making the distribution, the number of persons enrolled for the district shall, subject to the margin of allowance referred to in paragraph (c) of this subsection, reach the quota as ascertained under that paragraph.
- (b) 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.
- (c) For the purpose of ascertaining the quota of electors for the Newcastle area, the total number of electors enrolled in the Newcastle area at the time of the distribution shall be divided by five, with a margin of allowance not exceeding twelve hundred.

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 making such distribution.

(5) In dividing the country area into forty-two electoral districts the following provisions shall be observed :—

- (a) Every such district shall have such an area that, at the time of making the distribution, the number of persons enrolled for the district shall, subject to the margin of allowance referred to in paragraph (c) of this subsection, reach the quota as ascertained under that paragraph.

(b)

- (b) 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.
- (c) For the purpose of ascertaining the quota of electors for the country area, the total number of electors enrolled in the country area at the time of the distribution shall be divided by forty-two, with a margin of allowance not exceeding twelve 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 making such distribution.

**New
Schedule
Twenty-one.**

- (b) by inserting next after Schedule Twenty (as inserted by this Act) the following new Schedule:—

Sec. 17A.

SCHEDULE TWENTY ONE.

DIVISION A.

Boundaries of the Sydney Area.

COMMENCING on the shore of the South Pacific Ocean at Barranjoey and bounded thence by a line westerly to West Head, by the Hawkesbury River to Challenger Head, by a line north-westerly to Eleanor Bluff, by the southern shore of the Hawkesbury River upwards to Flat Rock Point, by a line north-westerly to the eastern extremity of Long Island, by the northern side of that island and a line westerly to Kangaroo Point; by the southern shore of Hawkesbury River upwards; a line crossing the mouth of Berowra Creek westerly to Fisherman's Point; by the left bank of Berowra Creek upwards to Calabash Creek; by that creek upwards; by the northern boundaries of portions 27 and 34, parish of Berowra westerly; the eastern, northern, and western boundaries of portion 26 northerly, westerly, and southerly; by part of the north boundary of portion 5 (rem.) and a line westerly to the Great Northern road; by that road northerly and the north boundary of portion 262, parish of Nelson, westerly to Kelly's Arm Creek; by that creek downwards to its intersection with the easterly prolongation of the north boundary of portion 61, parish of Nelson; by that prolongation and part of the

north

**Parliamentary Electorates and Elections (Amendment)
Act.**

523

No. 55, 1928.

north boundary of the said portion 61 westerly, the east, north and west boundaries of portion 191 north, west and south to Cattai Creek; by the north-western boundaries of portions 100, 26, 28, 25, 24, 105, 106, 107, 27, 108 to 117, 119 to 122, parish of Nelson, to the north-eastern boundary of portion 95, parish of St. Matthew; by that boundary north-westerly and its north-western boundary south-westerly, the southern boundary of portion 47 westerly to South Creek, by that creek upwards to Richmond-Blacktown Road, by that road south-easterly, the northern boundaries of portions 123, 14 (rem.), 13, 12 (rem.), 131, and 11, parish of Rooty Hill westerly, the western boundary of portion 11 southerly to the road between portions 10 and 16, by that road westerly, by the road forming the south-western boundaries of portions 16 and 17 south-easterly, the northern boundaries of portions 47 and 48 easterly, the north-eastern boundaries of portions 49 and 35, a line crossing the Great Western Railway and the north-eastern boundary of portion 46 south-easterly, the south-eastern boundaries of portions 46, 45, and 44 south-westerly to the Great Western Road, by that road westerly to Rope's Creek, by that creek upwards to the westerly prolongation of the north boundary of portion 2, parish of Melville, by that prolongation and the north boundary of said portion 2 and part of the north boundary of portion 74, parish of St. Luke easterly to the Old Cowpasture Road; thence by that road southerly to the Bringelly Road, by the road partly forming the northern boundary of the parish of Minto easterly to the road from Liverpool to Campbelltown, by a public road from that road to the western boundary of portion 69, parish of Minto, by that boundary of that portion and the western boundary of portion 70 southerly and the southern boundary of that portion easterly to George's River, by that river upwards to Eton Road traversing portion 59, parish of Holsworthy, by that road and the northern boundary of portion 101 easterly to Harris Creek, by that creek upwards to the south-western corner of portion 108, parish of Holsworthy, by the south boundary of that portion, portion 117, and portion 168, and its prolongation easterly to the western boundary of portion 271, by part of the western and by the southern boundary of that portion southerly and easterly, by the road forming the southern boundaries of portions 277, 278, 281, and 282, and its north-easterly continuation south-easterly and north-easterly to the south boundary of portion 124 and by part of that boundary easterly to the Woronora River, by that river downwards to the south boundary of portion 10, parish of Sutherland, by that boundary easterly, the western boundary of portion 140 southerly, the western and southern boundaries of portion 125 southerly and easterly to Saville's Creek, by that creek downwards, the north-west arm, and the northern shores of Port Hacking generally easterly to Glaisher Point; by the shores of Bate Bay and the South Pacific Ocean aforesaid generally northerly to Cape Solander, by a line north-easterly to Cape Banks, by the shore of the South Pacific Ocean to South Head, by a line north-easterly to North Head and again by the shore of the South Pacific Ocean to the point of commencement, including the waters of Port Jackson and Botany Bay and islands therein, together with Lord Howe Island.

DIVISION

DIVISION B.

Boundaries of the Newcastle Area.

Commencing on the Hunter River at the most westerly north-west corner of portion 62, parish of Belford, county of Northumberland, and bounded thence by the western boundary of that portion and a western boundary of portion 61 (rem.) southerly to the north-west corner of portion 3, parish of Ovingham; by the north boundary of that portion and the northern boundary of portion 4 (rem.) easterly to a north-western corner of portion 1 (rem.) parish of Rothbury; by a western, a northern, a western, and part of a southern boundary of that portion southerly, westerly, again southerly and easterly to the north-west corner of portion 84, by the west and south boundary of that portion, the west and part of a south boundary of portion 83, part of the western boundary of portion 147, the north and west boundaries of portion 102, the western and part of the southern boundary of portion 101 generally southerly to a point north of the north-western corner of the parish of Pokolbin; by a line south to that corner and by a western boundary of that parish southerly to the Broken Back Range; by that range south-easterly to a spur range which terminates within portion 7, parish of Milfield; by that spur range south-westerly to Cedar Creek; by that creek downwards to the North Arm of Wollombi Brook; by that arm upwards to the western boundary of portion 110, parish of Aellalong; by that boundary and its prolongation southerly to a range forming the boundary between the parishes of Aellalong and Corrabare; by that range generally south-easterly, passing through the parish of Coongewai to a range forming the boundary between the land districts of Newcastle and Maitland, by that range north-easterly to the boundary dividing the parishes of Awaba and Coorumbung; by that boundary and a range south-easterly to the margin of Lake Macquarie; by the western margin of that lake generally southerly to the mouth of Digary (or Mauering) Creek; thence by that creek upwards to the west boundary of the parish of Wallarah; thence by that boundary south, and the south-west boundary of the parish south-easterly to the western boundary of portion 76; by part of that boundary south to Tuggerah Lake; by the northern margin of that lake easterly to the mouth of Budgewoy Creek; by that creek upwards to the south-west corner of portion 86 of 15 acres; by the south boundary of that portion and its prolongation easterly to the shore of the South Pacific Ocean; by that shore generally north-easterly to its intersection with the eastern prolongation of the north boundary of portion 72, parish of Stowell, county of Gloucester; by that prolongation and the north boundaries of portions 72, 71, and 155 westerly, by part of the east boundary of portion 145 northerly, by the northern boundaries of portions 145 and 9 westerly and by the west boundary of portion 9 southerly to Fullerton Cove; by the shores of that cove westerly and southerly and the left bank of the northern channel of the Hunter River and by the left bank of the river generally westerly to its intersection with the easterly prolongation of the southern boundary of portion 59, parish of Alnwick, county of Northumberland, by that prolongation and a southern boundary of that parish westerly to the eastern boundary of portion

portion 46 of 2,560 acres, by part of that boundary northerly to the north-west corner of portion 28; by a line westerly to the south-east corner of portion 8 of 1,080 acres grant to Edward Ferraby, parish of Maitland; by the south boundary of that portion and the southern boundaries of portions 26, 223 and John J. Maughan's 1,230 acres, portion 2, westerly to the south-west corner of the last-named portion; by a line westerly to the south-east corner of portion 28, parish of Heddon; by the south boundaries of that portion and portions 29, 58, and 4, E. D. Day's 1,165 acres westerly; by part of the south-east and the south boundaries of C. J. and D. Campbell's 1,280 acres, portion 3, southerly and westerly to its south-west corner; by a line north-westerly to the north-east corner of portion 100, by the north boundaries of that portion, portions 99 and 94, and a line westerly to the eastern boundary of portion 32; by part of that eastern boundary northerly and by the northern boundaries of that portion, portions 59 and 62, and a line westerly to the eastern boundary of portion 68, parish of Allandale: thence by the boundary dividing the parishes of Allandale and Branxton from Heddon and Gosforth generally northerly to the Hunter River; by that river upwards to the eastern boundary of Charles Throsby's 2,000 acres, portion 103, parish of Stanhope, county of Durham, by the eastern and northern boundary of that portion, part of the eastern, the northern and part of the western boundaries of portion 6, parish of Marwood, the northern and part of the western boundaries of portion 9, the northern and western boundaries of portion 18 and the western boundary of portion 11 and its prolongation southerly to the right bank of the Hunter River and by that river upwards generally westerly and southerly to the point of commencement, together with all islands lying off the coast of the abovedescribed area.

(2) The Parliamentary Electorates and Elections Amendment of
Act No. 12,
1926, s. 8 (5).
(revision.)
(Amendment) Act, 1926, is amended by omitting sub- section five of section eight.

6. (1) A distribution of electoral districts shall be Distribution
to be made
within six
months. made within six months after the commencement of this Part of this Act.

(2) (a) The non-compliance with the requirements of subsection two of section fifteen of the Principal Act, relating to the publication in the Gazette of the names and boundaries of the electoral districts as determined in pursuance of the Parliamentary Electorates and Elections (Further Amendment) Act, 1927, is hereby validated. Validation of
non-pro-
clamation of
electoral
districts
determined
under Act
No. 30, 1927.

(b) No proclamation of the names and boundaries of the electoral districts as determined in pursuance

pursuance of the Parliamentary Electorates and Elections (Further Amendment) Act, 1927, shall be published in the Gazette.

Repeal of
Act No. 30,
1927.

(3) The Parliamentary Electorates and Elections (Further Amendment) Act, 1927, is repealed.

PART III.

ELECTORAL COMMISSIONER.

Commencement.

7. This Part of this Act shall commence upon a date to be appointed by the Governor, and notified by proclamation published in the Gazette.

Appointment of Electoral Commissioner.

Further
amendment
of Act No. 41,
1912.

8. The Principal Act is further amended by inserting next after Part III the following new Part :—

New Part
IIIa.

PART IIIA.

THE ELECTORAL COMMISSIONER.

Appointment
of Electoral
Commissioner.

cf. Act No.
41, 1912,
s. 22(1).

21A. (1) (a) The Governor shall appoint an Electoral Commissioner for New South Wales.

(b) The salary of the Electoral Commissioner shall be fixed by the Governor.

(2) Subject to this Act the Electoral Commissioner shall 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 registration or enrolment of electors, the preparation of lists and rolls of electors, and the conduct of elections for the Legislative Assembly.

(3) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to the appointment of the Electoral Commissioner and the Electoral Commissioner shall not be subject to the provisions of the said Act during his tenure of office.

(4)

(4) The Electoral Commissioner shall be appointed for a term of seven years, and shall be eligible for reappointment for a further period not exceeding seven years.

(5) The Electoral Commissioner shall be a "permanent head" within the meaning of the Public Service Act, 1902, and any Act amending the same.

(6) The Electoral Commissioner may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except in manner following, that is to say:—

The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven sitting days after such suspension if Parliament is in session or if not then within seven sitting days after the commencement of the next session. An Electoral Commissioner suspended under this subsection shall be restored to office unless each House of Parliament within twenty-one days from the time when such statement has been laid before such House declares by resolution that the Electoral Commissioner ought to be removed from office, and if each such House within the time aforesaid does so declare, the Electoral Commissioner shall be removed by the Governor accordingly.

(7) The Electoral Commissioner shall be deemed to have vacated his office if he—

- (a) engages in New South Wales during his term of office in any paid employment outside the Public Service;
- (b) becomes bankrupt, compounds with his creditors, or makes an assignment of his salary or estate for their benefit;
- (c) absents himself from duty for a period of fourteen consecutive days except on leave granted by the Governor;

(d)

(d) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act, 1898;

(e) resigns his office by writing under his hand addressed to the Governor.

