

ELECTORAL ACT, 1929-1934.

BEING

ELECTORAL ACT, 1929, No. 1929 OF 1929 [ASSENTED TO 12TH
DECEMBER, 1929.]

AS AMENDED BY

CONSTITUTION ACT, 1934, No. 2151 OF 1934 [ASSENTED TO
18TH OCTOBER, 1934.]

An Act to consolidate and amend the law relating to parliamentary elections, and for purposes incidental thereto.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I.

PART I.

PRELIMINARY.

1. This Act may be cited as the "Electoral Act, 1929-1934." Short title.
2. This Act shall come into operation on a date to be fixed by proclamation. Commence-
ment.
3. (1) The Acts mentioned in the first schedule are repealed. Repeal and
saving provi-
sions.
- (2) Every appointment, division, subdivision, Assembly polling place, Assembly electoral roll, regulation, rule of court, notice, proceeding, arrangement and other matter and thing duly appointed, made, commenced, or done under the Acts hereby repealed and in force, current, operative, or pending at the commencement of this Act shall, subject to this Act, be of the same force or effect in all respects as if this Act had been in force when they were appointed, made, commenced, or done and they had been respectively appointed, made, commenced, or done hereunder.
- (3) Every Council subdistrict existing at the commencement of this Act shall be deemed to be a subdivision of a Council district under this Act.

s. 2. This Act was proclaimed to commence on 19th December, 1929: *Gazette* 19th December, 1929, p. 1305.

PART I.

(4) The Council roll for every such subdistrict existing at the commencement of this Act shall be deemed to be the roll for the Council subdivision constituted pursuant to this section by that subdistrict.

(5) Every polling place for an Assembly subdivision existing at the commencement of this Act shall also be a polling place for the corresponding Council subdivision.

Parts.

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

PART I.—Preliminary.

PART II.—Administration.

PART III.—Subdivisions and Polling Places.

PART IV.—Electoral Rolls.

PART V.—Enrolment.

PART VI.—Objections.

PART VII.—Appeals.

PART VIII.—Writs for Elections.

PART IX.—Nominations.

PART X.—Voting by Post.

PART XI.—Polling.

PART XII.—Scrutiny.

PART XIII.—The Return of the Writ.

PART XIV.—Electoral Expenditure.

PART XV.—Offences and Penalties.

PART XVI.—Disputed Returns.

PART XVII.—Supplementary.

Interpretation.
Of U.K.
46 & 47 Vict.
c. 51, s. 64.

5. In this Act unless the context otherwise requires—

“Assembly” means House of Assembly:

“Assembly district” means electoral district for the return of members to serve in the Assembly:

“Assembly elector” means a person whose name appears as an elector on the electoral roll for an Assembly district:

“British subject” includes naturalised as well as natural born British subject:

“candidate” in Parts II., XIV., and XV. includes any person who within three months before the day of election announces himself as a candidate for election as a member of the Assembly or the Council:

“Council” means the Legislative Council:

“Council district” means an electoral district for the return of members to serve in the Council:

“Council elector” means a person whose name appears as an elector on the electoral roll for a Council district:

“district” means Assembly or Council district:

“division” means electoral division of a Council district:

“election” means election of a member or members to serve in the Council or Assembly:

“elector” means a Council elector or an Assembly elector:

“House” means House of Parliament:

“local governing body” means the Council of a Municipality or a District Council:

“naturalised” means naturalised under the law of the United Kingdom or of the Commonwealth:

“officer” means any officer appointed under this Act or exercising any power or discharging any duty under this Act:

“presiding officer” means the officer for the time being presiding and taking the poll at any polling place on the day of an election:

“registrar” means Electoral Registrar appointed under this Act:

“returning officer” means returning officer for any district:

“subdivision” means subdivision of an Assembly district or of a division of a Council district.

PART II.

PART II.

ADMINISTRATION.

6. (1) There shall be a returning officer for the State who shall be appointed by the Governor and shall be responsible under the Minister for the execution of this Act.

Returning officers for the State and deputy.
971, 1908,
ss. 24, 25.

(2) The Governor may appoint a deputy returning officer for the State who, under the control of the returning officer for the State, shall perform such duties as the latter directs, and in case of the illness, absence, or other temporary incapacity of the returning officer for the State shall act in his name and on his behalf and while so acting shall have and may exercise all the powers, duties, and functions of the returning officer for the State.

PART II.

Returning
officers.
971, 1908,
ss. 27, 29.

7. (1) There shall be a returning officer for every district who shall be appointed by the Minister on the recommendation of the returning officer for the State.

(2) Each returning officer shall be responsible, subject to the direction of the returning officer for the State, for the execution of this Act in his district.

(3) The returning officer for each Assembly district shall also be the deputy returning officer for the division constituted by that Assembly district.

Assistant re-
turning officers
and temporary
assistants.
Ibid., ss. 28,
33.

8. (1) The Minister may, on the recommendation of the returning officer for the State, appoint assistant returning officers to assist the returning officers.

(2) An assistant returning officer may be appointed to exercise within or for any portion of a district, subject to the control of the returning officer, all the powers of a returning officer except those relating to postal voting.

(3) The Minister may, on the recommendation of the returning officer for the State, appoint any temporary officers necessary for the due administration of this Act.

Electoral
registrars.
1446, 1920,
s. 9.

9. The Minister may on the recommendation of the returning officer for the State, appoint electoral registrars to keep the Assembly rolls for specified subdivisions.

Appointments
in cases of
temporary
incapacity.
971, 1908,
s. 34.
Cf. U.K.
7 & 8 Geo. 5
c. 64, s. 30.

10. If any returning officer, assistant returning officer, presiding officer, or temporary officer is from any cause incapable of acting, the returning officer for the State may appoint some person to perform the duties of the office during the period of incapacity.

Disqualifica-
tion for office.
971, 1908,
s. 35.

11. No candidate and no person holding any official position in any political organisation or on any election committee shall be appointed an officer, and if any officer becomes a candidate or accepts any such position he shall thereby vacate his office.

Duty of officers
to keep forms.
Ibid., s. 37.
1446, 1920,
s. 9.

12. Every returning officer and registrar shall keep all necessary electoral forms and without fee supply the same to the public and assist the public in their proper use.

PART III.

SUBDIVISIONS AND POLLING PLACES.

13. (1) The Governor may by proclamation divide any Assembly district into subdivisions and may in like manner alter the boundaries of any subdivisions.

Subdivisions.
971, 1908,
s. 40.
Of. U.K.
7 & 8 Geo. 5
c. 64, s. 31.

(2) The subdivisions of an Assembly district shall be the subdivisions of the Council division constituted by that Assembly district.

14. (1) The Minister may by notice in the *Gazette*—

(a) appoint a chief polling place for each district:

(b) appoint any other polling places for each district:

(c) declare any polling places to be the polling places for any specified subdivision:

(d) abolish any polling place.

Polling places.
971, 1908,
s. 44.
1446, 1920,
s. 16.

(2) No polling place shall be abolished after the issue of the writ and before the time appointed for its return: Provided that if the Minister on a certificate from the returning officer for the State considers it to be impracticable to take the poll at any polling place he may by notice in the *Gazette* close that polling place for the purpose of the election.

15. When an Assembly district is divided into subdivisions or the boundaries of such a district or subdivision are altered, or a new subdivision is proclaimed, the changes thereby rendered necessary for the transfer of the names of electors from one roll to another roll shall be made in the prescribed manner.

Changes in roll
when subdivi-
sion created.
1446, 1920,
s. 18.

PART IV.

PART IV.

ELECTORAL ROLLS.

16. (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 in a district shall together form the roll for the district.

Rolls.
971, 1908,
s. 46.
1446, 1920,
s. 20.
Of. U.K.
7 & 8, Geo. 5,
c. 64, s. 12.

s. 13. The following proclamations under this section were in force on 22nd March, 1937: *Gazette*—14th September, 1922, p. 609; 2nd August, 1934, p. 171; 16th August, 1934, p. 312.

s. 14. The following notices have been published in the *Government Gazette* under this section up to 22nd March, 1937:—*Gazette*—13th February, 1930, p. 323; 20th February, 1930, p. 374; 13th March, 1930, p. 531; 17th November, 1932, p. 959; 1st December, 1932, p. 1040; 23rd February, 1933, p. 285; 9th March, 1933, p. 373; 30th March, 1933, p. 522; 1st February, 1934, p. 196; 2nd August, 1934, p. 186; 16th August, 1934, p. 312; 23rd August, 1934, p. 375; 30th May, 1935, p. 1464; 6th June, 1935, p. 1502.

PART IV.

Form of rolls.
Com., s. 31.

17. The rolls may be in the prescribed form and shall set out the surname, Christian names, place of living, occupation or other prescribed particulars, and any further particulars which are prescribed.

Arrangement
with Common-
wealth for
keeping
Assembly rolls.
971, 1908,
s. 48.

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

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

(a) the names and descriptions of persons who are not entitled to be enrolled thereon as Assembly electors of the State provided that it is clearly indicated that those persons are not enrolled thereon as State electors;

(b) distinguishing marks against the names of persons enrolled as State Assembly electors to show that those persons are or are not also enrolled as Commonwealth electors; and

(c) any other particulars.

(3) If any such arrangement ceases to operate, the rolls then in existence shall as altered from time to time be the rolls of Assembly electors until superseded by new rolls under this Act.

New rolls.
Ibid., s. 50.

19. (1) New rolls for any subdivision or district shall be prepared whenever directed by proclamation.

(2) Any such proclamation may give any necessary directions for the preparation of the rolls.

(3) When new rolls have been prepared the Minister may, by notice in the *Gazette*, fix a day on which the new rolls shall come into operation. The new rolls shall come into operation accordingly.

Conclusiveness
of rolls.
971, 1908,
s. 53.
Of. U.K.
35 & 36 Vict.
c. 33, s. 7.

20. Subject to this Act the rolls shall be conclusive evidence of the right to vote of the electors enrolled thereon and shall not be questioned except in accordance with Part VI.

Printing of
rolls.
971, 1908,
s. 55.
1446, 1920,
s. 28.
Of. U.K.
7 & 8 Geo. 5
c. 64, s. 11.

21. (1) The rolls shall be printed whenever the Minister directs.

(2) Supplementary rolls setting out the additions since the last previous print of the rolls shall be wherever practicable printed immediately before every general election and at such other times as the Minister directs.

22. Where objections have been lodged or notices of objection have been issued and action in respect of those objections or notices has not been completed prior to the day on which new rolls come into operation the objections or notices shall have effect in relation to the new rolls as if those rolls had been in existence when the objections were lodged or the notices issued.

Effect of new rolls on objections and notices.
Com., s. 35.

23. The date to which any print of a roll or supplementary roll is made up shall appear on that roll or supplementary roll.

Date on rolls.
971, 1908,
s. 57.
1446, 1920,
s. 29.

24. (1) Every public officer in the service of the State or of any local governing body and every occupier of a habitation shall, upon application, furnish to the returning officer for the State or to any officer acting under his direction any information which he requires in connection with the preparation, maintenance, or revision of the rolls.

Duty to furnish information and copies of documents.
971, 1908,
s. 58.
1446, 1920,
s. 30.

(2) Every city clerk, town clerk, or district clerk shall, on the request of the returning officer for the State, furnish him with a copy of the assessment book prepared for the local governing body of which he is clerk.

The returning officer for the State may, in his discretion, pay a reasonable fee for any such list.

25. (1) The returning officer for the State shall, as soon as possible after the issue of the writ for a Council election, supply to every returning officer and deputy returning officer concerned in the election a copy of the electoral roll for each subdivision within his division. Every copy shall be signed and certified by the returning officer for the State and for the purposes of the election be deemed to be the roll for the subdivision to which it relates.

Duty to supply copies of rolls to returning officers.
971, 1908,
s. 60.
1446, 1920,
s. 31.

(2) Every registrar shall, as soon as possible after the issue of the writ for an election for any Assembly district comprising subdivisions for which he keeps the rolls, supply to the returning officer for that district a copy of the electoral roll for every subdivision within that district and for which he is registrar. Every copy shall be signed and certified by the registrar and for the purposes of the election be deemed to be the roll for the subdivision to which it relates.

(3) Every registrar shall, whenever required by the returning officer for the State so to do, supply to the said returning officer a copy of the electoral roll for any subdivision for

PART IV.

which he acts as registrar, setting forth the additions and alterations since the last print of the said roll up to such date as is specified by the said returning officer. The copy shall be signed and certified by the registrar.

Public inspection of rolls.
971, 1908,
ss. 61, 62,
1446, 1920,
s. 32,
Cf. U.K.
7 & 8 Geo. 5
c. 64; First
Sch., Rule 27.

26. (1) Every roll kept by the returning officer for the State or a registrar shall be open for public inspection at the office of the returning officer for the State or registrar, as the case may be, at all convenient times during his ordinary office hours.

(2) The last print of the roll for any Assembly district, and for the Council district of which that Assembly district forms part, shall be open for public inspection at the office of the returning officer for that Assembly district, and the last print of the roll for an Assembly or Council subdivision shall be open for public inspection at every post office, police station, and institute within the meaning of the Public Library, Museum, and Art Gallery, and Institutes Act, 1936, and the office of every local governing body within that subdivision.

(3) No fee shall be charged for the inspection of any roll.

(4) The last print of the roll of any subdivision or district shall be obtainable from the returning officer for the State upon payment of the price prescribed.

Validity of rolls.
971, 1908,
ss. 64, 65,
1446, 1920,
ss. 33, 34.

27. (1) No roll shall be invalidated because it does not comply with this Act or because of any error in copying or printing it.

(2) A misnomer or inaccurate description of any person, place, or thing in any roll shall be immaterial so long as the misnomer or inaccuracy does not prevent the roll from being understood.

PART V.

PART V.

ENROLMENT.

Enrolment.
1446, 1920,
s. 40,
Com., ss. 40,
41.

28. (1) Names shall be placed upon rolls pursuant to claims for enrolment or claims for transfer of enrolment.

(2) Any person qualified for enrolment as a Council or Assembly elector 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 Council or as the case may be Assembly roll for that subdivision.

s. 26. "Public Library, Museum, and Art Gallery, and Institutes Act, 1936," substituted for "Public Library, Museum, and Art Gallery, and Institutes Act, 1909," pursuant to Acts Republication Act, 1934.

(3) Any elector whose name is on any roll for a 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 corresponding roll for the subdivision in which he lives: Provided in the case of a Council elector that he possesses the qualification required by law.

(4) No person is entitled to have his name placed on more than one roll for the same House nor on any roll other than the roll for the subdivision in which he lives.

29. (1) Any person entitled to enrolment on an Assembly roll or transfer of enrolment from the Assembly roll for one subdivision to the Assembly roll for another subdivision may apply therefor by sending a claim in the prescribed form to the registrar for the subdivision in which he lives.

Claims for enrolment on Assembly rolls.
Of. Com., s. 42.
Of. U.K. 7 & 8 Geo. 5 c. 64; First Sch., Rule 10.

(2) Every claim shall be filled in in accordance with the directions printed thereon.

30. Any person enrolled on a Council roll who changes his place of living to another address in the same subdivision may, if after the change of address, he remains qualified as a Council elector, apply for change of enrolment by sending a claim in the prescribed form to the returning officer for the State.

Change of address by Council elector.

31. Upon the receipt of a claim for enrolment on an Assembly roll or transfer of enrolment from the Assembly roll for one subdivision to the Assembly roll for another subdivision the registrar shall—

Procedure on receipt of claim.
1446, 1920. s. 37.

(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;

(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, on receipt of notice of the transfer, remove the elector's name from the roll kept by him.

32. (1) The registrar, on receipt of a claim for enrolment on an Assembly roll or transfer from one Assembly roll to

Reference of claims to returning officer.
Ibid., s. 38.

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

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

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

Claims for
enrolment on
Council rolls.
971, 1908,
s. 67.

33. Any person entitled to enrolment on a Council roll or transfer of enrolment from one Council roll to another may apply therefor by sending a claim in the prescribed form to the returning officer for the State. Every claim shall be filled in in accordance with the directions printed thereon.

Procedure on
receipt of
claim for en-
rolment on
Council roll.
1147, 1913,
s. 11.

34. Upon receipt of a claim for enrolment on a Council roll or transfer of enrolment from one Council roll to another the returning officer for the State 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;

(ii.) notify the claimant in the prescribed form that he has been enrolled; and

(iii.) in the case of transfer of enrolment enrol the applicant on the subdivision roll to which he

applies to be transferred and remove his name from the roll upon which he was previously enrolled.

35. (1) The returning officer for the State on receipt of a claim for enrolment on a Council roll or transfer from one Council roll to another shall, if he is not satisfied that the claimant is entitled to be enrolled in pursuance of his claim, forthwith make such inquiry as is necessary to enable him to decide the claim.

Determination of claim for enrolment on Council roll.
971. 1908,
s. 76.

(2) If the returning officer for the State decides that the claimant is entitled to enrolment pursuant to the claim he shall forthwith enrol the claimant.

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

36. (1) Every person claiming enrolment or transfer of enrolment shall supply the returning officer for the State in the case of a claim for enrolment on the Council roll, and the registrar in the case of a claim for enrolment on the Assembly roll, with any evidence in support of his claim which that officer demands.

Evidence in support of claim.

(2) If the evidence so demanded is not furnished the name of the claimant shall not be entered on the roll or transferred, as the case may be.

37. Notwithstanding the other provisions of this Act claims for enrolment or transfer of enrolment which are received by the returning officer for the State or the registrar after the issue of the writ for an election shall not be registered until after the close of the polling at that election.

Closing of rolls on issue of writ.
1446. 1920.
s. 39.

38. (1) In addition to the other powers of alteration conferred by this Act the returning officer for the State may at any time, and notwithstanding the issue of the writ for an election, alter any Council roll, and a registrar may alter any Assembly roll kept by him by—

Alteration of rolls.
1446. 1920,
s. 41.
Of U.K.
7 & 8 Geo. 5
c. 64; First
Sch., Rule 23.

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

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- (b) altering, subject to section 30, on the written application of the elector, the original name, address, or occupation of the elector on the same subdivisional roll:
- (c) removing the name of any deceased elector:
- (d) striking out the superfluous entry where the name of the same elector appears more than once on the same subdivisional roll:
- (e) reinstating any name removed by mistake as the name of a deceased elector:
- (f) reinstating any name removed as the result of an objection if the returning officer for the State or the registrar, as the case may be, is satisfied that the objection was based on a mistake as to fact and that the person objected to still retains and has continuously retained his right to the enrolment in respect of which the objection was made:
- (g) reinstating any other name removed by mistake:
- (h) removing from the roll the name of any elector if the returning officer for the State or the registrar, as the case may be, is satisfied that the elector has ceased to be qualified for enrolment on that roll and has secured enrolment on another roll, or in the case of a Council elector has ceased to be qualified as an elector: Provided that where the said returning officer or registrar removes any such name he shall send by post to the elector whose name is removed notice of the fact: Provided also that a registrar shall only remove a name pursuant to this paragraph by direction of and upon receiving a certificate from the returning officer for the State.