(8) An Electoral Commissioner who at the date of his appointment is an officer of the Public Service—

(a) shall in the event of his office as Electoral Commissioner being discontinued or abolished, be eligible on the recommendation of the Public Service Board, to be appointed to some office in the Public Service not lower in classification and salary than that which he held at the date of his appointment as Electoral Commissioner; and

(b) shall, while such Electoral Commissioner continues to contribute to the Superannuation Fund, be entitled to all the benefits under the Superannuation Act, 1916, as amended by subsequent Acts, to which he is entitled as such contributor.

(9) In any Act, and in any regulations or by-laws, and in any instrument, a reference to the Chief Electoral Officer shall be read as a reference to the Electoral Commissioner appointed under this section.

(10) (a) The Governor may upon the recommendation of the Public Service Board appoint such officers as are necessary for the administration of this Act.

(b) The officers so appointed shall receive such remuneration and allowances as shall be fixed by the Public Service Board, and shall be subject to the provisions of the Public Service Act, 1902, during their tenure of office.

(11) (a) The Electoral Commissioner may, with the consent of the Governor, by writing under his hand, delegate to any officer of the Public Service

Service, either generally or in any particular case or class of cases, all or any of the powers, authorities, duties and functions conferred and imposed upon the Electoral Commissioner by this Act or the regulations.

(b) Any such officer shall, when acting within the scope of the delegation, be deemed to be the Electoral Commissioner for all purposes of this Act and the regulations.

(c) The Electoral Commissioner may, by writing under his hand, revoke any such delegation.

9. (1) The Principal Act is further amended—

(a) by omitting the words "Chief Electoral Officer" wherever occurring and by inserting in lieu thereof the words "Electoral Commissioner";

(b) by inserting in section one next after the heading of Part III the following:—"Part IIIA.—The Electoral Commissioner";

(c) by omitting subsection one of section twenty-two.

(2) Upon the commencement of this Part of this Act the expression "Chief Electoral Officer" wherever occurring in Parts I, II, IV, V, VI, VII or VIII of this Act shall be omitted, and the words "Electoral Commissioner" shall be inserted in lieu thereof.

(3) Where in any regulation made under the Principal Act, or in any form or electoral paper prescribed by or under that Act, the expression "Chief Electoral Officer" occurs, such expression shall be read and construed as "Electoral Commissioner"; and the regulation, form or electoral paper shall be read accordingly.

(4) The Parliamentary Elections (Amendment) Act, 1918, is amended by omitting so much of the Schedule to that Act as amends section twenty-two of the Principal Act by the insertion of subsection one.

Amendment of
Act No. 41, 1912.
(Omission of
references to
"Minister.")

*Electoral Commissioner to exercise certain powers
and functions heretofore vested in the Minister.*

10. (1) The Principal Act is further amended—

Sec. 3.

(a) by omitting from section three the definition of the word "Minister";

Sec. 17 (1).

(b) by omitting from subsection one of section seventeen the words "Colonial Secretary" and by inserting in lieu thereof the words "Electoral Commissioner";

Sec. 88.

(c) by omitting from section eighty-eight the words "Colonial Secretary" and by inserting in lieu thereof the words "Electoral Commissioner";

Sec. 91.

(d) by omitting from section ninety-one the words "Colonial Secretary" and by inserting in lieu thereof the words "Electoral Commissioner";

Sec. 127.

(e) by omitting from section one hundred and twenty-seven the word "Minister" and by inserting in lieu thereof the words "Electoral Commissioner";

Sec. 180.

(f) (i) by omitting from section one hundred and eighty the word "Minister" wherever occurring and by inserting in lieu thereof the words "Electoral Commissioner";
(ii) by omitting from the same section the word "order" and by inserting in lieu thereof the word "recommend."

Sec. 84.

(2) (a) The Principal Act is further amended by omitting from section eighty-four the word "Minister" and by inserting in lieu thereof the words "Electoral Commissioner."

Saving.

(b) Any polling-place appointed prior to the commencement of this Part of this Act under the provisions of section eighty-four of the Principal Act shall, unless abolished prior to such commencement, continue to be a polling-place until abolished under the said section as amended by paragraph (a) of this subsection.

(3)

(3) (a) The Principal Act is further amended by Sec. 182 (1). omitting from subsection one of section one hundred and eighty-two the words "Colonial Secretary" and by inserting in lieu thereof the words "Electoral Commissioner."

(b) Any rules and regulations made under ~~saving~~ the provisions of section one hundred and eighty-two of the Principal Act, and in force at the commencement of this Part of this Act, shall continue in force until repealed or amended under the said section as amended by paragraph (a) of this subsection.

PART IV.

COMPILATION OF JOINT ROLLS BY THE COMMONWEALTH AND THE STATE.

DIVISION 1.—*Date of commencement, &c.*

11. (1) Division 1 and Division 2 of this Part of this Act shall commence upon the passing of this Act. Commencement, Division 1 and Division 2.

(2) For the purposes only of the preparation of the first rolls of electors for the Assembly pursuant to any arrangement entered into between the Governor and the Governor-General of the Commonwealth under the authority conferred by the Principal Act as amended by Division 2 of this Part of this Act and of any matters necessary for or incidental to such preparation the provisions of Division 3, Division 4 and Division 5 of this Part of this Act shall commence upon the passing of this Act, and shall be read and construed with the Principal Act as amended by this Act. Commencement of Divisions 3, 4 and 5 for certain purposes only.

(3)

No. 55, 1928.

Joint rolls to come into force on appointed day.

Commencement of this Part for all purposes.

Joint rolls to be used for Assembly elections.

Further amendment of Act No. 41, 1912.

New Part IIIB.

Arrangement with Commonwealth as to rolls. cf. Vict. Act No. 3,331, s. 7.

(3) The first rolls so prepared shall come into force on a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(4) On that day—

- (a) the whole of the provisions of this Part of this Act shall come into operation for all purposes; and
- (b) all rolls of electors for the Assembly theretofore in force shall cease to have any further force or effect.

(5) On and after the day so appointed no rolls other than rolls prepared in accordance with the provisions of the Principal Act as amended by this Part of this Act shall be in use for the purposes of any election for the Assembly.

DIVISION 2.—*Power to arrange with the Commonwealth.*

12. The Principal Act is amended by inserting the following new Part next after Part IIIA as inserted by this Act:—

PART IIIB.

ARRANGEMENT WITH THE COMMONWEALTH AS TO ROLLS.

21B. (1) The Governor may arrange with the Governor-General of the Commonwealth for the preparation, alteration, and revision of rolls of electors for the Assembly in any manner consistent with the provisions of this Act, jointly by the State of New South Wales and the Commonwealth to the intent that the rolls may be used as electoral rolls for Commonwealth elections as well as for elections for the Assembly.

(2) (a) When any such arrangement has been made the rolls may contain for the purposes of Commonwealth elections:—

- (i) the names and descriptions of persons who are not entitled to be enrolled thereon as electors for the Assembly: Provided that it

it is clearly indicated in the prescribed manner that those persons are not enrolled thereon as electors for the Assembly ; and

- (ii) distinguishing marks against the names of persons enrolled as electors for the Assembly to show that those persons are or are not also enrolled as electors for Commonwealth elections ; and
- (iii) other particulars in addition to the prescribed particulars.

(b) For the purposes of this Act, the names and descriptions, marks and particulars so contained shall not be deemed part of the roll.

21c. (1) As soon as practicable after the making First rolls. of an arrangement in pursuance of section 21B of cf. Vict. Act No. 3,331, s. 8. this Act, rolls of electors for the Assembly shall be prepared as directed by the Governor in a proclamation published in the Gazette, and in the manner specified in the proclamation.

(2) For the purposes of the first rolls prepared under the arrangement, any person who is enrolled on a Commonwealth roll in pursuance of any claim signed by him, and who is entitled to be enrolled for the Assembly, shall be deemed to have made a claim under this Act for enrolment on the corresponding roll for the Assembly.

(3) Until the first rolls prepared under the arrangement come into force, the rolls in existence at the date of the passing of the Parliamentary Electorates and Elections (Amendment) Act, 1928, as added to or altered from time to time, or as compiled under the provisions of the law for the time being in force, shall be the rolls of electors for the Assembly.

(4) If any such arrangement ceases to operate—

- (a) the rolls then in existence as added to or altered from time to time, or as compiled under the provisions of the law for the time being

being in force, shall be the rolls of electors for the Assembly until superseded by new rolls compiled under this part of this Act.

(b) for the purposes of such rolls or new rolls all officers prescribed may have and perform all the duties and functions of Commonwealth divisional returning officers under this Act.

DIVISION 3.—*Method of preparation of rolls, &c.*

Further
amendment
of Act No. 41,
1912.
Part IV.

13. The Principal Act is further amended by omitting Part IV and by inserting in lieu thereof the following Part:—

PART IV.

OFFICERS AND ENROLMENT.

Interpretation.

Interpreta-
tion.
cf. Vict. Act
No. 3,331,
s. 4 (1).

22. In this Part of this Act, unless inconsistent with the context or subject matter,—

“Divisional returning officer” means the Commonwealth divisional returning officer for the Commonwealth electoral division in which the particular State subdivision is situate.

“Elector” means any person whose name appears on a roll as an elector for the Assembly.

“Officer” includes any person discharging the duties of any office under this Part of this Act.

“Regulations” means regulations under this Part.

“Roll” means roll of electors for the Assembly under this Part.

“Subdivision” means subdivision of a district and includes also any unsubdivided district.

Districts

Districts and subdivisions.

23. (1) The Governor may, by proclamation published in the Gazette—

- (a) divide any district into subdivisions;
- (b) specify the boundaries and names of subdivisions; and
- (c) alter the boundaries and name of any subdivision.

(2) The subdivisions and the boundaries and names thereof shall be such as are specified in any such proclamation.

(3) No subdivision shall be established, altered or abolished after the issue of the writ for an election, and before the time appointed for its return.

24. Where—

- (a) a district is divided into subdivisions; or
- (b) the boundaries of a district or of a subdivision are altered—

such changes in rolls as are thereby rendered necessary for the transfer of names of electors for the Assembly from one roll to another shall be made in the prescribed manner.

Changes to be made in rolls on subdivision of districts or alteration of boundaries.
cf. Cwth Electoral Act, 1918-1928, s. 28.
Vict. Act No. 3,331, s. 10.

Officers.

25. (1) The Governor may appoint for any one or more subdivisions an electoral inspector and an electoral registrar.

(2) The Governor may remove any such person from his office.

(3) Any person appointed under this section may resign his office.

(4) By arrangement with the Commonwealth Electoral Officer the divisional returning officer may act as electoral registrar for any subdivision for which an electoral registrar is not appointed, and any Commonwealth officer may act as electoral inspector for any subdivision for which an electoral inspector is not appointed.

(5) Electoral inspectors shall have such powers and perform such duties as are prescribed.

(6)

(6) Every electoral registrar and every electoral inspector shall act under and be subject to the control of the Chief Electoral Officer for New South Wales, who may inspect all books, rolls and documents kept by any electoral registrar for the purposes of this Act, and satisfy himself that the duties imposed on electoral registrars by this Act have been carried out.

(7) Every electoral registrar and every electoral inspector shall be paid such allowance as is fixed by the Governor.

Rolls.

Rolls for
districts and
subdivisions.
cf. C'wth
Electoral Act,
1918-1928,
ss. 30, 31.
Vict. Act No.
3,331, s. 15.

New rolls.
cf. *Ibid.* s. 33.
Ibid. s. 16.

26. (1) There shall be a roll for each district.
 (2) There shall be a separate roll for each subdivision.
 (3) The rolls for all the subdivisions of a district shall together form the roll for the district.
 (4) The rolls—
 (a) may be in the prescribed form ;
 (b) shall set out the surname, christian or other names, residence, occupation (or other prescribed particulars) and sex of each elector ;
 (c) shall contain such further particulars as are prescribed ;
 (d) shall be arranged in alphabetical order of surnames, and where the surnames are identical then in alphabetical order of the christian or other names.

27. (1) New rolls generally and new rolls for any district or subdivision shall be prepared whenever directed by the Governor by proclamation published in the Gazette.

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

(3) The proclamation may specify the manner in which the rolls shall be prepared ; and may require every person entitled to enrolment on any new roll to sign and send to the proper officer in accordance with this Act or the regulations, a form of

of claim for enrolment, and otherwise to comply with the provisions of this Act or the regulations relating to compulsory enrolment:

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

28. (1) The registrar, upon the receipt by him of a new roll for a subdivision shall—
(a) make additions, alterations and corrections therein; and
(b) remove names therefrom,
pursuant to claims or notifications received by him between the date of the proclamation directing the preparation of the new rolls and the date of the notification that such rolls have been prepared where such additions, alterations or corrections have not already been made in or such removals have not been made from such new roll.

(2) Where objections have been lodged or notices of objection have been issued and action in respect of such objections or notices of objection has not been completed prior to the notification that new rolls have been prepared, such objections or notices of objection shall have effect in relation to the new rolls as if such rolls had been in existence at the time of the lodging of the objections or the issuing of the notices of objection.

29. (1) Rolls generally, or the roll for any district or subdivision shall be printed whenever the Chief Electoral Officer so directs.

Printing of rolls.
cf. *Ibid.* s. 36.

Ibid. s. 18.

(2) Supplemental rolls setting out additions since the latest print of the rolls shall be prepared and printed—

(a) immediately previous to a general election for the Assembly or any election of a member of the Assembly to serve in the place of a member whose seat has become vacant; and

(b)

Parliamentary Electorates and Elections (Amendment)
Act.

Inspection of
rolls.
cf. C'wth
Electoral
Act, 1918-
1928, s. 37.
Viet. Act No.
3,331, s. 19.

Officers and
others to
furnish
information.
cf. *Ibid.* s. 38.
Ibid. s. 20.

Addition of
names to
rolls.
cf. *Ibid.* s. 40.
Ibid. s. 21.

Claims for
enrolment or
transfer of
enrolment.
cf. *Ibid.* s. 41.
Ibid. s. 22.

(b) at such other times as the Chief Electoral Officer directs.

(3) Forthwith after the printing of rolls copies thereof shall be furnished to registrars; and the registrar for each subdivision shall forthwith sign and transmit a copy of the roll for the subdivision for which he is registrar to the State returning officer for the district.

30. Copies of the latest print of the roll for any subdivision and of any supplemental roll shall—

(a) be open for public inspection without fee at the office of the Chief Electoral Officer and of the registrar at all convenient times during office hours, and at such other places as are prescribed; and

(b) on payment of the prescribed price be obtainable at the Government Printing Office and at such post-offices and other places in the subdivision as the Chief Electoral Officer appoints.

31. All officers in the service of the Government of New South Wales, all members of the police force, all officers of any municipality or shire, and all electors or persons qualified to be electors, shall upon application furnish to the Chief Electoral Officer or to any officer acting under his direction all such information as is required in connection with the preparation, maintenance or revision of the rolls.

Enrolment.

32. (1) Names may be added to rolls pursuant to claims for enrolment or transfer of enrolment.

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

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

(2)

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

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

34. (1) Every person who is entitled to have his name placed on the roll for any subdivision whether by way of enrolment or transfer of enrolment, and whose name is not on the roll, shall forthwith fill in and sign, in accordance with the directions printed thereon, a claim in the prescribed form, Vict. Act No. and send or deliver the claim to the registrar for the subdivision.

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

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

address, shall be liable for a first offence to a penalty not exceeding ten shillings and for any subsequent offence to a penalty not exceeding two pounds.

(4) The regulations may prescribe the procedure in relation to the imposition and recovery of penalties for contraventions of the provisions of this section ; and until such regulations are made the procedure shall be as set out in Schedule Nineteen to this Act.

(5) In any prosecution in respect of a contravention of this section or the regulations thereunder, instituted by the registrar, or by any person acting under the direction of the registrar, the averments of the prosecutor contained in the information or complaint shall be deemed to be proved in the absence of evidence to the contrary.

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

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

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

Registration
of claim.
cf. C'wth
Electoral Act,
1918-1928,
s. 43.

Vict. Act No.
3,331, s. 25.

No. 55, 1928.

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

(a) refer the claim, with such observations as he thinks proper, to the divisional returning officer for his decision, and

(b) send to the claimant a notification in the prescribed form that the claim has been so referred.

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

(3) If the divisional returning officer decides that the claimant is entitled to enrolment pursuant to the claim, the registrar shall forthwith, on the receipt of the notification to that effect, enrol the claimant, and send to him a notification in the prescribed form that he has been so enrolled.

(4) If the divisional returning officer decides that the claimant is not entitled to enrolment pursuant to the claim, the registrar shall forthwith, on receipt of the notification to that effect, send to the claimant a notice in the prescribed form that his claim has been rejected, specifying the reason for the rejection, and advising the claimant that he is entitled, at any time within one calendar month after the receipt of the notice, to appeal to a court of petty sessions for an order directing that his name be added to the roll.

37. Notwithstanding anything contained in section thirty-five or section thirty-six of this Act—

(a) claims for enrolment or transfer of enrolment which are received by the registrar after six o'clock in the afternoon of the day of the issue of the writ for an election shall not be registered until after the close of the polling at the election; and

(b)

Penalty on
officer
neglecting
to enrol
claimants.
cf. C'wth
Electoral Act.
1918-1928, s. 46.
Vict. Act No.
3,331, s. 27.

Alteration of
rolls.
cf. *Ibid.* s. 47.
Ibid. s. 28.

(b) except by direction of the divisional returning officer no name shall be removed from a roll pursuant to a notification of transfer of enrolment received by the registrar after six o'clock in the afternoon of the day of the issue of the writ for an election and before the close of the polling at the election.

38. Any registrar who receives a claim for enrolment or transfer of enrolment, and who without just excuse fails to do everything necessary on his part to be done to secure the enrolment of the claimant in pursuance of the claim shall be liable to a penalty not exceeding ten pounds.

39. (1) In addition to other powers of alteration conferred by this Act, a registrar may alter any roll kept by him by—

- (a) correcting any mistake or omission in the particulars of the enrolment of an elector;
- (b) altering, on the written application of an elector, the original name, address, or occupation of the elector on the same subdivision roll;
- (c) removing the name of any deceased elector;
- (d) removing the name of an elector who has been convicted and is under sentence for any offence punishable under the law of New South Wales or of any other part of the King's Dominions by imprisonment for one year or longer;
- (e) striking out the superfluous entry where the name of the same elector appears more than once on the same subdivision roll;
- (f) reinstating any name removed by mistake as the name of a deceased elector;
- (g) reinstating, by direction of the divisional returning officer, any name removed as the result of an objection:

Provided

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

- (b) reinstating by direction of the divisional returning officer any other name removed by mistake or which has been accidentally omitted; and
- (i) removing a name from the roll by direction of the divisional returning officer upon the certificate of the chief electoral officer:

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

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

(2) Where the name of an elector has, pursuant to a claim, been incorrectly placed on the roll for a subdivision other than the subdivision in which he was living at the date of the claim, and the elector was entitled on that date to have his name placed on the roll for the subdivision in which he was living, the divisional returning officer may, where the two subdivisions are in the same district—

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

**Parliamentary Electorates and Elections (Amendment)
Act.**

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

Alterations to
be initialled.
cf. C'wth Elec-
toral Act, 1918-
1928, s. 48.
Vict. Act No.
3,331, s. 29.

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

Information
as to deaths
and
convictions.
cf. *Ibid.* s. 30.

41. (1) Every district registrar under the Registration of Births, Deaths, and Marriages Act, 1899, shall, within three days after the end of each month or at such other times as are arranged, forward to the Chief Electoral Officer a list setting out the surname and christian or other names, and the occupation and age at the time of death, and the last known place of residence at the date of the death of every person of the age of twenty-one years or upwards whose death was registered by the district registrar during such month.

(2) (a) The clerk or prescribed officer of any court in which any person of the age of twenty-one years or upwards is convicted of an offence punishable by imprisonment for one year or longer and is under sentence therefor shall, within three days after the end of each month in which any such person is sentenced, forward to the Chief Electoral Officer a list setting forth the surname and christian or other names, and the occupation and age, and the last known place of residence of every person so sentenced during such month, and the date of the sentence, the nature of the offence, the period of imprisonment, and the electoral roll (if any) in which such person's name is included.

(b) If any such clerk or officer fails, neglects or refuses to forward any such list, or wilfully or negligently compiles the same in an inaccurate

inaccurate manner, such clerk or officer shall be liable to a penalty not exceeding fifty pounds, or to imprisonment for a term not exceeding three months.

(c) For the purposes of this subsection the word "court" includes a court of petty sessions.

(3) The Chief Electoral Officer after receipt of any list referred to in subsection one or subsection two of this section, shall forthwith forward a copy of any particulars included in the list to the divisional returning officer for each district or subdivision to which such particulars relate.

(4) Each divisional returning officer shall, upon receipt of information pursuant to this section, take action under this Part of this Act to effect such alterations of the rolls as are necessary.

Objections.

42. Any name on a roll may be objected to by Name on roll
objection in writing lodged with or made by the
divisional returning officer :
may be
objected to.
cf. C'wth
Electoral Act,
1918-1928, s. 52.

Provided that a sum of five shillings shall be deposited in respect of each objection lodged by any person other than an officer, to be forfeited to His Majesty if the objection is held by the divisional returning officer to be frivolous.

43. The objection may be in the prescribed form, *Objection*, and shall be signed by an elector enrolled on the cf. *Ibid.* s. 53. roll for the same subdivision as the person objected to, or by the divisional returning officer or registrar, or other prescribed officer.

44. It shall be the duty of each divisional returning officer and of each registrar or other prescribed officer to lodge or make an objection in writing, setting forth the grounds of such objection, in respect of any name which he has reason to believe ought not to be retained on the roll.

No. 55, 1928.

Notice of
objection.
cf. Cyth
Electoral
Act, 1918-
1928, s. 55.

Vict. Act
No. 3, 331,
s. 32.

45. (1) When an objection is made by or lodged with a divisional returning officer, the divisional returning officer shall forthwith give notice of the objection to the person objected to.

(2) The notice—

- (a) may be in the prescribed form ; and
- (b) may be served by being posted to the place of abode for the time being of the person objected to, if that place of abode is known to the divisional returning officer, or, if it is not known to the divisional returning officer, then to the place of living of such person as appearing on the roll.

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

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

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

Answer to
objection.
cf. *Ibid.* s. 46.
Ibid. s. 33.

Determina-
tion of
objection.
cf. *Ibid.* s. 57.
Ibid. s. 34.

47. (1) The divisional returning officer shall determine the objection forthwith on receipt of the answer of the person objected to, or if no answer is received within a period of twenty days after the posting of the notice, then after the expiration of that period ; and if it appears that the person objected to is not entitled to be enrolled on the roll in respect of which the objection has been made, the divisional returning officer shall direct the registrar to remove the name of such person from that roll :

Provided

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

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

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

Appeals.

48. (1) Any person—

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

(b) whose name has been removed from a roll by direction of the divisional returning officer pursuant to an objection,

Appeal to
Court of
Petty
Sessions.
cf. C'vth
Electoral Act,
1918-1928,
s. 58.
Vict. Act
No. 3,331,
s. 35.

may, at any time within one calendar month after the receipt of the notice of the rejection of the claim or of notice of the determination of the objection, as the case may be, in the prescribed manner make application to a court of petty sessions for an order directing that his name be enrolled or reinstated on the roll, as the case requires.

(2) Where an objection has been determined by the divisional returning officer adversely to the person objecting, that person, if not an officer, may in the prescribed manner apply to a court of petty sessions for an order sustaining the objection.

(3) Where the application has reference to the decision of the divisional returning officer upon an objection, the applicant shall as prescribed serve the objector or the person objected to (as the case may be) with notice of the application, and the person

Parliamentary Electorates and Elections (Amendment) Act.

person so served may appear or may in writing authorise any person to appear on his behalf to resist the application.

Power of
court of petty
sessions or
police magis-
trate to hear
and determine
appeals, &c.
cf. Vict. Act
No. 3,331,
s. 36.

49. (1) A court of petty sessions presided over by a police or stipendiary magistrate may hear and determine any appeal or application under this Part of this Act, and may make such order as it thinks fit as to costs, which costs may be recovered in the same manner as costs awarded in any other proceedings in a court of petty sessions.

(2) The clerk of petty sessions shall send by post to the divisional returning officer a certified copy of the order of the court, and it shall be the duty of the divisional returning officer to direct the registrar to make such entries (if any) upon the roll as are necessary to give effect to the order.

Copy of roll for election.

Rolls for
purposes of
elections for
Assembly.
cf. *Ibid.* s. 37.

50. (1) Every divisional returning officer after the issue of the writ and before the day of nomination for any election for the Assembly for any district situate in whole or in part within the Commonwealth electoral division for which he acts as divisional returning officer shall—

- (a) certify, sign, and transmit to the State Returning Officer for the district a printed copy (marked as hereinafter provided) of the roll last printed for each subdivision thereof situate within such Commonwealth electoral division;
- (b) alter such copy so that (except as to any additional names contained in the supplemental roll hereinafter provided for) such copy will correspond with the roll as in force at six o'clock in the afternoon of the day of the issue of the writ for any election for the Assembly;

(c)

(c) prepare, certify, sign and transmit to the said State Returning Officer a printed copy of a supplemental roll containing the names of all persons whose names pursuant to claims for enrolment or transfer received at any time up to six o'clock in the afternoon of the day of the issue of the writ have been added to the roll last printed.