(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 returning officer for the State or registrar may, if the subdivisions are in the same district, transfer the name of the elector from the roll for the subdivision for which he is enrolled to the roll for the subdivision in which he lives.

Alterations to
be initialled.
971, 1908,
s. 78.

39. Every alteration of a roll shall be made in such manner that the original entry shall not be obliterated and the reason for the alteration and the date thereof shall be set

against the alteration together with the initials of the returning officer for the State or the registrar making the alteration.

40. The Principal Registrar of Births, Deaths, and Marriages, shall as soon as practicable after the beginning of each month or at any other times arranged with the returning officer for the State—

Duty of Principal Registrar of Births, Deaths, and Marriages.
1446, 1920,
s. 43.
Of. U.K.
41 & 42 Vict.
c. 26, s. 11.

(a) forward to the returning officer for the State a list of the names, addresses, occupations, ages, sexes, and dates of death of all persons of the age of twenty-one years or upwards whose deaths have been registered during the preceding month:

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

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

Duty of Comptroller of Prisons.
1446, 1920,
s. 43.

42. The returning officer for the State shall, upon receipt of information pursuant to either of the last two sections, take action to effect such alterations of the rolls in accordance with this Act as are necessary.

Duty of returning officer on receipt of information.
1446, 1920,
s. 43.

PART VI.

PART VI.

OBJECTIONS.

43. (1) The returning officer for the State shall object to any name which is on a Council roll and which he has reason to believe ought not to be retained on the roll.

Objections by officers.
971, 1908,
s. 80.
1446, 1920,
s. 44.
Of. U.K.
7 & 8 Geo. 5,
c. 64, s. 14;
First Sch.,
Rule 12.

(2) The registrar keeping an Assembly roll for any subdivision shall object to any name which is on that roll and which he has reason to believe ought not to be retained on that roll.

44. (1) Any other person may object to any name on any roll which he claims ought not to be retained on that roll.

Objections by other persons.
971, 1908,
s. 80.

s. 40. The expression "Principal Registrar of Births, Deaths, and Marriages" substituted for Registrar-General of Births, Marriages, and Deaths" pursuant to the Acts Republication Act, 1934.

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(2) Every such objection against any name on a Council roll shall be lodged with the returning officer for the State and every such objection against any name on an Assembly roll shall be lodged with the registrar keeping that roll.

(3) At the time of lodging an objection under this section the objector shall deposit with the returning officer for the State, or the registrar, as the case may be, the sum of five shillings which shall be forfeited to the King if the objection is held by the said returning officer or the registrar to be frivolous.

Form of
objection.
1446, 1920,
s. 45.

45. Every objection shall be in writing and shall set forth the grounds of the objection and shall be signed by the person making the objection, and may be in the prescribed form.

Notice of
objection.
971, 1908,
s. 80.

46. (1) When an objection is made by, or lodged with, the returning officer for the State or a registrar he shall forthwith give notice of the objection to the person objected to.

(2) The notice may be in the prescribed form and may be served by being posted to the place of abode for the time of the person objected to if that place of abode is known to the officer giving the notice or if the place of abode is not known then to the place of living appearing on the roll.

(3) An objection on the ground that a person does not live in the subdivision for which he is enrolled shall not 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.

Answer to
objection.
1446, 1920,
s. 48.

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

Determination
of objection.
Ibid., s. 49.
Of U.K.
7 & 8 Geo. 5
c. 64; First
Sch., Rule 20.

48. (1) The returning officer for the State or, as the case may be, the registrar to whom an objection is made—

(a) 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 posting the notice then after the expiration of that period; and

(b) 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 shall remove the name of that person from the roll.

(2) No name shall be removed from a roll pursuant to this section after the issue of the writ for an election and before the close of the polling at the election.

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

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

PART VII.

PART VII.

APPEALS.

49. (1) Any person—

(a) who has sent or delivered to the returning officer for the State or 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 pursuant to an objection; or

(c) who has made an objection which has been determined adversely to him,

may appeal against the decision.

(2) Every appeal shall be made not later than one month after the receipt of the notice of the rejection of the claim or the notice of the determination of the objection, as the case may be, and shall be made in the prescribed manner to a court of summary jurisdiction.

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

(4) The court shall hear and determine every appeal under this section and may make any order as to costs which it thinks fit.

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

Appeals to
Court of sum-
mary jurisdic-
tion.

1446, 1920,
s. 50.
Cf. U.K.
7 & 8 Geo. 5
c. 64, s. 14;
First Sch.,
Rule 29.

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(6) The clerk of the court shall send by post to the returning officer for the State or, as the case may be, the registrar a certified copy of the order of the court and the said returning officer or registrar shall take action to effect such entries upon the roll as are necessary to give effect to the order.

(7) There shall be no appeal against the order of a court of summary jurisdiction under this section.

PART VIII.

PART VIII.

WRITS FOR ELECTION.

Issue of writ.
971, 1908,
s. 92.
Of. U.K.
16 & 17 Vict.
c. 68, s. 1.

50. (1) Except as mentioned in subsection (2) every writ for an election shall be issued by the Governor.

(2) If on any casual vacancy the President or Speaker of the House affected is within the State he shall issue the writ after two clear days' notice to the Governor of his intention to do so.

Contents of writ.
971, 1908,
s. 93.
Com. s. 59.
Of. U.K.
7 & 8 Geo. 5
c. 64, s. 21
(part).

51. (1) Every writ shall be in the form set forth in the second schedule and shall fix the dates for—

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

(2) A writ shall be deemed to have been issued at the hour of six p.m. of the day on which it was issued.

Date of nomination.
Com. s. 62.
Of. U.K.
10 & 11
Geo. 5 c. 35,
s. 9 (a).

52. (1) The date fixed for the nomination shall be not less than seven nor more than twenty-one days after the date of the writ.

(2) Every writ for a periodical or general election shall fix the same day for all nominations of candidates for the same House.

Polling day.
971, 1908,
s. 94.
Com. s. 63.
Of. U.K.
7 & 8 Geo. 5
c. 64, s. 21
(part);
10 & 11
Geo. 5, c. 35,
s. 9 (b).

53. The date fixed for the polling shall be—

- (a) a Saturday;
- (b) not less than seven nor more than thirty days after the date of nomination.

Address of writ.
Com. s. 61.
Of. U.K.
17 & 18 Vict.
c. 57, s. 1.

54. (1) Every writ shall be directed to the returning officer for the district for which the election is to be held, and may be issued through the returning officer for the State.

(2) The returning officer for the State may advise any returning officer by telegram of the issue of the writ for an election and the particulars thereof and the said returning officer may act on that advice under section 55 as if he had received the writ.

55. Upon the receipt of a writ the returning officer to whom it is directed shall—

Duty of returning officer on receipt of writ.

(a) endorse thereon the date of its receipt and in the case of an Assembly election forward a copy of the writ to each assistant returning officer and in the case of a Council election forward a copy of the writ to each deputy returning officer who shall forward a copy to each assistant returning officer in his division:

971, 1908, s. 100.
Cf. U.K. 35 & 36 Vict. c. 33, First Sch., Rule 1.

(b) advertise the receipt and particulars of the writ in at least two newspapers circulating in his district.

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PART IX.

NOMINATIONS.

56. No person shall be capable of being elected a member of of either House unless duly nominated.

Nominations.
971, 1908, s. 101.

57. Every nomination shall be in the form set out in the third schedule and shall—

Mode of nomination.
Ibid., s. 103.
Cf. U.K. 35 & 36 Vict. c. 33, s. 1.

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

(b) be signed by not less than two persons entitled to vote at the election.

58. Every nomination shall be made to the returning officer for the district for which the person nominated seeks election.

To whom nominations made.
Com., s. 72.

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

Hour for nomination.
Cf. U.K. 35 & 36 Vict. c. 33, First Sch., Rule 4.

60. The place of nomination shall be the office of the returning officer for each district.

Place of nomination.
Com., s. 77.

61. No nomination shall be valid unless—

Requisites for nomination.
Com., s. 73.

(a) the person nominated consents to act if elected; and

(b) the nomination paper complying with this Part is received by the returning officer after the issue of

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the writ and not later than the hour of nomination;
and

Of. U.K.
7 & 8 Geo. 5
c. 64, s. 26.

(c) at the time of the delivery of the nomination paper the person nominated or someone on his behalf deposits with the returning officer the sum of twenty-five pounds in money or in Australian notes or in a banker's cheque.

Form of consent to act.
971, 1908,
s. 104.

62. The consent of the person nominated to act if elected and the declaration of qualification shall be sufficient if he signs the form of consent and declaration at the foot of the nomination paper, but the returning officer receiving the nomination may accept any other form of consent and declaration whether accompanying the nomination paper or not that he deems satisfactory, and such acceptance shall be final.

Withdrawal of consent to nomination.
Com., s. 80.
Of. U.K.
35 & 36 Vict.
c. 23, s. 1
(part).

63. A candidate may withdraw his consent to nomination at any time before the hour of nomination by lodging with the returning officer a notice of withdrawal in the prescribed form, and thereupon the nomination shall be cancelled, and the deposit lodged shall be returned.

Formal defects.
Com., s. 75.

64. No nomination shall be rejected by reason of any formal defect or error therein if the returning officer receiving the nomination is satisfied that the provisions of this Act have been substantially complied with.

Group of candidates.
Com., s. 72A.
Of. U.K.
35 & 36 Vict.
c. 23; First
Sch., Rule 5.