(2) Every such supplemental roll—

(a) shall be in the prescribed form ;

(b) shall have the names thereon arranged in alphabetical order of the surnames, with a number prefixed to each name beginning at the first name with the number next in arithmetical progression after the last number on the roll last printed, and continuing in like progression to the last name on the supplemental roll.

(3) For the purposes only of such election for the Assembly the copy of such roll last printed and altered if necessary as hereinbefore provided together with the copy of such supplemental roll (if any) transmitted to the returning officer shall be the electoral roll for the subdivision.

(4) Every registrar shall comply with any direction of a divisional returning officer given to enable such divisional returning officer to comply with the requirements of this section.

Miscellaneous.

51. Any person who witnesses any claim for enrolment or transfer of enrolment who does not, before he affixes his signature thereto, satisfy himself, by inquiry from the claimant or otherwise, that the statements contained in the claim are true, shall be liable to a penalty not exceeding fifty pounds.

Witness to
application
must satisfy
himself of truth
of statements.
cf. Cwth
Electoral Act
1918-1928, s. 172.
Vict. Act No.
3,331, s. 41.

52. Any person who accepts the custody of a claim for enrolment or transfer of enrolment for transmission on behalf of any other person to a registrar

Failure to
transmit claim.
cf. *Ibid.* s. 173.
Ibid. s. 42.

Parliamentary Electorates and Elections (Amendment) Act.

Electoral papers
may be sent by
post.
cf. Vict. Act
No. 3,331, s. 44.
Correction
of errors.
cf. *Ibid.* s. 48.

registrar, and does not transmit the claim forthwith to the registrar, shall be liable to a penalty not exceeding fifty pounds.

53. All electoral papers provided for by this Part of this Act may be sent through the post.

54. (1) Where any accidental or unavoidable impediment, misfeasance or omission has happened in the preparation or transmission or printing of any roll under this Part of this Act, the Governor may by his order—

- (a) take all such measures as may be necessary for removing such impediment or rectifying such misfeasance or omission; or
- (b) declare any such roll valid as to and notwithstanding such impediment, misfeasance or omission.

(2) Every such order shall state specifically the nature of the impediment, misfeasance or omission and shall be forthwith published in the Gazette.

Regulations.

55. (1) The Governor may make regulations prescribing all matters which are required or permitted to be prescribed under this Part of this Act, or which are necessary or convenient to be prescribed for the carrying out of the purposes of this Part of this Act.

(2) Any such regulation may impose a penalty not exceeding five pounds for any contravention thereof.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of such publication, or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and, if not, then within fourteen sitting days after the commencement of the next session.

If

If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

Consequential amendments on section thirteen.

14. (1) The Parliamentary Elections (Amendment) ^{Amendment of Act No. 40, 1918, s. 8.} Act, 1918, is amended by omitting so much of the Schedule to that Act as amends any of the sections contained in Part IV of the Principal Act.

(2) The Parliamentary Electorates and Elections (Amendment) Act, 1921, is amended by omitting sub-sections two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen and seventeen of section two. ^{Amendment of Act No. 19, 1921, s. 2 (2)-(17).}

(3) The Parliamentary Electorates and Elections (Amendment) Act, 1926, is amended— ^{Amendment of Act No. 12, 1926.}

- (a) by omitting subsections three and four of Sec. 9 (3) (4). section nine;
- (b) by omitting paragraphs (a), (b) and (c) of Sec. 9 (5) (a) subsection five of the same section; (b) (c).
- (c) by omitting subsection six, seven, eight and Sec. 9 (6)-(9). nine of the same section.

DIVISION 4.—Qualifications of electors.

15. The Principal Act is further amended—

(a) by omitting Part III and by inserting in lieu thereof the following Part:— ^{Further amendment of Act No. 41, 1912, ss. 20, 21.}

PART III.

QUALIFICATION OF ELECTORS.

20. (1) Subject to the disqualifications set out in this Act, every person not under twenty-one years of age, whether male or female— ^{Qualification of electors for the Assembly. cf. C'wth Electoral Act, 1918. 1928, s. 39.}

- (a) who is a natural born or naturalised subject of His Majesty; and ^{Vict. Act No. 3,331, s. 11.}
- (b)

(b) who has lived in Australia for at least six months continuously, and in New South Wales for at least three months, and in any subdivision for at least one month immediately preceding the date of such persons claim for enrolment,

shall (subject to the provisions of this Act) be entitled—

(i) to be enrolled as an elector for the Assembly on the roll for the subdivision in which such person lives and for no other subdivision; and

(ii) when enrolled and so long as such person continues to live in the subdivision, to vote at any election for the Assembly for the district.

(2) Notwithstanding anything contained in this Act—

(a) an elector who has changed his place of living to another place within the same subdivision or to another subdivision of the same district, shall not be deemed by reason only of such change to be dispossessed of the qualification in respect of which he is enrolled; and

(b) an elector who, within three months before any election has changed his place of living to another district, may vote at that election for the district for which his name appears on the roll prepared as hereinafter provided for the purposes of that election.

(3) For the purposes of this section the expressions "Natural born subject" and "Naturalised subject" shall have the same meanings as in the Acts of the Commonwealth for the time being in force relating to elections.

No. 55, 1928.

21. No person who is of unsound mind, and no person attainted of treason, or who has been convicted and is under sentence for any offence punishable under the law of New South Wales or of any other part of the King's Dominions by imprisonment for one year or longer, shall be entitled to have his name placed on or retained on any roll of electors for the Assembly, or to vote at any election for the Assembly.

Disqualifications.
cf. C'wth
Electoral Act,
1918-1928,
s. 30 (4).

Vict. Act No.
3,331, s. 13.

(b) by omitting from section three the definitions of "Natural born subject" and "Naturalised subject."

Consequential amendment on section fifteen.

16. The Parliamentary Electorates and Elections (Amendment) Act, 1926, is amended by omitting sub-section two of section nine.

Amendment
of Act No.
12, 1926,
s. 9 (2).

DIVISION 5.—*Miscellaneous.*

17. The Principal Act is further amended by omitting from section one the words and figures "PART IV.—OFFICERS AND ROLLS AND OBLIGATION TO ENROL—ss. 22-67" and by inserting in lieu thereof the following:—

Amendment
of Act No. 41,
1912, s. 1.

PART IIIb.—ARRANGEMENT WITH THE COMMON-WEALTH AS TO ROLLS.

PART IV.—OFFICERS AND ENROLMENT.

18. The Principal Act is further amended—

Amendment of
Act No. 41, 1912,
s. 3.
(Definitions.)

(a) by omitting from section three the definition of "List";
(b) by omitting from the definition of "Registrar" in section three the word "district" and by inserting in lieu thereof the word "subdivision.";
(c) by inserting in section three next after the definition of the word "By-election" the following new definition—
"Electoral paper" includes any electoral claim and any prescribed form.

19.

Parliamentary Electorates and Elections (Amendment) Act.

No. 55, 1928.

**Amendment of Act No. 41, 1912, s. 84.
(Appointment of polling-place areas.)**

19. (1) The Principal Act is further amended—

- (a) by omitting paragraphs (d), (e) and (f) of section eighty-four and by inserting in lieu thereof the following paragraph :—
 (d) declare polling-places to be the polling-places for any specified subdivision.
- (b) by omitting from the same section the proviso thereto;
- (c) by adding at the end of the same section the following new subsection :—

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

Consequential amendment of Act No. 49, 1918, Schedule.

(2) The Parliamentary Elections (Amendment) Act, 1918, is amended by omitting so much of the Schedule to that Act as amends paragraph (d) of section eighty-four of the Principal Act.

Consequential amendment of Act No. 19, 1921, s. 2 (23).

(3) The Parliamentary Electorates and Elections (Amendment) Act, 1921, is amended by omitting subsection twenty-three of section two.

Amendment of Act No. 41, 1912, (Polling-place areas.)

Sec. 79 (4).

(a) by omitting from the form of nomination prescribed in subsection four of section seventy-nine the words "polling-place area" and by inserting in lieu thereof the word "subdivision";

Sec. 97 (1).

(b) (i) by omitting from subsection one of section ninety-seven the words "polling-place area" and by inserting in lieu thereof the word "subdivision";

(ii) by omitting from the same subsection the words "such area" and by inserting in lieu thereof the words "such subdivision";

Sec. 131A.

(c) by omitting from section 131A the words "polling-place area" and by inserting in lieu thereof the word "subdivision";

(d)

(d) by omitting from Schedules nine, eleven, Schedules 9, thirteen and nineteen the words "polling-^{11, 13 and 19.} place area" wherever occurring and by inserting in lieu thereof the word "subdivision."

21. (1) The Principal Act is further amended by omitting paragraph (e) of subsection one of section one hundred and by inserting in lieu thereof the following paragraphs :—

(e) Is your place of living within the district of [here state the name of the district in respect of which the elector claims to vote] ?

(f) (If the question set out in paragraph (e) is answered in the negative)—Was your place of living at any time within the last three months within the district of [here state the name of the district in respect of which the elector claims to vote] ?

(2) The Parliamentary Elections (Amendment) Act, 1918, is amended by omitting so much of the Schedule to that Act as inserted paragraph (e) in subsection one of section one hundred of the Principal Act.

22. (1) The Principal Act is further amended—

(a) by omitting section one hundred and six and by inserting in lieu thereof the following section :—

106. (1) If, at any polling-booth, any ballot-paper has been delivered to any person having tendered a vote, 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. If the person answers the questions satisfactorily, and makes a declaration in the prescribed form, he may be permitted to vote.

(2)

Vote of person whose name is not on certified list, or has been struck out of certified list, or is on roll and cannot be found.

cf. C'wth Act, 1918-1928, s. 121.

(2) Notwithstanding anything contained in this Act, when any person who is entitled to be enrolled on the roll for a subdivision claims to vote at an election at a polling-place prescribed for that subdivision, and his name has been omitted from or struck out of the certified copy of the roll being used at such election owing to an error of an officer or a mistake of fact, or when any person who is enrolled on the roll for a subdivision claims to vote at an election at a polling-place prescribed for that subdivision and his name cannot be found by the deputy returning officer on the certified copy of the roll being used at such election, he may, subject to this Act and the regulations, be permitted to vote if—

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

(i) he sent or delivered to the registrar for the subdivision a duly completed claim for enrolment or transfer of enrolment, as the case requires, in respect of the subdivision, and the claim was received by the registrar before six o'clock in the afternoon of the day of the issue of the writ for the election ; and

(ii) he did not after sending or delivering the claim and before six o'clock in the afternoon of the day of the issue of the writ become qualified for transfer of enrolment to another subdivision ; or

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

(i) his name was not, to the best of his knowledge, removed from the roll

roll for the subdivision owing to objection, or transfer or duplication of enrolment, or disqualification ; and

- (ii) he had, from the time of his enrolment for the subdivision to the date of the issue of the writ for the election, continuously retained his right to enrolment for that subdivision ; or
- (c) in the case of a person whose name is on the roll for a subdivision for which he claims to vote, but cannot be found by the deputy returning officer, he claims that his name appears or should appear on the roll,

and makes a declaration in the prescribed form.

(3) For the purpose of giving effect to subsection one and subsection two of this section, the following provisions shall be observed :—

- (a) (i) The form of declaration may be printed or written on an envelope addressed to the returning officer for the district and must, after being filled in, be signed by the voter in the presence of the returning officer or deputy, and completed and attested by him.
- (ii) After the declaration has been made, the returning officer or deputy shall hand to the voter a ballot-paper.
- (iii) The voter, 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.

(iv)

(iv) The voter shall then fold and fasten the 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.

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

(b) If any person makes any declaration under this section knowing that the same is untrue in any material particular he shall be liable to imprisonment for a term not exceeding three months.

(c) Every envelope containing a vote given under this section shall be promptly forwarded under registered cover where practicable to the returning officer for the district.

(d) A deputy returning officer who forwards any such envelopes to the returning officer shall, immediately after the close of the poll, send to the returning officer advice of the number of envelopes so forwarded.

(e) The returning officer or the officer assisting him shall in the presence of the scrutineers examine the declaration on the envelope containing the ballot-paper; and, if after making such enquiries as he may deem necessary, it appears to him that the person whose name is signed to the declaration is entitled to vote, and that the declaration is duly attested, he shall accept the ballot-paper

ballot-paper for further scrutiny, but otherwise he shall reject the ballot-paper without opening the envelope.

If he accepts the ballot-paper for further scrutiny, he shall open the envelope without destroying the declaration and extract the ballot-paper, and shall, without unfolding it, place the ballot-paper in the ballot-box.

(f) When the votes to which this section refers have been dealt with in the manner provided in paragraph (e) of this subsection, the returning officer or the officer assisting him shall open and proceed with the scrutiny of the ballot-papers which have been accepted for further scrutiny.

(g) At the scrutiny the returning officer or the officer assisting him shall open the ballot-papers, and shall allow and count those which are formal, and shall disallow and reject those which are informal.

(4) Where the returning officer or the officer assisting him accepts the ballot-paper of a person voting in pursuance of subsection two of this section, he shall forthwith make the necessary correction in the roll used by him for the purpose of the election, and report the matter to the Chief Electoral Officer who shall take such action as is necessary to secure the enrolment of the elector.

(5) Where the claim of any person to vote under this section is refused the returning officer or deputy shall make a note in writing of the fact of the claim and the reasons for the refusal thereof.

The returning officer or deputy and a poll clerk shall sign the note in the presence of such scrutineers as are present.

Any of those scrutineers may also sign the note.

(6)

No. 55, 1928.

**Transitory
provision.**

cf. S.A. Act
No. 1,446,
s. 8.

cf. Vict. Act
No. 3,331.
1923, s. 53(9).

(6) Notwithstanding anything in this Act the provisions of subsections two, three, four, five, and six of this section shall so far as applicable and with such modifications, alterations and substitutions as are necessary, extend and apply to the case where a person who is entitled to be enrolled on a roll for a subdivision and who was enrolled on the corresponding roll of electors for the Assembly in force immediately before the day on which the first roll for the subdivision prepared under any arrangement made in pursuance of section 21B of this Act comes into force claims to vote in the subdivision at the election for the Assembly held next after the coming into force of such first roll.

**Secs. 101A,
107.**

(b) by omitting section 101A and section one hundred and seven;

**Schedule
Twelve.**

(c) by omitting Schedule Twelve;

Sec. 108.

(d) by omitting from section one hundred and eight the words "as aforesaid";

Sec. 119.

(e) by inserting in section one hundred and nineteen after the words "this Act" the words "or of any ballot-paper to which section one hundred and six applies";

Sec. 120.

(f) by adding at the end of section one hundred and twenty the following new subsection:—

(2) A returning officer shall deal with the ballot-papers and envelopes to which section one hundred and six applies, in like manner as is provided by subsection one of this section for absent voters' ballot-papers and envelopes.

Sec. 126 (1).

(g) by inserting in subsection one of section one hundred and twenty-six after the words "absent voters' ballot-papers" wherever occurring, the words "and ballot-papers to which section one hundred and six of this Act applies."

(2)

(2) The Parliamentary Electorates and Elections (Amendment) Act, 1921, is amended—

(a) by omitting subsection twenty-seven of section two;
(b) by omitting so much of subsection thirty-nine of section two as inserted in Schedule Twelve in the Principal Act.

(3) The Parliamentary Electorates and Elections (Amendment) Act, 1926, is amended by omitting subsection fourteen of section nine.

23. The Principal Act is further amended—

(a) by omitting section 176A as inserted by the Parliamentary Elections (Amendment) Act, 1918;
(b) by inserting next after section 176B the following new sections:—

176c. (1) Every electoral paper which by this Act or any regulations made thereunder has to be signed by any person shall be signed by that person with his personal signature.

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

(3) Nothing in this section shall authorise any person to sign any electoral paper by a mark or otherwise than in his own handwriting in cases where this Act or the regulations require him to sign the electoral paper in his own handwriting.

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

(5) Any person who contravenes any of the provisions of this section shall be liable to a penalty not exceeding fifty pounds.

(6) Nothing in this section shall affect the liability of any person to be proceeded against for forgery, but so that he shall not be liable to be punished more than once in respect of the same offence.

Untrue statements in forms.
cf. Cwth Electoral Act, 1918-1928, s. 166.
Vict. Act No. 3,331 s. 39.

Witnessing electoral papers.
cf. *Ibid.* s. 168.
Ibid. s. 40.

Forging or uttering electoral papers.
cf. *Ibid.* s. 174.
Ibid. s. 43.

Amendment of Act No. 41, 1912, Schs. Two, Three, Five and Seven.

Consequential amendments.
Act No. 40, 1918, Schedule.

176D. (1) Any person who knowingly makes any untrue statement in any electoral paper, or in any information supplied to any officer for the purposes of the preparation, maintenance, or revision of rolls, shall be liable to a penalty not exceeding twenty pounds.

(2) Nothing in this section shall affect the liability of any person to be proceeded against in respect of any other offence, whether against this Act or otherwise, but so that he shall not be liable to be punished more than once in respect of the same offence.

176E. Any person who—

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

shall be liable to a penalty not exceeding fifty pounds.

176F. Any person who—

- (a) forges any electoral paper, or
- (b) utters any forged electoral paper, knowing it to be forged,

shall be guilty of a misdemeanour and shall be liable to imprisonment for any term not exceeding two years.

24. (1) The Principal Act is further amended by omitting Schedule Two, Schedule Three, Schedule Five and Schedule Seven.

(2) (a) The Parliamentary Elections (Amendment) Act, 1918, is amended by omitting so much of the Schedule to that Act as amended the Principal Act by omitting Schedules Five and Six and inserting a substituted Schedule Five.

(b)

(b) The Parliamentary Electorates and Elections (Amendment) Act, 1926, is amended by omitting paragraph (d) of subsection five of section nine.

25. The Principal Act is further amended—

(a) by omitting from the heading to Schedule of Act No. Nineteen the word, figures and letter "section 52A" and by inserting in lieu thereof the words "section thirty-four";

(b) by omitting from the same Schedule the word, figures and letter "section 52A" wherever occurring and by inserting in lieu thereof the words "section thirty-four";

(c) by omitting from Schedule Eleven the words "and that I have not 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" and by inserting in lieu thereof the words "and that I am still qualified to vote for that district."

26. (1) Where the expression "residence" or "Residence" "resides" or any like expression occurs—

(a) in any section or Schedule of the Principal Act or of this Act, relating to the preparation, alteration or revision of rolls; or

(b) in any regulation, form or electoral paper relating to or used in connection with the preparation, alteration or revision of rolls, such expression shall be read and construed as "place of living" or "lives" as the case may be, and the section, Schedule, regulation, form or electoral paper shall be read accordingly.

(2) Where in the Principal Act or in Parts I, II, III, V, VI, VII and VIII of this Act, or in any regulation, form or electoral paper prescribed by or under this Act or the Principal Act, the expression "polling-place area" or the expression "area" as indicating a polling-place area occurs, every such expression shall be read and construed as "subdivision," and the Act, regulation, form or electoral paper shall be read accordingly.

Commence-
ment.Further amend-
ment of Act
No. 41, 1912.

Sec. 103 (a).

New subsec.
(2).Method of
voting.Sec. 118 (3).
(Informal
absent voter's
ballot-paper.)Sec. 122 (1).
(Informal
ballot-
papers.)

27. This Part of this Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.

28. The Principal Act is further amended—

(1) (a) by omitting paragraph (a) of section one hundred and three, and by inserting in lieu thereof the following paragraph :—

(a) retire alone to some unoccupied compartment of the booth, and there in private record his vote on the ballot-paper.

(b) by inserting at the end of the same section the following new subsection :—

(2) The voter shall record his vote by placing the number "1" in the square opposite the name of the candidate for whom he desires to give his first preference vote, and shall give contingent votes for all the remaining candidates by placing the numbers "2," "3," "4," and so on, as the case may require, in the squares opposite the names of such candidates respectively, so as to indicate by numerical sequence the order of his preference for them.

(2) by inserting in subsection three of section one hundred and eighteen the following paragraph which shall be read as paragraph (b) of that subsection :—

(b) if the voter has failed to indicate the number of his preference in respect of the name of any candidate; or

(3) by inserting in subsection one of section one hundred and twenty-two the following paragraph which shall be read as paragraph (b) of that subsection :—

(b) if the voter has failed to indicate the number of his preference in respect of the name of any candidate; or

(4)

PART V.

COMPULSORY EXPRESSION OF PREFERENCES.

—

(4) by omitting Schedule Four and by inserting Schedule
the following Schedule in lieu thereof:—
Four.

(Form of
ballot-paper.)

Sec. 82.

SCHEDULE FOUR.

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT, 1912-1928.

Ballot-paper.

Place the number "1" in the square opposite the name of the candidate for whom you desire to give your first preference vote. Give contingent votes for all remaining candidates by placing the numbers "2," "3," "4," and so on, in the squares opposite the names of remaining candidates in the order of your preference.

NEW SOUTH WALES.

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

Election of Member of the Legislative Assembly.

CANDIDATES :

- BROOKMAN, John
- CRANE, Joseph
- FRENCH, Charles
- KING, William
- WILSON, Henry
- WRIGHT, James

(5) by omitting from Schedule Fifteen, paragraph (d) of the instructions to be printed on the back of the form as set out in that Schedule, and by inserting in lieu thereof the following paragraph:—
Schedule Fifteen.
(Postal voter's ballot-paper.)

(p) the elector shall then and there in the presence of the authorised witness, but so that the authorised witness cannot see the vote, indicate his vote on the ballot-paper as follows:—

He shall write opposite to the square containing the number "1" the name of the candidate for whom

whom he desires to give his first preference vote, and shall give contingent votes for all the remaining candidates by writing opposite the squares containing the numbers "2," "3," "4," and so on as the case may require, the names of the candidates respectively, so as to indicate by numerical sequence the order of his preference for them.

He shall then fold the ballot-paper so that the vote cannot be seen, and hand it so folded to the authorised witness.

Schedule
Sixteen.
(Absent voter's
ballot-paper.)
Sec. 115.

(6) by omitting Schedule Sixteen and by inserting in lieu thereof the following Schedule:—

SCHEDULE SIXTEEN.

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT, 1912-1928.

Write opposite the square containing the number "1" the name of the candidate for whom you desire to give your first preference vote. Give contingent votes for all remaining candidates by writing opposite the squares containing the numbers "2," "3," "4," and so on, the names of the candidates in the order of your preference.

NEW SOUTH WALES.

Absent Voter's Ballot-paper.

Electoral District of [here insert name of district].

Election of Member of the Legislative Assembly.

[1]

[2]

[3]

[4]

[5]

(7) by omitting Schedule Seventeen and by inserting in lieu thereof the following Schedule:—

Schedule
Seventeen.
(Voting on
al sent or postal
voter's ballot-
paper.)

Secs. 114H
and 115.

SCHEDULE SEVENTEEN.

METHOD OF VOTING ON POSTAL BALLOT-PAPERS OR
ABSENT VOTERS' BALLOT-PAPERS.

An elector shall record his vote on a postal ballot-paper or an absent voter's ballot-paper by writing opposite to the square containing the number "1" the name of the candidate for whom he desires to give his first preference vote.

He shall then give contingent votes for all the remaining candidates by writing opposite the squares containing the numbers "2," "3," "4," and so on, as the case may require, the names of the candidates respectively, so as to indicate by numerical sequence the order of his preference for them.

(8) by omitting Schedule Eighteen and by inserting the following Schedule in lieu thereof:—

Schedule
Eighteen.
(Method of
counting
votes.)

Sec. 126 (1A).

SCHEDULE EIGHTEEN.

METHOD OF COUNTING VOTES.

1. (a) The Returning Officer shall count the total number of first preference votes given for each candidate.

(b) The candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected.

(c) If no candidate has received an absolute majority of first preference votes, the Returning Officer shall make a second count.

(d) On the second count the candidate who has received the fewest first preference votes shall be excluded, and each ballot-paper counted to him shall be counted to the candidate next in the order of the voter's preference.

(e) If any candidate then has an absolute majority of votes he shall be declared elected ; but if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of his ballot-papers to the continuing candidate next in the order of the voter's preference shall be repeated until one candidate has received an absolute majority of votes.

(f) The candidate who has received an absolute majority of votes shall be declared elected.

No. 55, 1928.

2. If on any count two or more candidates have an equal number of votes, and one of them has to be excluded, that candidate amongst them who had the least number of votes at the last count at which they had not an equal number of votes, shall be excluded. And if such candidates had an equal number of votes at all preceding counts, the Returning Officer shall determine between them by lot which of them shall be excluded.

3. In this Schedule—

The expression “an absolute majority of votes” means a greater number than one-half of the whole number of ballot-papers counted. The casting vote of the Returning Officer, given in pursuance of subsection two of section one hundred and twenty-six of this Act, shall be included in reckoning an absolute majority of votes.

The expression “continuing candidate” means a candidate not already excluded at the count.

PART VI.

COMPULSORY VOTING.

Commencement.

29. This Part of this Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.

Further amendment of Act No. 41, 1912. (Compulsory voting.)
New s. 120A.

30. The Principal Act is further amended—

(a) by inserting the following new sections and short heading next after section one hundred and twenty :—

Compulsory voting.