65. (1) In any election in a district for which two or more members are required to be elected candidates nominated for that district may claim to have their names grouped in the ballot-papers in the manner prescribed in this Act.

(2) A group shall include the names of those candidates only each of whom signifies to the returning officer in the prescribed manner after he has been nominated and not later than the hour of nomination that he desires to have his name included in that group with the names of the other candidates in that proposed group and with those names only: Provided that no candidate shall be included in any group unless with the consent in writing of the rest of the candidates in such group.

(3) A candidate shall not be entitled to have his name included in more than one group.

(4) A notification under this section shall not be rejected because there is any formal defect or error therein, if the returning officer who receives the notification is satisfied that the provisions of this Act have been substantially complied with.

(5) Upon receipt of notifications in accordance with this section from all candidates in any proposed group, the returning officer shall include the names of those candidates in a group and shall notify each member of the group of the fact that he has included his name in the group and of the names of the other candidates included in the group.

66. Every returning officer shall at the hour of nomination attend at the place of nomination for his district and shall there publicly produce all nomination papers received by him and declare the names and residences of all candidates nominated.

Declaration
of nominations.
Com., s. 79.

67. (1) If the number of candidates nominated is not greater than the number of candidates required to be elected the returning officer shall declare the candidates nominated duly elected.

Proceedings on
nomination
day.
Com., s. 82.
Of. U.K.
35 & 36 Vict.
c. 33, s. 1
(part); First
Sch., Rule 9.

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

68. Immediately after the nominations have been declared the returning officer shall by telegram or other expeditious means inform the returning officer for the State of the full name and address of each candidate nominated and particulars of the notifications of grouping of candidates under section 65.

Duty to notify
returning
officer for the
State of
nominations.
971, 1908,
s. 107.

69. If a nominated candidate dies before or on polling day the election shall be deemed to have wholly failed.

Death of can-
didate after
nomination.
Com., s. 83
(2).
Of. U.K.
35 & 36 Vict.
c. 33, s. 1
(part).

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

Failure of
election.
971, 1908,
s. 110.
Com., s. 84.

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

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

(4) If an election fails as a consequence of the death of a candidate after the declaration of the nominations and before or on polling day a supplementary election shall be held upon the roll which was prepared for the purpose of the election which failed.

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Forfeiture of
deposit.
Com., s. 76.
Cl. U.K.
7 & 8 Geo. 5
c. 64, s. 27.

71. (1) The deposit made by or on behalf of a candidate shall be retained pending the election and after the election shall be returned to the candidate or to any person authorised by him in writing to receive it if he is elected or obtains more than the prescribed number of votes, otherwise it shall be forfeited to the King.

(2) A candidate shall be deemed to have obtained the prescribed number of votes only in the following circumstances:—

- (a) where he is a candidate for a district for which two or more members are required to be elected and the names of the candidates are not included in a group in pursuance of section 65, if the total number of votes polled in his favour as first preferences is more than one-tenth of the average number of first preference votes polled by the successful candidates in the election:
- (b) where he is a candidate for a district for which two or more members are required to be elected and his name is included in a group in pursuance of section 65, if the average number of votes polled in favour of the candidates included in the group as first preferences is more than one-tenth of the average number of first preference votes polled by the successful candidates in the election:
- (c) where he is a candidate for a district for which only one member is required to be elected, if the total number of votes polled in his favour as first preference is more than one-fifth of the total number of first preference votes polled by the successful candidate in the election.

Return of
deposit on
death of
candidate.
Com., s. 81.

72. If a candidate dies before or on polling day, the deposit lodged by him shall be returned to his personal representatives.

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PART X.

VOTING BY POST.

Application
for a postal
vote certificate
and postal
ballot-paper.
Com., s. 85.
Cl. U.K.
7 & 8 Geo. 5
c. 64, s. 28.

73. (1) An elector who—

- (a) will not throughout the hours of polling on polling day be within the Assembly district or Council division, as the case may be, for which he is enrolled:
- (b) will not throughout the hours of polling on polling day be within five miles by the nearest practicable route of any polling booth:

(c) will throughout the hours of polling on polling day be travelling under conditions which will preclude him from voting at any polling booth:

(d) is seriously ill or infirm, and by reason of the illness or infirmity will be precluded from attending at any polling booth to vote, or, in the case of a woman, will by approaching maternity be precluded from attending at any polling booth to vote,

may apply for a postal vote certificate and postal ballot-paper.

(2) The application—

- (a) must contain a declaration by the applicant setting out the grounds upon which he applies for the postal vote certificate and postal ballot-paper:
- (b) may be in the prescribed form:
- (c) must be signed by the applicant in his own handwriting in the presence of an elector:
- (d) must be made and sent, after the issue of the writ for the election and before the polling day for the election, to the returning officer for the Assembly district, or deputy returning officer for the Council division, as the case may be, for which the applicant is enrolled:

Provided that the application shall not be deemed to have been duly made unless it reaches the returning officer or deputy returning officer to whom it is addressed before six o'clock in the afternoon of the day immediately preceding the polling day for the election.

(3) No elector shall make, and no person shall induce an elector to make, any false statement in an application for a postal vote certificate and postal ballot-paper, or in the declaration contained in such application.

Penalty: Fifty pounds, or imprisonment for one month.

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

Duty of witnesses.
Oom., s. 87.

- (a) he has satisfied himself as to the identity of the applicant;
- (b) he has seen the applicant sign the application in the applicant's own handwriting; and
- (c) he knows that the statements contained in the application are true, or has satisfied himself by

inquiry from the applicant or otherwise that the statements contained in the application are true.

Penalty: Fifty pounds, or imprisonment for one month.

(2) The elector witnessing the application shall sign his name in his own handwriting on the application in the space provided for the purpose, and shall add the date.

(3) No such elector shall persuade or induce, or associate himself with any person in persuading or inducing, any person to apply for a postal vote certificate and postal ballot-paper.

Penalty: Fifty pounds, or imprisonment for one month.

Issue of certificate and ballot-papers.
Com., s. 88.

75. (1) The returning officer or deputy returning officer who receives the application if he is satisfied that it is properly signed by the applicant elector and is properly witnessed, and that the applicant is enrolled shall deliver or post to the elector a postal vote certificate printed on an envelope addressed to the returning officer for the district for which the applicant declares that he is enrolled, and a postal ballot-paper for the election at which the applicant is entitled to vote:

Provided that where the application is received after six o'clock in the afternoon of the day preceding polling day the returning officer, or deputy returning officer, shall not deliver or post to the elector a postal vote certificate or a postal ballot-paper.

(2) The postal vote certificate and postal ballot-papers for a Council election and for an Assembly election respectively, may be in the prescribed form.

(3) The returning officer or deputy returning officer shall place his initials in the back of every postal ballot-paper issued. The initials shall be placed in such a position as to be easily seen when the ballot-paper is folded so as to conceal the vote.

Inspection of applications.
Com., s. 89.

76. (1) All applications for postal vote certificates and postal ballot-papers received by a returning officer or deputy returning officer shall, if they relate to the Assembly district for which he is returning officer, be kept by him, or if they relate to a Council district shall, after being endorsed by him with the date of the issue of the postal vote certificate and postal ballot-paper, forthwith be sent by him to the returning officer for that district.

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

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77. (1) The returning officer, or deputy returning officer shall, if there is time conveniently to do so, note on the certified list of voters for his district or division the names of all electors to whom postal vote certificates and postal ballot-papers have been issued.

Notification of issue of postal vote certificates and postal ballot-papers.
Com., s. 91.

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

78. An elector to whom a postal vote certificate has been issued or whose name is noted on the certified list of voters as an elector to whom a postal vote certificate and postal ballot-paper have been issued shall not be entitled to vote at any polling booth unless he first delivers to the presiding officer for cancellation his postal vote certificate and postal ballot-paper.

Surrender of postal ballot-paper where elector votes at polling booth.
Com., s. 91.

79. (1) Notwithstanding the last previous section where a person whose name has been noted on the certified list of voters used at a polling place for the subdivision for which he is enrolled as an elector to whom a postal vote certificate and a postal ballot-paper have been issued claims to vote in an election at that polling place and states when requested to deliver to the presiding officer for cancellation his postal vote certificate and postal ballot-papers, that he has not received postal vote certificate and postal ballot-paper, he may, if otherwise qualified to vote, be permitted to vote if he satisfies the presiding officer at the said polling place that his statement is true.

Voting at polling-booth by persons noted on roll as having received postal ballot-paper.
Com., s. 91A.

80. (1) Subject to subsection (2) of this section the following persons are authorised witnesses within the meaning of this Act:—

Authorised witnesses.
Com., s. 91B.

- (a) all returning officers, assistant returning officers and presiding officers; all officers of the public service of any State or the Commonwealth, permanently employed in the office of any Commonwealth or State electoral officer or returning officer; all Commonwealth or State electoral registrars; all postmasters or postmistresses or postal officials in charge of post offices; all police, stipendiary or special magistrates of the Commonwealth or of any State; all justices of the peace of any State; all commissioners for taking declarations or affidavits in any State; all adult teachers of any State

Education Department; all officers of the Commonwealth Department of Trade and Customs; all members of the police force of the Commonwealth or of any State; all members of any local governing body in any State; the principal administrative officer or the principal engineering officer of any local governing body in any State; all mining wardens and mining wardens' clerks in the Public Service of the State; all legally qualified medical practitioners; all midwives and nurses registered by the Midwives Board or Nurses Board of any State; all officers in charge of quarantine stations; all officers in charge of light houses and all assistant light house keepers; all pilots in the service of the Commonwealth or of the State or of any local governing body; all telegraph line repairers permanently employed in the public service of the Commonwealth who are in charge of working parties; all overseers and foremen of group settlements; all railway station masters and night officers-in-charge who are permanently employed in the railway service of the Commonwealth or of any State; all permanent way inspectors and road masters employed in the railway service of the Commonwealth; all engineers engaged in railway or road construction; all mail contractors; all superintendents of mercantile marine and their deputies while permanently employed in the public service of the Commonwealth or of any State; all naval commissioned officers in the service of the Commonwealth while employed on a ship of war; all licensed surveyors or Government surveyors; all station owners, station managers, and station overseers; and all ministers of religion:

- (b) all persons or classes of persons employed in the public service of the Commonwealth or of a State who are declared by proclamation to be authorised witnesses within the meaning of this Act.