Compulsory voting.
cf. Cwth Acts No. 10 of 1924, s. 2, and No. 17 of 1928, s. 21.

Vict. Act No. 3,488, 1926.
Returning officer to send marked roll to Chief Electoral Officer.
cf. Vict. Act No. 3,488, 1926.

120A. It shall be the duty of every elector to record his vote at each election.

120B. Notwithstanding anything to the contrary in this Act the returning officer at the close of the poll at every election shall—

(a) from every roll used at the election indicate by a distinguishing mark on a fair

fair copy of the roll for the electoral district used at the election (which copy is hereinafter referred to as the "marked roll") the names of the electors who have not recorded their votes at the election for which he is returning officer;

- (b) certify the marked roll by statutory declaration under his hand; and
- (c) forthwith forward such marked roll to the Chief Electoral Officer.

120c. (1) Within three months after the close of the poll at every election the Chief Electoral Officer—

- (a) shall send by post to each elector whose name indicated as aforesaid appears on any such marked roll, at the address therein mentioned, a notice in the prescribed form notifying him that he has failed to record his vote at the election and requiring him to state the true reason why he failed so to vote; and
- (b) before sending such notice, shall insert therein—
 - (i) the full name of the elector as appearing on the roll and his address as therein mentioned and the name of the electoral district and of the polling-place area for which he is enrolled and his number on the roll; and
 - (ii) a date (not being less than twenty-one days after the date of the posting of the notice) before or on which the form at the foot of the notice duly filled up and signed by the elector is to be in the hands of the Chief Electoral Officer.

(2) This section shall not apply in any case where—

- (a) the name of any elector appears on more than one electoral roll and the Chief Electoral Officer is satisfied that the elector has voted in respect of one such enrolment ; or
- (b) The Chief Electoral Officer is satisfied that the elector—
 - (i) is dead ; or
 - (ii) was absent from New South Wales on polling-day ; or
 - (iii) was ineligible to vote at the election.

Replies by
electors.

cf. C'wth
Electoral Act
No. 10 of
1924, s. 2.
Vict. Act No.
3,488, 1926.

120D. (1) Every elector to whom such a notice has been sent shall—

- (a) fill up the form at the foot of the notice by stating in it the true reason why he failed so to record his vote ;
- (b) sign the form ; and
- (c) post or deliver the same so as to reach the Chief Electoral Officer not later than the date inserted in the notice.

Replies on
behalf of
electors.

(2) If any elector is unable by reason of absence from his residence or physical incapacity to fill up, sign and post or deliver the form within the time allowed pursuant to this Act—

- (a) any other elector who has personal knowledge of the facts may, subject to the regulations, fill up, sign and post or deliver within that time the form duly witnessed as prescribed ; and
- (b) such filling up, signing and delivery or posting of the form may be treated as compliance by the first-mentioned elector with the provisions of this section.

(3)

(3) Upon receipt within the time allowed pursuant to this Act of any such form properly filled up and signed and witnessed (if so required) the Chief Electoral Officer shall—

(a) make on the marked roll opposite the name of the elector to whom the form refers, a note to that effect; and
(b) indicate in writing on the marked roll opposite the name of the elector his opinion whether or not the reason contained in the form is a valid and sufficient reason for the failure of the elector to record his vote at the election.

(4) If in the case of any elector to whom a notice as aforesaid has been sent such form is not received by the Chief Electoral Officer within the time allowed pursuant to this Act, the Chief Electoral Officer shall make on the marked roll opposite the name of the elector a note to that effect.

120E. The marked roll indicating—

(a) the names of electors who did not vote at the election;
(b) the names of electors from whom or on whose behalf the Chief Electoral Officer received within the time allowed pursuant to this Act forms properly filled up and signed;

(c) the names of the electors from whom or on whose behalf the Chief Electoral Officer did not within that time receive forms properly filled up and signed; and

(d) the opinions of the Chief Electoral Officer—

or a copy of any such marked roll, or any extract therefrom certified by the Chief Electoral Officer under his hand, shall in all proceedings be *prima facie* evidence of the contents of such marked roll or extract and of the fact that the electors whose names appear therein

Marked roll
or copy
thereof or
extract
therefrom to
be evidence.
cf. C'wth
Electoral Act
No. 10 of
1924, s. 2.
Vict. Act No.
3,488, 1926.

therein marked as aforesaid did not vote at the election, and that the notice specified in this Act was received by those electors and that those electors did or did not (as the case may be) comply with the requisitions contained in the notice within the time allowed pursuant to this Act.

Penalties.
cf. Vict. Act
No. 3,488,
1926.

120F. Every elector who—

- (a) fails to record his vote at any election without a valid and sufficient excuse for such failure (in this section the words "valid and sufficient excuse" shall include an honest belief on the part of an elector that abstention from voting is part of his religious duty); or
- (b) on receipt of the notice aforesaid, fails, neglects or refuses to fill up and sign and post or deliver to the Chief Electoral Officer so as to reach him within the time allowed pursuant to this Act the form at the foot of the notice; or
- (c) states in such form a false reason for not having recorded his vote or in the case of an elector filling up or purporting to fill up a form on behalf of any other elector pursuant to this Act states in such form a false reason why the other elector did not vote—

shall for each such offence be liable to a penalty of not less than ten shillings and not more than two pounds, and proceedings for the enforcement of the penalty may be instituted by the Chief Electoral Officer or by some person authorised in writing (whether generally or in any particular case) by the Chief Electoral Officer:

Provided that—

- (a) any elector to whom a notice under this Act has been posted who desires the matter to be dealt with by the Chief Electoral

Electoral Officer, and is prepared to abide by the decision of the Chief Electoral Officer, may notify the Chief Electoral Officer in accordance with the prescribed form ; and

- (b) in any such case the Chief Electoral Officer may make an order requiring the elector to pay such sum as is prescribed not being more than two pounds ; and
- (c) if the said sum is not paid within twenty-eight days after the date of the order the Chief Electoral Officer may forward to a clerk of a court of petty sessions a certificate under his hand in the prescribed form setting out the substance of the order and stating that the said sum has not been paid ; and thereupon payment of the said sum shall be enforceable under the Small Debts Recovery Act, 1912, in the same manner as if the order were an order of the court of petty sessions for the payment of the said sum.

120G. For the purposes of this Act the opening sealed parcels containing rolls used at election. returning officer at any election—

- (a) with such assistance as he may deem necessary shall open and if necessary break the seal of any parcel containing the rolls used at the election, and examine the same for the purpose of indicating on the marked roll aforesaid the names of the electors who have not voted at the election ; and
- (b) at the conclusion of the said examination and marking shall replace such rolls in the parcels from which they were taken, and re-seal the same, and then comply with the provisions of section one hundred and twenty-seven of this Act.

120H. Regulations made under this Act may prescribe the procedure in relation to the enforcement of the provisions of sections 120A to 120G, both inclusive, of this Act, and the imposition and recovery of penalties for offences against those sections; and until such regulations are made, the procedure shall be as set out in Schedule Twenty to this Act.

Amendment of
Act No. 41, 1912.
New Schedule
Twenty.

(b) by inserting next after Schedule nineteen the following new Schedule :—

Secs. 120A-
120H.

SCHEDULE TWENTY.

COMPULSORY VOTING

1. (1) The marked roll on which the returning officer is required to indicate by a distinguishing mark pursuant to section 120B of this Act, the names of the electors who have not recorded their votes at the election, shall be a fair copy of the roll for each polling-place area of the electoral district for which the returning officer has been appointed.

(2) The marked roll for each district shall be certified by statutory declaration in accordance with Form 1 to this Schedule.

(3) All the polling-place area rolls for an electoral district shall together form the roll for that electoral district.

2. The notice which the Chief Electoral Officer is required, pursuant to section 120C of this Act, to send by post to each elector who has failed to record his vote shall be in accordance with Form 2 to this Schedule.

3. The form of reply of any elector, pursuant to section 120D of this Act, shall be witnessed by an elector, or a person qualified to be an elector in the State of New South Wales, and shall be in accordance with Form 3 to this Schedule.

4. (1) Where the reply of the elector states a reason for his failure to record his vote which, in the opinion of the Chief Electoral Officer is not a valid and sufficient reason for that failure, the Chief Electoral Officer shall, after indorsing on the marked roll his opinion in accordance with section 120D of this Act, notify the elector, in accordance with Form 4 to this Schedule of his opinion, and inform him that he has the option of having the matter dealt with by the Chief Electoral Officer or by a Court of Petty Sessions.

(2) Before sending the notice referred to in clause two of this Schedule or that provided for by subclause one of clause four of this Schedule, the Chief Electoral Officer shall insert therein a date (not being

being less than twenty-one days after the date of the posting of the notice) before, or on which the form at the foot of the notice, duly filled up and signed by the elector and witnessed, is to be in the hands of the Chief Electoral Officer.

(3) Any elector to whom a notification has been sent pursuant to subclause one of clause four of this Schedule, who desires the matter to be dealt with by the Chief Electoral Officer, and who is prepared to abide by the decision of that officer, may notify the Chief Electoral Officer in accordance with Form 5 to this Schedule.

5. Pursuant to section 120F of this Act —

- (a) The Chief Electoral Officer may make an order in accordance with Form 6 to this Schedule requiring the elector to pay a sum not more than ten shillings.
- (b) If the sum as stated in the order of the Chief Electoral Officer is not paid within twenty-eight days after the date of the order, the Chief Electoral Officer may forward to a clerk of a court of petty sessions a certificate under his hand in accordance with Form 7 to this Schedule.

6. The Chief Electoral Officer may, pursuant to section 120F of this Act —

- (a) Authorise in writing, in respect of any electoral district, some person to institute proceedings for the enforcement of penalties under the said section.
- (b) Such person shall, for the purposes of this Schedule, be called a "Prosecuting Officer."
- (c) Such authorisation shall be in accordance with Form 8 to this Schedule.

7. In any proceedings in a court of petty sessions against an elector for a contravention of paragraph (b) of section 120F of this Act, there shall be served on the defendant a notice, in accordance with Form 9 to this Schedule that the defendant may attend the court and answer the charge in person, or may, at any time, not less than seven days before the date fixed for the hearing, lodge with or send by post to the Chief Electoral Officer, a statutory declaration setting out any matter which he desires to set out in answer to the charge, and unless the said Chief Electoral Officer after inquiring into the truth of the statements therein set out, so far as it is practicable for him to do so, is satisfied with the explanation given, and authorises the withdrawal of the charge, the matter shall be proceeded with, and the said statutory declaration may thereupon be put to such use at the hearing as may be necessary and permissible for the proper determination of the offence. The notice may be printed or written on the summons.

8. In any prosecution in a court of petty sessions in respect of any contravention of paragraph (a) or paragraph (b) of section 120F of this Act, a certified extract of the marked roll in accordance with Form 10 to this Schedule shall be lodged with the court.

Form

FORM 1.

NEW SOUTH WALES.

DRATES AND

Electoral District of

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act, 1900, as amended.

Returning Officer for the Electoral District of

Declared before me at , in the State aforesaid, the
day of , 19 . Justice of the Peace.

Form 2.

NEW SOUTH WALES.

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT, 1912-1928.

Section 120c.

Electoral District of

Polling-place Area of

No. on Roll

Notification to Elector who has Failed to Vote.

To the Elector whose name and address appear on the back hereof,

You are notified that you have failed to record your vote at the election held on the day of , 19 , and you are hereby called upon in pursuance of section 120p of the Parliamentary Electorates and Elections Act, 1912-1928, to give the true reason why you failed so to record your vote.

You are required to—

(a) state, in the form at the foot of this notice, the true reason why you failed so to record your vote;

(b) complete, and personally sign the form, and have it witnessed by an elector or a person qualified to be an elector in the State of New South Wales: and

(c)

(c) fold the form so that the address "Chief Electoral Officer for the State of New South Wales" shall be visible, and post or deliver it so as to reach me on or before the *

Chief Electoral Officer for the State of New South Wales.

Address
Date 19

NOTE.—If the elector to whom this notice is addressed is unable, by reason of absence from his residence or physical incapacity, to fill up, sign, and post, or deliver the form at the foot hereof within the time specified in the form, any other elector who has personal knowledge of the facts may fill up, sign, and post the form, duly witnessed, within that time, and the filling up, signing, and posting of the form will be treated as compliance by the first-mentioned elector with the requirements of this notice.

* Not being less than twenty-one days after the posting of this notice.

Form 3.

Section 120D.

**STATEMENT TO BE COMPLETED AND RETURNED TO THE CHIEF
ELECTORAL OFFICER.**

I, , do hereby state that the following
is the true reason why I* , failed to vote
at the election held on the day of , 19 .
†

Personal Signature of Elector

[Not to be detached.]

I, the undersigned, being an elector or a person qualified to be an elector of the State of New South Wales, certify that I have seen the abovenamed elector sign the above statement.

Signature of Witness
(*In own handwriting*)

Occupation
Address
Date 19 .

* Where this form is filled up on behalf of an absent or physically incapacitated elector, the word "I" must be struck out, and the name of such elector inserted.

† Here set out briefly the true reason for having failed to vote.

(*Back of Forms 2 and 3.*)

The Chief Electoral Officer for the State of New South Wales,
Chief Secretary's Office,
Sydney.
From

**Parliamentary Electorates and Elections (Amendment)
Act.**

No. 55, 1928.

From the Chief Electoral Officer for the State of New South Wales.

M

Every elector who—

- (a) fails to record his vote at an election without a valid and sufficient excuse for such failure ; or
- (b) on receipt of a notice in accordance with section 120c of the Parliamentary Electorates and Elections Act, 1912-1928, fails, neglects or refuses to fill up, sign and post or deliver to the Chief Electoral Officer so as to reach him within the time specified in the notice, the form (duly witnessed) attached thereto ; or
- (c) states in such form a false reason for not having recorded his vote, or in the case of an elector filling up or purporting to fill up a form on behalf of any other elector, states in such form a false reason why that other elector did not vote, is guilty of an offence and liable to a penalty of not less than ten shillings and not more than two pounds.

Form 4.

NEW SOUTH WALES.

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT, 1912-1928.
Section 120F.

Polling-place Area of
Electoral District of
No. on Roll

*Notification to Elector whose Reason for Failing to Vote is held
not to be a Valid and Sufficient Excuse.*

To the Elector whose name and address appear on the back hereof.

You are hereby notified—

- (1) that the reason given by you in your statement dated the 19 , is not, in my opinion, a valid and sufficient excuse for your failure to record your vote at the election held on the day of 19 ; and
- (2) that you have the option of having the matter dealt with by me (thus avoiding costs of court) or by a Court of Petty Sessions.

If you desire to have the matter dealt with by me you must fill in and sign, in the presence of a witness, the form of consent at the foot hereof, and send or deliver it to me so as to reach me not later than the *

* Not being less than twenty-one days after the posting of this notice.

In

**Parliamentary Electorates and Elections (Amendment)
Act.**

579

No. 55, 1928.

In the event of the form not reaching me on or before the date set out in the preceding paragraph, it will be taken that you desire to have the matter dealt with by a Court of Petty Sessions.

Chief Electoral Officer

Address

Date

19 .

Form 5.

Section 120F.

**FORM OF CONSENT TO BE USED BY AN ELECTOR WHO DESIRES TO HAVE
HIS CASE DEALT WITH BY THE CHIEF ELECTORAL OFFICER.**

I, [Not to be Detached.] _____, of _____, enrolled as an elector on the roll for the abovenamed polling-place area and district, having failed to record my vote at the election held on the _____ day of _____ 19 _____, and having been notified by you that the reason given by me for such failure to record my vote is not, in your opinion, a valid and sufficient excuse for such failure, do hereby notify you that I consent to have the matter dealt with by you and to abide by your decision.

Personal Signature of Elector

I, the undersigned, being an elector or a person qualified to be an elector of the State of New South Wales, certify that I have seen the abovenamed elector sign the above form.

Signature of Witness

(In own handwriting)

Occupation

Address

Date 19 .

[Back of Forms 4 and 5.]

From the Chief Electoral Officer for the State of New South Wales.

M

The Chief Electoral Officer for the State of New South Wales.

Chief Secretary's Office,
Sydney.

Form

Parliamentary Electorates and Elections (Amendment)
Act.

Form 6.

NEW SOUTH WALES.

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT, 1912-1928.
Section 120F.

Electoral District of
Polling-place Area of
No. on Roll

Order Requiring an Elector to pay a Sum for Failure to Vote.

To the Elector whose name appears on the back hereof.

You are notified that, pursuant to your notification of consent dated the _____ day of _____, I have dealt with the matter of your failure to record your vote for the above-mentioned Electoral District.

I make this order requiring you to pay to me at the address hereunder the sum of _____ shillings.*

Chief Electoral Officer for the State of New South Wales.
Address—Chief Secretary's Office,
Sydney.

Date

*If the said sum is not paid within twenty-eight days after the date of this order the matter will be referred to a Clerk of a Court of Petty Sessions for the enforcement of this order.

[Back of Form 6.]

From the Chief Electoral Officer for the State of New South Wales.
M

Form 7.

NEW SOUTH WALES.

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT, 1912-1928.
Section 120F.

Chief Secretary's Office,
Sydney.

Memorandum

To the Clerk of Petty Sessions at

In accordance with Section 120F of the Parliamentary Electorates and Elections Act 1912-1928, I hereby certify that the schedule hereto contains a list of the names and enrolment particulars of persons against whom I have made an Order, pursuant to the said section, for the payment of the sums respectively specified.

As the said sums have not been paid within twenty-eight days after the date of the order in each case, I have to request that steps be taken to enforce payment.

I shall be pleased if you will state on the schedule whether or not the payment has been enforced and return it to me.

Given under my hand this _____ day of 19 _____.
Chief Electoral Officer.
[Schedule]

Parliamentary Electorates and Elections (Amendment)
Act.

581

No. 55, 1928.

[Schedule to Form 7.]

SCHEDULE.

Electoral District of
Polling-place Area of

Year of print of Roll

No. on Roll	Surname	Christian or other Name or Names.	Residence.	Sum which Elector has been Ordered to Pay.	Date of Order.

Chief Electoral Officer.

Date

Form 8.

NEW SOUTH WALES.

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT, 1912-1928.

Section 120F.

Authorisation of the Chief Electoral Officer for a Prosecuting Officer to Institute Proceedings.

I, _____, the Chief Electoral Officer for the State of New South Wales, hereby authorise _____, whose signature appears hereunder, to institute proceedings for the enforcement of penalties for the contravention of any of the provisions of sections 120A to 120H, both inclusive, of the Parliamentary Electorates and Elections Act, 1912-1928.

Chief Electoral Office.

Dated this _____ day of _____ 19 ____.

Signature of person authorised to institute proceedings—

Form 9.

NEW SOUTH WALES.

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT, 1912-1928.

Notice to the Within-named Defendant.

You may attend the court and answer the charge in person, or may, at any time, not less than seven (7) days before the date fixed for the hearing, lodge with or send by post to the Chief Electoral Officer a statutory declaration setting out any matter which you desire to set out in answer to the charge, and, unless the said Chief Electoral Officer, after inquiring into the truth of the statements therein set out, so far as it is practicable for him to do so, is satisfied with the explanation given and authorises the withdrawal of the charge, the matter shall be proceeded with and the said statutory declaration may thereupon be put to such use at the hearing as may be necessary and permissible for the proper determination of the offence.

Form

Parliamentary Electorates and Elections (Amendment) Act.

No. 55, 1928.

Form 10.

NEW SOUTH WALES.

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912-1928.

EXTRACT from the Marked Roll for the above-named Polling-place Area showing the Names of Electors who Did Not Vote at the Election held on the day of 19

No. on Roll.	Name and Description of Elector.	Notification to Elector, Section 120c of Parliamentary Electorates and Elections Act, 1912-1928. Date sent.	Date to be in hands of Chief Electoral Officer.	Elector's Reply.	Further Action under Section 130c.		
					Whether reason stated in reply is, in the opinion of the Chief Electoral Officer, a valid and sufficient excuse for failure to vote. (a)	Notification to Elector that reply is not considered valid and sufficient and of the date sent.	Consent of Elector to matter being dealt with by the Chief Electoral Officer.
1.	2.	3.	4.	5.	6.	7.	8.
							9.
							10.

(a) Insert in this Column "Yes" and date of receipt if a reply has been received, or "No" if a reply has not been received

I hereby certify that the above is a true extract of the marked roll for the said district.

..... Chief Electoral Officer.

Section 120c of the Parliamentary Electorates and Elections Act, 1912-1928, provides :

The marked roll indicating—

- (a) the names of the electors who did not vote at the election;
- (b) the names of the electors from whom, or on whose behalf the Chief Electoral Officer received, within the time allowed pursuant to this Act, forms properly filled up and signed; and
- (c) the names of the electors from whom or on whose behalf the Chief Electoral Officer did not within that time receive forms properly filled up and signed;
- (d) the opinions of the Chief Electoral Officer—

or a copy of any such marked roll, or any extract therefrom certified by the Chief Electoral Officer under his hand, shall in all proceedings be *prima facie* evidence of the contents of such marked roll or extract, and of the fact that the electors whose names appear therein, marked as aforesaid, did not vote at the election, and that the notice specified in this Act was received by those electors, and that those electors did, or did not (as the case may be), comply with the requisitions contained in the notice within the time allowed pursuant to this Act.

PART VII.

COURT OF DISPUTED RETURNS.

31. (1) This Part of this Act shall commence upon ^{Commencement} a day to be fixed by the Governor and notified by ^{ment.} proclamation published in the Gazette.

(2) Upon the commencement of this Part of ^{Interpretation} this Act, any reference to the Committee of Elections ^{amendment.} and Qualifications, or to the Elections and Qualifications Committee in the Principal Act or in Parts I, II, III, IV, V, VI, and VIII of this Act shall be read as a reference to the Court of Disputed Returns.

(3) Any petition or question which has been ^{saying.} referred to the Committee of Elections and Qualifications prior to the commencement of this Part of this Act, and which has not been finally dealt with by the Committee at the date of such commencement, may be heard, determined and dealt with in all respects as if this Part of this Act had not been enacted.

32. The Principal Act is further amended by omitting Part VI and by inserting in lieu thereof the ^{Amendment of Act No. 41, 1912,} following Part :— ^{Part VI.}

PART VI.

COURT OF DISPUTED RETURNS.

DIVISION I.—*Disputed elections and returns.*

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

Method of
disputing
elections or
returns.

cf. Cwth
Electoral Act,
1918-1928,
s. 183 (1).

156. (1) The Supreme Court shall be the Court of Disputed Returns, and shall have jurisdiction to try the petition.

The Court of
Disputed
Returns.

cf. *Ibid.*
s. 184.

(2) The jurisdiction of the Supreme Court sitting as a Court of Disputed Returns may be exercised by a single judge.

**Parliamentary Electorates and Elections (Amendment)
Act.**

No. 55, 1928.

Requisites of
petition.
cf. C'wth
Electoral
Act, 1918-
1928, s. 185.

Deposits as
security for
costs.
Ibid. s. 186.

No proceedings
unless requisites
complied with.
Ibid. s. 187.

Right of
Chief
Electoral
Officer to be
represented.
cf. *Ibid.*
s. 188.

Powers of
court.
cf. *Ibid.*
s. 189.

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

- (a) set out the facts relied on to invalidate the election or return;
- (b) contain a prayer asking for the relief the petitioner claims to be entitled to;
- (c) be signed by a candidate at the election in dispute or by a person who was qualified to vote thereat;
- (d) be attested by two witnesses whose occupations and addresses are stated;
- (e) be filed with the Prothonotary of the Supreme Court within forty days of the return of the writ.

158. At the time of filing the petition the petitioner shall deposit with the Prothonotary the sum of fifty pounds as security for costs.

159. No proceedings shall be had on the petition unless the requirements of sections one hundred and fifty-seven and one hundred and fifty-eight of this Act are complied with.

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

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

- (i) To adjourn;
- (ii) To compel the attendance of witnesses and the production of documents;
- (iii) To grant to any party to a petition leave to inspect in the presence of a prescribed officer the rolls and other documents (except ballot-papers) used at or in connection with any election

election and to take, in the presence of the prescribed officer, extracts from those rolls and documents;

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

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

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

162. (1) Without limiting the powers conferred by section one hundred and sixty-one of this Act—

Production of
postal vote
certificate,
&c.

(a) when it is proved that a ballot-paper issued under the provisions of this Act has, in any

cf. C'wth
Electoral Act,
1918-1928,
s. 189A.

election, been marked by a person who was not entitled to vote at the election, the court may require the production of—

(i) any postal vote certificate delivered to or posted to that person; or

(ii) any declaration made by that person under the provisions of this Act; and

(b) the court may, if the ballot-paper marked by such person is identifiable, reject the ballot-paper.

(2)

(2) The production from proper custody of a ballot-paper purporting to have been used in an election and bearing an official number, and of a postal vote certificate, or a declaration made under the provisions of this Act, bearing an official number corresponding to the official number on the ballot-paper, shall be *prima facie* evidence that the person who marked the ballot-paper was the person to whom the postal vote certificate was delivered or posted or who made the declaration, as the case may be.

(3) In subsection two of this section "official number" means a number purporting to have been placed on the ballot-paper, postal vote certificate or declaration, as the case may be, in pursuance of this Act or the regulations made thereunder.