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

Directions for
postal voting.
Com., s. 92.

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

- (a) The elector shall exhibit his postal ballot-paper (unmarked) and his postal vote certificate to an authorised witness:

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

Provided that if no person is appointed by the elector, the authorised witness, if so requested by the elector, shall take the action required by this paragraph to be taken by a person appointed by the elector;

- (g) The authorised witness shall not, unless the elector's sight is so impaired that he cannot vote without assistance and no person is appointed by the elector to mark his vote for him, look at or make himself acquainted with the vote given by the elector, and, except as provided in paragraph (f) of this section, shall not suffer or permit any person (other than the elector) to see or become

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acquainted with the elector's vote, or to assist the elector to vote, or to interfere in any way with the elector in relation to his vote.

Duty of
authorised
witness.
Com., s. 93.

82. Every authorised witness shall—

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

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

Penalty for
unlawfully
marking postal
ballot-paper.
Com., s. 93A.

83. No person other than—

- (a) the elector to whom the postal ballot-paper has been issued; or
- (b) a person appointed by the elector or an authorised witness, acting in pursuance of paragraph (f) of section 81 of this Act, assisting an elector whose sight is so impaired that he cannot vote without assistance,

shall mark a vote upon the ballot-paper.

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

Penalty for
failure to post
or deliver
postal ballot-
paper, and for
unlawfully
opening
ballot-paper.
Com., ss. 93B,
94.

84. (1) Any person to whom an application for a postal vote certificate and postal ballot-paper or an envelope containing or purporting to contain a postal ballot-paper is entrusted by a voter for the purpose of posting or delivery to a returning officer, and who fails to forthwith post or deliver the application or envelope shall be guilty of an offence.

Penalty: Fifty pounds, or imprisonment for one month.

Unlawfully
opening
postal ballot-
paper.
Com., s. 93B.

(2) No person other than the returning officer for the district in respect of which a postal ballot-paper has been issued or an officer acting under his directions shall open the envelope in which the postal ballot-paper has been placed pursuant to paragraphs (e) or (f) of section 81 of this Act, and which has been fastened by an authorised witness, or other person, in accordance with the provisions of that paragraph.

Penalty: Fifty pounds.

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

Duty of persons present when an elector votes by post.

Com., s. 95.

- (a) obey all directions of the authorised witness; and
- (b) except as provided in paragraph (f) of section 81 in the case of persons whose sight is impaired—
 - (i.) refrain from making any communication whatever to the elector in relation to his vote;
 - (ii.) refrain from assisting the elector or in any manner interfering with him in relation to his vote; and
 - (iii.) refrain from looking at the elector's vote or doing anything whereby he may become acquainted with the elector's vote.

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

86. At the scrutiny the returning officer shall produce all applications for postal vote certificates and postal ballot-papers, and shall produce unopened all envelopes containing postal votes received up to the close of the poll by him, and shall—

Preliminary postal ballot-Com., s. 96. scrutiny of papers.

- (a) compare the signature of the elector on each postal vote certificate with the signature of the same elector on the application for the certificate, and allow the scrutineers to inspect both signatures;
- (b) if satisfied that the signature on the certificate is that of the elector who signed the application for the certificate, and that the signature purports to be witnessed by an authorised witness, accept the ballot-paper for further scrutiny, but, if not so satisfied, disallow the ballot-paper without opening the envelope in which it is contained;
- (c) withdraw from the envelopes bearing the postal vote certificates all postal ballot-papers accepted for further scrutiny, and, without inspecting or unfolding the ballot-papers or allowing any other person to do so, place them in a locked and sealed ballot-box by themselves for further scrutiny;
- (d) seal up in separate parcels and preserve—
 - (i.) all envelopes bearing postal vote certificates relating to postal ballot-papers accepted for further scrutiny; and
 - (ii.) all unopened envelopes containing postal ballot-papers disallowed; and

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- (e) proceed with the scrutiny of the postal ballot-papers which have been accepted for further scrutiny.

Mistakes.

Com., s. 97.

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

PART XI.

PART XI.

THE POLLING.

Duty of returning officer to make arrangements.

Com., s. 98.

Of. U.K.
35 & 36 Vict.
c. 33, ss. 2, 8;
First Sch.,
Rule 15.

88. (1) If the proceedings on the day of nomination stand adjourned to polling day, the returning officer shall immediately make all necessary arrangements for taking the poll, and in particular the returning officer or deputy returning officer shall—

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

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

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

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

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

Substitute presiding officer.
Com., s. 99.

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

Restriction on use of licensed premises.
971, 1908, s. 129.
Cf. U.K. 16 & 17 Vict. c. 68, s. 6.

91. Any State school, any building under the control of the Government of the State, any building the property of a local governing body which has been or is subsidised by the State Government, and any building of an institute within the meaning of the Public Library, Museum, and Art Gallery, and Institutes Act, 1936, which participates in grants voted by Parliament in aid of institutes, may be used free of charge for the purposes of any poll.

Power to use certain buildings free.
971, 1908, s. 130.
Cf. U.K. 35 & 36 Vict. c. 33, s. 6.
Cf. U.K. 7 & 8 Geo. 5, c. 64, s. 25.

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

Separate voting compartments.
971, 1908, s. 131.
Cf. U.K. 35 & 36 Vict. c. 33; First Sch., Rule 16.

93. (1) Each polling booth shall be provided with the necessary ballot boxes, constructed and fitted as prescribed.

Ballot boxes.
Com., s. 102.
1447, 1913, s. 36.

(2) When an election for the council and an election for the Assembly are held on the same day the same polling booth and the same ballot boxes may be used for both elections.

(3) When a referendum or other poll referred to the electors of either House is to be taken on the same day as an election for a member or members of either House, the same polling booth and the same ballot boxes as are used for the purposes of the election may be used for the purposes of the referendum or other poll.

94. The certified list of voters to be used by a presiding officer at a polling place shall be the list of the electors on the roll enrolled for the subdivision for which the polling place is prescribed certified by the returning officer, or deputy returning officer and shall, before the hour of commencing the poll, be delivered to the presiding officer for his guidance during the polling.

Certified list of voters.
Com., s. 103.

s. 91. "Public Library, Museum, and Art Gallery, and Institutes Act, 1936," substituted for "Public Library, Museum, and Art Gallery, and Institutes Act, 1909," pursuant to Acts Republication Act, 1934.

PART XI.

Ballot-papers.
Com., s. 104.

95. Ballot-papers shall be in such of the forms prescribed in the fourth schedule to this Act, as is applicable.

Printing of
ballot-papers.
Com., s. 105A.
Of. U.K.
85 & 86 Vict.
c. 33; First
Sch., Rule 22.

96. (1) In printing the ballot-papers to be used in an election for a district for which two or more members are required to be elected the following provisions shall be observed:—

- (a) The names of candidates not included in groups shall be printed on the right-hand side of the names of the candidates included in groups:
- (b) The names in each group shall be printed in the alphabetical order of the surnames comprised in that group:
- (c) The groups shall be printed horizontally:
- (d) The order of the groups from left to right shall be determined as follows:—
 - (i.) A number shall be placed against the name of each candidate in each group corresponding with the numerical order in which the initial letter of the surname of the candidate occurs in the alphabet:
 - (ii.) The numbers against the surnames of the candidates in each group shall be added together and the sum thus obtained in respect of each group shall be divided by the number of candidates in the group and the quotient thus obtained shall be the quotient of the group:
 - (iii.) The group on the left-hand side of the ballot-paper shall be the group having the smallest quotient and the group on the immediate right of that group shall be the group having the next larger quotient and so on, until the order of each group is determined:
 - (iv.) If two or more groups have the same quotient the order of these groups in the ballot-paper shall be in accordance with the relative alphabetical order of the surnames first occurring in each of those groups, and if those surnames are the same then in accordance with the relative alphabetical order of the surnames next occurring in each of those groups:
 - (v.) If the order of priority cannot be determined in the manner provided for under the preceding sub-paragraphs of this paragraph, it

shall be determined by the returning officer for the State:

- (e) Before the square opposite the surname of each candidate in the group on the left-hand side of the ballot-paper there shall be printed the letter A; before the square opposite the surname of each candidate in the next group to the right of the first group in the ballot-paper there shall be printed the letter B, and so on, as the case requires;
 - (f) If there are two or more candidates having the same surname in any group their names shall, subject to the provisions of this section, be arranged according to the alphabetical order of their Christian names, or if their Christian names are the same, then according to the alphabetical order of their residences which shall, in such case, be arranged and stated in the ballot-paper;
 - (g) The order of the names of the candidates whose names are not included in any group shall be determined in the same manner as the order in a group of the names of the candidates included in that group;
 - (h) Where similarity in the names of two or more candidates is likely to cause confusion the names of those candidates may be arranged with such description or addition as will distinguish them from one another; and
 - (i) Except as otherwise provided by the regulations a square shall be printed opposite the name of each candidate.
- (2) In printing the ballot-papers to be used in an election for a district for which one member only is required to be elected the following provisions shall be observed:—
- (a) The names of all candidates duly nominated shall be printed in alphabetical order according to their surnames:
 - (b) If there are two or more candidates of the same surname, their names shall be printed according to the alphabetical order of their Christian names, or if their Christian names are the same then according to the alphabetical order of their residences, which shall in such cases be arranged and stated in the ballot-paper:

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- (c) Where similarity in the names of two or more candidates is likely to cause confusion the names of such candidates may be arranged with such description or addition as will distinguish them from one another and except as otherwise provided by the regulations, a square shall be printed opposite the name of each candidate.