Inquiries by
Court.
cf. C'wth
Electoral Act,
1918-1928,
s. 190.

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

Voiding
election for
illegal
practices.
cf. *Ibid.*
s. 191.

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

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

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

- (a) on the ground of any illegal practice committed by any person other than the candidate and without his knowledge or authority; or
- (b) on the ground of any illegal practice other than bribery, treating, or corruption or attempted bribery, treating, or corruption, unless

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

165. When the Court of Disputed Returns finds that any person has committed an illegal practice, Court to report cases of illegal practices. the Prothonotary shall forthwith report the finding cf. C'wth Electoral Act 1918-1928, s. 192. to the Governor.

166. The court shall be guided by the substantial merits and good conscience of each case without regard to legal forms or technicalities, or whether the evidence before it is in accordance with the law of evidence or not. Real justice to be observed. cf. *Ibid.* s. 193.

167. No election shall be voided on account of any delay in the declaration of nominations, the polling, or the return of the writ, or on account of the absence or error of or omission by any officer Inmaterial errors not to vitiate election. cf. *Ibid.* s. 194. which did not affect the result of the election :

Provided that where any elector was, on account of the absence or error of, or omission by, any officer, prevented from voting in any election, the court shall not, for the purpose of determining whether the absence or error of, or omission by, the officer did or did not affect the result of the election, admit any evidence of the way in which the elector intended to vote in the election.

168. On the trial of any petition the court shall not admit the evidence of any witness that he was not permitted to vote in any election during the hours of polling on polling-day unless the witness Evidence that person not permitted to vote. cf. *Ibid.* s. 195. satisfies the court—

- (a) that he claimed to vote, in the election, pursuant to that provision of this Act under which he was entitled or might be permitted to vote; and
- (b) that he complied with the requirements of this Act and the regulations made thereunder relative to voting by electors in so far as he was permitted so to do.

Parliamentary Electorates and Elections (Amendment) Act.

No. 55, 1928.

Decisions to be final.
cf. Cwth Electoral Act, 1918-1928, s. 195.

Copies of petition and order of court to be sent to Clerk of Assembly.
cf. *Ibid.* s. 96.

Counsel or solicitor.
cf. *Ibid.* s. 197.

Costs.
cf. *Ibid.* 198.

Deposits applicable for costs.
cf. *Ibid.* s. 199.

Other costs.
cf. *Ibid.* s. 200.

Effect of decision.
cf. *Ibid.* s. 201.

Power to make Rules of Court.

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

170. The Prothonotary shall forthwith after the filing of the petition forward to the Clerk of the Legislative Assembly a copy of the petition, and after the trial of the petition shall forthwith forward to such clerk a copy of the order of the court.

171. (1) No party to the petition shall, except by consent of all parties, or by leave of the court, be represented by counsel or solicitor.

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

172. The court may award costs against an unsuccessful party to the petition and may in its discretion recommend that costs be paid by the Crown.

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

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

175. Effect shall be given to any decision of the court as follows:—

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

175A. (1) The judges of the Supreme Court, or a majority of them, may make rules of court not inconsistent with this Act for carrying this Part of this Act into effect, and in particular for regulating the practice and procedure of the court, the forms to be used and the fees to be paid by parties.

(2)

(2) Every rule of court made in pursuance of this section shall be laid before both Houses of Parliament within fourteen sitting days next after it is made if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after the rules have been laid before such House disallowing any rule or part thereof, such rule or part shall thereupon cease to have effect.

DIVISION 2.—Qualifications and vacancies.

175B. Any question respecting the qualification of a member of the Legislative Assembly, or respecting a vacancy in the Legislative Assembly, may be referred by resolution of the Legislative Assembly to the Court of Disputed Returns, and the Court of Disputed Returns shall thereupon have jurisdiction to hear and determine the question.

175C. When any question is referred to the Court of Disputed Returns under this Part of this Act, the Speaker shall transmit to the Court of Disputed Returns a statement of the question upon which the determination of the court is desired, together with any proceedings, papers, reports or documents relating to the question in the possession of the Legislative Assembly.

175D. The Court of Disputed Returns may allow any person who in the opinion of the court is interested in the determination of any question referred to it under this Part of this Act to be heard on the hearing of the reference, or may direct notice of the reference to be served on any person, and any person so allowed to be heard or so directed to be served shall be deemed to be a party to the reference.

175E. On the hearing of any reference under this Part of this Act the Court of Disputed Returns shall sit as an open court and shall have the powers conferred

conferred by section one hundred and sixty-one of this Act so far as they are applicable, and in addition thereto shall have power—

- (a) to declare that any person was not qualified to be a member of the Legislative Assembly;
- (b) to declare that any person was not capable of sitting as a member of the Legislative Assembly; and
- (c) to declare that there is a vacancy in the Legislative Assembly.

175F. After the hearing and determination of any reference under this Part of this Act the Prothonotary shall forthwith forward to the Clerk of the Legislative Assembly a copy of the order or declaration of the Court of Disputed Returns.

175G. The provisions of sections one hundred and sixty-six, one hundred and sixty-nine, one hundred and seventy-one, one hundred and seventy-two, one hundred and seventy-four, one hundred and seventy-five, and 175A, shall apply so far as applicable to proceedings on a reference to the Court of Disputed Returns under this Part of this Act.

33. The Principal Act is further amended—

Amendment of
Act No. 41, 1912.

Sec. 1.

- (a) by omitting from section one the words and figures “Election Petitions—ss. 155–174” and by inserting in lieu thereof the words “Court of Disputed Returns—ss. 155–175G”;

Sec. 119.

- (b) by omitting from section one hundred and nineteen the words “Elections and Qualifications Committee” and by inserting in lieu thereof the words “Court of Disputed Returns”;

Sec. 128.

- (c) by omitting from section one hundred and twenty-eight the words “any Committee of Elections and Qualifications” and by inserting in lieu thereof the words “the Court of Disputed Returns”;

Sec. 153.

- (d) by omitting section one hundred and fifty-three.

PART VIII.

MISCELLANEOUS AMENDMENTS.

34. This Part of this Act shall commence upon a ^{Commencement} date to be appointed by the Governor and notified by proclamation published in the Gazette.

35. (1) (a) The Principal Act is further amended <sup>Amendment of
Act No. 41, 1912,
s. 19.
(Correction.)</sup> by omitting section nineteen and by inserting in lieu thereof the following section :—

19. The Electoral Districts Commissioners shall have the powers and immunities of a Commissioner, and the Chairman of the Electoral Districts Commissioners shall have the powers of a chairman <sup>Application
to Commis-
sioners of
Royal Com-
missions Act,
1923.</sup> within the meaning of Division 1 of Part II of the Royal Commissions Act, 1923, and the provisions of that Act with the exception of section thirteen and Division 2 of Part II shall, mutatis mutandis, apply to any witness or person summoned by or appearing before the Electoral Districts Commissioners.

(b) The Parliamentary Electorates and Elections (Amendment) Act, 1926, is amended by omitting subsection one of section nine. <sup>Consequential
amendment.
Act No. 12,
1926, s. 9 (1).</sup>

(2) (a) The principal Act is further amended by omitting subsections two, three and four of section ninety-nine. <sup>Further amend-
ment of Act No.
41, 1912, s. 99.
(Declaration
Roll.)</sup>

(b) The Parliamentary Elections (Amendment) Act, 1918, is amended by omitting section six. <sup>Amendment of
Act No. 40, 1918,
s. 6.
(Consequential.)</sup>

(3) The Principal Act is further amended— <sup>Amendment of
Act No. 41, 1912.</sup>

(a) by inserting in section seventy-five after the word "Governor" wherever occurring the words "upon the recommendation of the Public Service Board"; <sup>Sec. 75.
(Appoint-
ment of
returning
officer.)</sup>

(b) by inserting at the end of section seventy-five the following new section :— ^{New s. 75A.}

75A. (1) A person shall not be qualified for appointment as a returning officer, assistant returning officer, deputy returning officer or substitute returning officer unless he is an elector. <sup>Qualification
of returning
officers, &c.</sup>

(2)

(2) A person shall not be ineligible for appointment as a returning officer, assistant returning officer, deputy returning officer or substitute returning officer for any district merely for the reason that he is not enrolled as an elector on the electoral roll for that district.

Sec. 79.

(c) by omitting from subsection seven of section seventy-nine all words following the words "Legislative Assembly" and by inserting at the end of the said section the following new subsection :—

(8) Notwithstanding anything to the contrary in this Act, whenever any vacancy occurs in the Assembly by reason of any member resigning his seat for the purpose of seeking election for the Parliament of the Commonwealth of Australia, if such Member tenders his resignation within twenty-one days prior to the date of the issue of the writ for the said election and notifies in writing to the Speaker his intention to seek such election, and his intention in the event of his failing to secure such election to become again a candidate for the vacancy aforesaid, then the issue of the writ for the election of a Member to fill such vacancy shall be delayed until the result of such Commonwealth election shall have been first officially declared by the Returning Officer.

New s. 81A.

(d) by inserting after section eighty-one the following new section :—

Death of
candidate.
cf. C'wth
Electoral
Act 1918-
1928, s. 83.

81A. If after the nominations for an election in any district have been declared, and before polling day, any candidate dies, the election shall be deemed to have wholly failed, and a new writ shall forthwith be issued for an election in the district.

Sec. 93.
(Correction.)

(e) (1) by omitting from section ninety-three the word "polling-room" wherever occurring and by inserting in lieu thereof the word "polling-booth";

(2)

(2) by omitting from the same section the words "such room" and by inserting in lieu thereof the words "such booth."

(f) by omitting from subsection one of section Sec. 98(1). ninety-eight the words "by notice as aforesaid" (Correction.) and by inserting in lieu thereof the words "by notice in the Gazette";

(g) by omitting from section one hundred and nine Sec. 109. the words "as in the last preceding section (Correction.) mentioned" and by inserting in lieu thereof the words "in the manner provided by section one hundred and eight of this Act";

(h) by omitting from section one hundred and Sec. 114. fourteen the word "senior-sergeant" and by (Correction.) inserting in lieu thereof the words "sergeant first-class";

(i) (i) by omitting from paragraph (a) of subsection one of section 114A the word "fifteen" (Postal and by inserting in lieu thereof the word voters.) "ten";

(ii) by omitting from paragraph (a) of clause two of the declaration set out in Schedule Thirteen. Thirteen the word "fifteen" and by inserting in lieu thereof the word "ten."

(j) by omitting from subsection two of section Sec. 115 (2). one hundred and fifteen the words "the last (Correction.) preceding subsection" and by inserting in lieu thereof the words "subsection one of this section";

(k) by omitting from section one hundred and Sec. 131. thirty-one the words "in the last preceding (Correction.) section mentioned" and by inserting in lieu thereof the words "mentioned in section one hundred and thirty";

(l) by omitting from section one hundred and Sec. 148. forty-eight the words "the last preceding and (Correction.) three next succeeding sections" and by inserting in lieu thereof the words "one hundred and forty-seven, one hundred and forty-nine, one hundred and fifty, and one hundred and fifty-one";

No. 55, 1928.

Sec. 150.

(Correction.)

(m) by omitting from section one hundred and fifty the words "the last preceding section" and by inserting in lieu thereof the words "section one hundred and forty-nine of this Act";

Sec. 151.

(Correction.)

(n) by omitting from section one hundred and fifty-one the words "the last preceding section" and by inserting in lieu thereof the words "section one hundred and fifty";

(o) by inserting next after section one hundred and fifty-one the following new section:—

New s. 151A.

Printing, &c.,
false
information.
cf. C'wth
Electoral
Act, 1918-
1928, s. 161.

151A. (1) Any person who—

(a) prints, publishes or distributes any "how to vote" card, electoral advertisement, notice, handbill, pamphlet or card containing any representation of a ballot-paper or any representation apparently intended to represent a ballot-paper, and having thereon any directions intended or likely to mislead or improperly interfere with any elector in or in relation to the casting of his vote; or

(b) prints, publishes or distributes any "how to vote" card, electoral advertisement, notice, handbill, pamphlet or card containing any untrue or incorrect statement intended or likely to mislead or improperly interfere with any elector in or in relation to the casting of his vote—

shall be liable to a penalty not exceeding one hundred pounds, or in the discretion of the court to imprisonment for a term not exceeding six months.

(2) Subsection one of this section shall not prevent the printing, publishing or distributing of any "how to vote" card, not otherwise illegal, which contains instructions how to vote for any particular candidate, so long

long as those instructions are not intended or likely to mislead any elector in or in relation to the casting of his vote.

(p) by omitting from subsection one of section one ^{Sec. 176.} hundred and seventy-six all words following ^(Correction.) the words "full effect" and by inserting next after that subsection the following new subsection :—

(1A) Such regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution, of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House, disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.