Initials on
ballot papers.
Com., s. 107.
Of U.K.
35 & 36 Viet.
c. 33, s. 2;
First Sch.,
Rule 24.

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

(2) The initials of the officer shall be placed on the back of the ballot-paper in such a position as to be easily seen when the ballot-paper is folded so as to conceal the names of the candidates.

Scrutineers at
the polling.
Com., s. 108.

98. (1) Any candidate may appoint scrutineers to represent him at polling places during the polling, but so that no more than one scrutineer shall be allowed to each candidate at each polling booth or subdivision of a polling booth.

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

Provision
relating to
scrutineers.
Com., s. 109.

99. (1) A scrutineer shall not--

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

Penalty: Five pounds.

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

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

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

Persons present at polling.
Com., s. 110.
Cf. U.K.
6 & 7 Vict.
c. 18, s. 85.

101. The polling shall be conducted as follows:—

The polling.
Com., s. 111.
Cf. U.K.
85 & 36 Vict.
c. 33, s. 2;
First Sch.,
Rule 28.

(a) Before any vote is taken the presiding officer shall exhibit the ballot box empty, and shall then securely close, fasten, and seal it in such a manner as to prevent its being opened without breaking the seal, and shall keep it closed, fastened, and sealed:

(b) The poll shall open at eight o'clock in the morning, and shall not close until all electors present in the polling booth at seven o'clock in the evening, and desiring to vote, have voted:

Cf. U.K.
48 & 49 Vict.
c. 10, s. 1.
Cf. U.K.
8 & 4 Geo. 5
c. 6.

(c) The doors of the polling booth shall be closed at seven o'clock in the evening, and no person shall be admitted after that hour to the polling booth for the purpose of voting:

(d) At the close of the poll the presiding officer shall, in the presence of the poll clerk and of any scrutineers who may be in attendance, publicly close, fasten, seal, and take charge of the ballot box, and with the least possible delay forward it for the purposes of scrutiny, and it shall on no account be opened except as allowed by this Act:

Provided that, where the scrutiny is proceeded with immediately after the close of the poll at the polling booth at which the votes are taken, it shall not be necessary for the presiding officer to publicly close, fasten, or seal the ballot box as required by paragraph (d) of this section.

102. (1) In any election an elector shall only be entitled to vote for the election of members for the district for which he is enrolled.

Elections at which electors are entitled to vote.

(2) The electoral rolls in force at the time of the election shall be conclusive evidence of the right of each person enrolled thereon to vote as an elector unless he shows by his answers to the questions prescribed by section 105 that he is not entitled to vote.

Com., s. 112.

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Polling places
at which
electors may
vote,
Com., s. 114.

103. (1) On polling day an elector shall be entitled to vote—

- (a) at any prescribed polling place for the subdivision for which he is enrolled; or
- (b) at any other polling place within the Assembly district or Council division, as the case may be, for which he is enrolled at which a polling booth is open, subject to the regulations relating to absent voting.

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

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

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

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

Duty of voters
to give names
and other
particulars.
Com., s. 114.

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

Questions to
be put to
voter.
971, 1908.
ss. 149-151,
1147, 1913,
s. 27.

105. (1) The presiding officer or poll clerk shall put to every person claiming to vote, the following question:—

Have you already voted here or elsewhere in this election (or these elections, as the case requires)?

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(2) The presiding officer—

(a) may, and, at the request of any scrutineer shall, also put all or any of the following questions:—

Are you of the full age of 21 years?

Do you live within this district?

Are you qualified to vote?

(b) may, and, at the request of any scrutineer shall, also put to any person claiming to vote whose name appears on the certified list of voters or on the roll for any subdivision the following question:—

Are you the person whose name appears as (here state the name under which the person claims to vote) on the certified list of electors for this polling place (or the roll for the subdivision of.....as the case requires)?

(3) If any person claiming to vote to whom any of the foregoing questions are put—

(a) refuses to answer fully any question so put to him; or

(b) by his answer shows that he is not entitled to vote, his claim to vote shall be rejected.

(4) The voter's answer to any question put to him under this section shall be conclusive and the matter shall not be further inquired into during the polling.

106. (1) The omission in the roll or in the certified list of voters of any Christian name, or the entry of a wrong Christian name, or address, or occupation, or a mistake in the spelling of any surname, shall not warrant the rejection at any polling of any claim to vote if the voter is sufficiently identified in the opinion of the presiding officer, and no female elector shall be disqualified from voting under the name appearing on the roll because her surname has been changed by marriage.

(2) In a Council election the misdescription of the locality of the property in virtue of which the elector is entitled to vote shall not warrant the rejection of any claim to vote if the locality is in the opinion of the presiding officer sufficiently identified.

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

(a) if the name under which he claims to vote is on the certified list of voters for the polling-place and his right to vote is not challenged; or

*Cf. U.K.
6 & 7 Vict.
c. 18, s. 81.
Cf. U.K.
43 Vict. c. 18,
s. 3.*

*Cf. U.K.
6 & 7 Vict.
c. 18, s. 82.*

*Cf. U.K.
6 & 7 Vict.
c. 18, s. 82
(part).*

*Errors not to
forfeit vote.
971, 1908,
s. 152.*

*Right of
elector to
receive ballot-
paper.
Com., s. 117.
Cf. U.K.
85 & 86 Vict.
c. 88, s. 7.*

(b) if the name under which he claims to vote is on the certified list of voters for the polling-place and his right to vote is challenged, and his answers to the prescribed questions show that he is entitled to vote; or

(c) if he claims to vote under the regulations relating to absent voting and complies with those regulations.

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

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

Duty to mark
list of voters
on issue of
ballot-paper.

Com., s. 118.

108. (1) Immediately upon handing the ballot-paper to the person claiming to vote, the presiding officer or a poll clerk shall place a mark against the person's name on the certified list of voters if his name is on that list.

(2) The mark made against a person's name as required by this section shall be *prima facie* evidence of the identity of the person to whom the ballot-paper is handed with the elector whose name is so marked on the certified list, and of the fact that that elector voted at the election.

Marking of
votes.

Com., s. 119.
Of. U.K.
85 & 86 Vict.
c. 33, s. 2.

109. (1) Except as otherwise prescribed the voter upon receipt of the ballot-paper shall without delay—

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

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

(c) quit the booth.

(2) No person shall take out of the polling booth any ballot-paper either before or after it has been marked by him.

Penalty: Fifty pounds.

Assistance to
certain voters.

Com., s. 120.
Of. U.K.
85 & 86 Vict.
c. 33; First
Sch., Rule 26;
23 & 24
Geo. 5 c. 27.

110. (1) If any voter satisfies the presiding officer that his sight is so impaired or that he is so physically incapacitated that he is unable to vote without assistance, the presiding officer shall permit a person appointed by the voter to enter an unoccupied compartment of the booth with the voter, and mark, fold, and deposit the voter's ballot-paper for him.

(2) If any such voter fails to appoint a person in pursuance of the last preceding subsection, or if any voter satisfies the

presiding officer that he is so illiterate that he is unable to vote without assistance, the presiding officer, in the presence of such scrutineers as are present, or, if there be no scrutineers present, then in the presence of—

(a) another officer; or

(b) if the voter so desires, in the presence of a person appointed by the voter, instead of the said other officer,

shall mark, fold, and deposit his ballot-paper for him.

111. Notwithstanding anything contained in this Act where a voter, against whose name on the certified list of voters used at a polling place prescribed for the subdivision for which he is enrolled a mark has been placed, in accordance with section 108, claims to vote in an election at that polling place he may, if otherwise qualified to vote and subject to section 105 and the regulations, be permitted to vote if he satisfies the presiding officer that he has not already voted at the election.

Claim to vote of person whose name has been marked on the roll.
Com., s. 121.

112. If any voter before depositing his ballot-paper in the ballot box satisfies the presiding officer that he has spoilt the ballot-paper by mistake or accident, he may, on giving it up, receive a new ballot-paper from the presiding officer, who shall there and then cancel the spoilt ballot-paper, and deal with it as prescribed.

Spoilt ballot-papers.
Com., s. 122.

113. (1) In every election for a district for which two or more candidates are required to be elected a voter shall mark his vote on his ballot-paper as follows:—

Mode of voting.
Com., ss. 123, 124.

(a) where his ballot-paper is a ballot-paper in accordance with Form D in the fourth schedule he shall vote for not less than the prescribed number of candidates by placing the number 1 in the square opposite the name of the candidate for whom he votes as his first preference, and by placing the numbers 2, 3, 4, and so on, as the case requires, in the squares respectively opposite the names of so many other candidates as will, with the candidate for whom he votes as his first preference, complete the prescribed number.

The voter may, in addition, where there are more candidates than the prescribed number indicate the order of his preference for as many more candidates as he pleases by placing in the squares respectively opposite to their names other numbers next in numerical order after the numbers already

placed by him on the ballot paper. In this paragraph "the prescribed number of candidates" means twice the number of candidates to be elected plus one, or if there are fewer candidates than that number, the total number of candidates:

- (b) where he votes at a polling place on polling day in accordance with the regulations relating to absent voting—in the manner prescribed by those regulations:
- (c) where he votes by post under the provisions of Part X. of this Act—in the manner prescribed by the regulations in relating to voting by post.

(2) In every election for a district for which one candidate only is required to be elected the voter shall mark his vote on his ballot-paper as follows:—

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

Adjournment
of polling on
account of
riot.

971, 1908,
s. 153.
Cf. U.K.
2 & 3 Will. 4
c. 45, s. 70.
Cf. U.K.
5 & 6 Will. 4
c. 36, s. 8.

114. The presiding officer may adjourn the polling from day to day if the polling is interrupted or obstructed by riot or open violence.

Adjournment
in other cases.
971, 1908,
s. 154.

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

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116. If from any cause the polling at any polling place is adjourned, and a ballot-paper or ballot-papers have been deposited in the ballot box, the presiding officer shall—

Locking of
ballot boxes
when voting
adjourned.
971, 1908,
s. 155.

- (a) immediately upon the adjournment publicly close, fasten, and seal the outer cover of the ballot box;
- (b) allow any scrutineer so desiring also to seal the same; and
- (c) retain the ballot box and the key thereof in his possession until the day to which the poll is adjourned, when he shall at the polling place publicly break the seal and unfasten and open the outer cover of the ballot box for the purpose of continuing the poll.

117. If the polling is adjourned at any polling place, those electors only who are enrolled for the subdivision for which the polling place is prescribed and who have not already voted, shall be entitled to vote at the adjourned polling at that polling place.

Voting at
adjourned
polling.
Ibid., s. 156.

118. It shall not be necessary to open polling booths at the polling places for any district for which no election is being held.

Arrangement
where election
held in some
districts only.
Com., s. 128.

PART XII.THE SCRUTINY.PART XII.

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

Scrutiny.
Com., s. 129.

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

Scrutineers at
the scrutiny.
Com., s. 120.
Of U.K.
6 & 7 Vict.
c. 18, s. 85.
Of U.K.
85 & 86 Vict.
c. 33; First
Sch., Rules
31, 52.

121. The scrutiny shall be conducted as follows:—

- (a) It shall commence as soon as practicable after the closing of the poll:
- (b) Any scrutineers duly appointed pursuant to the preceding section, and any persons approved by the officer conducting the scrutiny, may be present:

Conduct of
scrutiny.
Com., s. 131.

- (c) All the proceedings at the scrutiny shall be open to the inspection of the scrutineers:
- (d) The scrutiny may be adjourned from time to time as may be necessary until the counting of the votes is complete.

Action on objections to ballot-papers.
Com., s. 132.
Cf. U.K.
35 & 36 Viet.
c. 33; First
Sch., Rule 36.

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

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

Informal ballot-papers.
Com., s. 133.

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

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

(b) in an election for a district for which two or more candidates are required to be elected, it has no vote indicated on it, or does not indicate the voter's first preference for one candidate and his consecutive preferences for so many other candidates as will, with the candidate for whom he votes as his first preference, be equal in number to the prescribed number of candidates as defined in paragraph (a) of subsection (1) of section 113 of this Act:

(c) in an election for a district for which one candidate only is required to be elected it has no vote indicated on it, or it does not indicate the voter's first preference for one candidate, and in the case of an election where there are more than two candidates his contingent votes for all the remaining candidates: Provided that in such an election at which there are not more than two candidates the ballot-paper shall be deemed properly marked if marked so as to indicate the voter's first preference only:

(d) it has upon it any mark or writing by which, in the opinion of the returning officer, the voter can be identified.

(2) A ballot-paper shall not be informal for any reason other than the reasons specified in this section, but shall be

given effect to according to the voter's intention so far as his intention is clear.

124. An officer shall not place upon any ballot-paper any mark or writing which would enable any person to identify the voter by whom it is used.

Penalty on
officers mark-
ing ballot-
papers.
Com., s. 134.

Penalty: Ten pounds.

125. In every election the scrutiny shall, subject to the provisions and regulations relating to absent voting and to voting by post, be conducted in the manner following:—

Scrutiny of
votes.
Com., s. 135.
Of. U.K.
35 & 36 Vict.
c. 33, First
Sch., Rule 34.

(1) Each assistant returning officer shall, in the presence of an assistant presiding officer or a poll clerk, and of any authorised scrutineers who attend—

- (a) open all ballot boxes received from polling places within or for that portion of the district in which he exercises his powers;
- (b) reject all informal ballot-papers and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate;
- (c) count the first preference votes given for each candidate on all unrejected ballot-papers;
- (d) make out and sign a statement (which may be countersigned by an assistant presiding officer or a poll clerk, and, if they so desire, by any scrutineers who are present) setting out the number of first preference votes given for each candidate, and the number of informal ballot-papers, and certify by endorsement on the copy of the writ received by him the like particulars;
- (e) place in a separate parcel all the ballot-papers which have been rejected as informal;
- (f) transmit the following information, by telegram or in some other expeditious manner, to the returning officer—
 - (i.) the number of first preference votes given for each candidate; and
 - (ii.) the total number of ballot-papers rejected as informal;

- (g) seal up the parcels and endorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the endorsement; and
- (h) transmit the parcels to the returning officer with the least possible delay, together with the statement specified in paragraph (d) of this subsection, and the copy of the writ endorsed in accordance with that paragraph.

In the case of a Council election the information mentioned in paragraph (f) of this subsection and the parcels statement and writ mentioned in paragraph (h) shall be transmitted to the returning officer through the deputy returning officer.

- (2) The returning officer shall open all ballot boxes not opened by an assistant returning officer, and shall conduct the scrutiny of the ballot-papers contained therein in the manner aforesaid as far as applicable.
- (3) The returning officer shall, in the manner prescribed by this Act or the regulations, examine, count, and deal with all ballot-papers used for voting in pursuance of—
 - (a) the provisions of this Act relating to voting by post; or
 - (b) the regulations relating to absent voting on polling day.
- (4) The returning officer shall—
 - (a) open the sealed parcels of ballot-papers received from the assistant returning officers in or for the district for which he is returning officer, and shall make a fresh scrutiny of the ballot-papers contained in the parcels, and for this purpose he shall have the same powers as if the fresh scrutiny were the original scrutiny, and may reverse any decision given by an assistant returning officer in relation to the original scrutiny;
 - (b) arrange the unrejected ballot-papers so scrutinised by him, together with the ballot-papers scrutinised by him pursuant to subsections (2) and (3) of this section,

under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate; and

- (c) count the first preference votes given for each candidate on the said ballot-papers.

(5) The first vacancy shall be filled in the following manner:—

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

- (b) If no candidate has received an absolute majority of first preference votes, a second count shall be made by the returning officer:

- (c) 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 order of the voter's preference:

- (d) If a candidate then has an absolute majority of votes he shall be 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 unexhausted ballot-papers to the continuing candidate next in the order of the voter's preference shall be repeated by the returning officer until one candidate has received an absolute majority of votes:

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

(6) The second vacancy shall be filled in the following manner:—

- (a) The returning officer shall re-arrange all the ballot-papers under the names of the respective candidates in accordance with the first preference indicated thereon, except that each ballot-paper on which a first preference for the elected candidate is indicated shall, if unexhausted, be placed in the parcel of the candidate next in order of the voter's preference:

- (b) The returning officer shall then count the ballot-papers in the parcel of each candidate:
- (c) If a candidate then has an absolute majority of votes he shall be elected, but if no candidate then has an absolute majority of votes the scrutiny shall proceed as provided in paragraphs (b), (c), and (d) of the last preceding subsection until one candidate has received an absolute majority of votes:
- Provided that in the application of paragraph (b) and (c) of the last preceding subsection, any reference to first preference votes shall be read as a reference to all the votes counted to a candidate in pursuance of this subsection:
- (d) The candidate who has received an absolute majority of votes shall be elected.
- (7) Further vacancies shall be filled one by one in the manner provided in the last preceding subsection as regards the filling of the second vacancy:
- Provided that a ballot-paper on which a first preference for any elected candidate is marked shall, if unexhausted, be placed in the parcel of the continuing candidate next in order of the voter's preference.
- (8) In the process of filling any vacancy, exhausted ballot-papers shall be set aside as finally dealt with, and shall thenceforth not be taken into account in the filling of that vacancy.
- (9) (a) When a candidate is elected or excluded, each ballot-paper counted to him shall be deemed to be exhausted if there is not indicated upon it a next preference for one continuing candidate.
- (b) "Next preference" in the last preceding subparagraph includes the first of the subsequent preferences marked on the ballot-paper which is not given to an elected or excluded candidate:
- Provided that where there is a break in the consecutive numbering of preferences marked on a ballot-paper (other than a break necessitating the rejection of the ballot-paper as informal in pursuance of paragraph (b) of subsection (1) of section 123 of this Act), only those preferences preceding the break shall be taken into account.

(10) In this section "continuing candidate" means a candidate not already elected or excluded from the count.

(11) If on any count two or more candidates have an equal number of votes, and one of them has to be excluded, the returning officer shall decide which shall be excluded; and if, in the final count for filling any vacancy, two candidates have an equal number of votes, the returning officer shall decide by his casting vote which shall be elected; but, except as provided in this subsection he shall not vote at the election.

(12) In this section "an absolute majority of votes" means a greater number than one-half of the whole number of ballot-papers other than informal and exhausted ballot-papers. The casting vote of the returning officer, given in pursuance of the last preceding subsection, shall be included in reckoning an absolute majority of votes.

(13) Notwithstanding anything contained in the preceding provisions of this section two or more candidates lowest on the poll may be excluded in any count in the one operation, provided—

- (a) that the total number of votes of those lowest candidates does not in the aggregate exceed in number the votes of the candidate next higher on the poll;
- (b) that the number of continuing candidates is not thereby reduced below the number to be elected; and
- (c) that in the filling of a second or any subsequent vacancy the votes of the elected candidate or candidates have been first dealt with as provided in this section.

(14) The returning officer shall—

- (a) make out and sign a statement setting out, in respect of the district for which he is returning officer, the number of votes counted to each candidate at each count, and the number of informal ballot-papers, and forward the statement to the returning officer for the State;
- (b) place in a separate parcel all the ballot-papers which have been rejected as informal;
- (c) place in a separate parcel all the unrejected ballot-papers; and

Of. U.K.
35 & 36 Vict.
c. 38; First
Sch., Rule 38.

PART XII.

(d) seal up the parcels and endorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the endorsement.

(15) In an election in a district where there is only one vacancy to be filled the candidate to be elected shall be determined in the manner provided in this section for filling a first vacancy.

Scrutiny prior
to receipt of
absent voters'
ballot-papers.
Com., s. 136A.

126. Where the returning officer is satisfied that the votes on any ballot-papers which have been issued in connection with the election at some remote polling place and have not been received by him, cannot, having regard to the number of those ballot-papers possibly affect the result of the election, the returning officer may, subject to the concurrence of the returning officer for the State, proceed with the scrutiny without awaiting the receipt of the ballot-papers, as the case may be.

Re-count.
Com., s. 137.

127. At any time before the declaration of the result of an election a returning officer may, if he thinks fit, on the request of any candidate setting forth the reasons for the request, or of his own motion, and shall, if so directed by the returning officer for the State, re-count the ballot-papers contained in any parcel.

Powers of
officer conduct-
ing re-count.
Com., s. 139.

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

Reservation of
disputed ballot-
papers.
Com., s. 140.

129. (1) The officer conducting a re-count may, and at the request of any scrutineer shall, reserve any ballot-paper for the decision of the returning officer for the State.

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

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

PART XII.

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

Correction of errors.
971, 1908,
s. 167.

131. Within twenty days before or after the day appointed for any election the person issuing the writ may provide for extending the time for holding the election or for returning the writ, or meeting any difficulty which might otherwise interfere with the due course of the election; and any provisions so made shall be valid and sufficient:

Extension of time.
Ibid., s. 168.

Provided that—

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

132. After the count each returning officer shall retain in his custody all ballot-papers used at the election, all ballot-papers cancelled at the election, and all declarations made in connection with postal votes or absent votes until those ballot-papers are delivered to the Court of Disputed Returns or the returning officer for the State authorises them to be destroyed.

Custody of ballot-papers after count.
Ibid., s. 164.
Of. U.K.
6 & 7 Vict.
c. 18, s. 93.
Of. U.K.
35 & 36 Vict.
c. 33; First
Sch., Rule 38.

PART XIII.

PART XIII.

RETURN OF THE WRIT.

133. As soon as conveniently may be after the result of an election has been ascertained each returning officer shall—

Return of the writ.
Comm., s. 142
(1).
Of. U.K.
35 & 36 Vict.
c. 33; First
Sch., Rules
44, 45.

- i. at the chief polling-place publicly declare the result of the election and the names of the candidates elected:
- ii. by endorsement under his hand certify on the original writ the name of the candidates elected and return the writ so endorsed through the returning officer for the State.

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Return of the writ notwithstanding outstanding ballot-papers.

Com., s. 142 (2).

134. Where the returning officer—

- (a) is satisfied that any ballot-papers issued at some remote polling-place cannot reach him for the purpose of scrutiny without unduly delaying the declaration of the poll; and
- (b) is satisfied that the votes recorded on those ballot-papers could not possibly affect the result of the election—

he may, with the concurrence of the returning officer for the State, declare the result of the election and return the writ without awaiting the receipt of the ballot-papers.

PART XIV.

PART XIV.

ELECTORAL EXPENDITURE.

Definition of electoral expenses.

971, 1908, s. 169.
Of. U.K.
46 & 47 Vict.
c. 51, s. 13.

135. In this Part and in Part XV. “electoral expense” includes all expenses incurred by, or on behalf of, or in the interests of, any candidate at or in connection with any election, excepting only the personal and reasonable living and travelling expenses of the candidate.

Rate of expenditure.
971, 1908, s. 170.

136. No electoral expense shall be incurred or authorised by a candidate in respect of his candidature in excess of fifty pounds, and five pounds additional for every two hundred electors on the roll above two thousand.

Expenses allowed.
Ibid., s. 171.

137. No electoral expense shall be incurred or authorised except in respect of the following matters:—

- i. purchasing electoral roll:
- ii. printing, advertising, publishing, issuing and distributing addresses by the candidate, and notices of meetings:
- iii. stationery, messages, postages, and telegrams:
- iv. committee rooms:
- v. public meetings and halls therefor:
- vi. scrutineers:
- vii. one election agent for each candidate.

Duty to pay money for electoral expenses direct to candidate.
Ibid., s. 172.

138. All money provided by any person other than the candidate for any electoral expense shall be paid directly to the candidate personally.

139. Every electoral expense, except where less than two pounds, shall be vouched for by a bill of particulars and by a receipt.

Vouchers.
Ibid., s. 173.

140. (1) Within eight weeks after the result of any election has been declared, every candidate at that election shall sign before a justice and file with the returning officer for the State a true return of his electoral expenses (with the vouchers therefor), showing—

Returns.
Ibid., s. 174.
Com., s. 151.

(a) all electoral expenses paid; and

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

(2) The return shall be in the form set forth in the fifth schedule.

141. If any candidate, on petition by him to the Court of Disputed Returns, proves to the court that his failure to file a return or vouchers, as required by the last section, has arisen from illness or inadvertence, or any reasonable cause of a like nature, and not from any want of good faith, or that any error, omission, or false statement in the return or voucher filed has similarly arisen, the court may permit the filing of the return or vouchers, or of a new return or fresh vouchers, or the amendment of the return or vouchers filed, and may exonerate the candidate from all liability in the matter.

Petition to
Court of Dis-
puted Returns
on failure to
file return.
971, 1908,
s. 175.

142. The returning officer for the State shall—

Publication
and inspection
of returns.
Ibid., s. 176.
Of U.K.
46 & 47 Vict.
c. 51, s. 35.

I. forthwith publish in the *Gazette* particulars of the total amount of the electoral expenses of each candidate, arranged under the headings of the paragraphs in section 137:

II. keep the returns and vouchers of each candidate open for public inspection at his office, without fee, at reasonable hours for three months after filing:

III. during the same period supply copies of or extracts from the returns and vouchers at the rate of sixpence per folio of seventy-two words.

143. If, on petition to the Court of Disputed Returns against the return of a candidate, there is proved any electoral expense in respect of any matter other than the matters allowed by section 137 or in excess of the rates allowed by section 136 the election shall be declared void, unless the candidate satisfies the court that such expense

Duty of can-
didate to prove
that he has
not incurred
illegal expense.
971, 1908,
s. 177.

PART XIV.

was neither directly nor indirectly incurred by him or on his behalf, or that he had neither directly nor indirectly sanctioned, countenanced, or approved of the same in any way.

PART XV.

PART XV.

OFFENCES AND PENALTIES.

Offences.
971, 1908,
s. 179.

144. Any person who is guilty of—

- I. breach or neglect of official duty:
- II. any illegal practice, including—
 - (a) bribery:
 - (b) undue influence:
- III. any electoral offence,

shall be guilty of an offence against this Act.

Breach or
neglect of
official duty.
Ibid., s. 180.
Cf. U.K.
2 & 3 Will. 4
c. 45, s. 76.

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

- I. any attempt by any officer to influence the vote of any elector, or, except by recording his vote, the result of any election:
- II. the disclosure of any knowledge officially acquired by any officer or scrutineer touching the vote of any elector:
- III. any neglect or refusal by any officer to discharge any official duty, and any violation by any officer of any provision of this Act.

Breach or neglect of official duty shall be punishable by a fine not exceeding two hundred pounds, or by imprisonment not exceeding one year.

Bribery.
971, 1908,
s. 181.
Cf. U.K.
17 & 18 Vict.
c. 102, ss. 2,
3.
Cf. U.K.
30 & 31 Vict.
c. 102, s. 49.
Cf. U.K.
46 & 47 Vict.
c. 51; Third
Sch., Part III.

146. Whoever—

- (a) promises, or offers, or suggests any valuable consideration, advantage, recompense, reward, benefit for or on account of, or to induce any candidature, or withdrawal of candidature, or any vote or omission to vote, or any support of, or opposition to, any candidate, or any promise of any such vote, omission, support, or opposition:
- (b) gives or takes any valuable consideration, advantage, recompense, reward, or benefit for or on account of, or to induce any candidature, or withdrawal of candidature, or any vote or omission to vote, or

any support of, or opposition to, any candidate, or any promise of any such vote, omission, support, or opposition:

- (c) promises, offers, or suggests any valuable consideration, advantage, recompense, reward, or benefit, for bribery, or gives or takes any valuable consideration, advantage, recompense, reward, or benefit for bribery,

shall be guilty of bribery.

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

Definition of "bribery."
971, 1908, s. 182.
Cf. U.K. 17 & 18 Vict. c. 102, ss. 2, 3.
Cf. U.K. 46 & 47 Vict. c. 51, ss. 1, 14.

148. Whoever—

- (a) threatens, offers, or suggests any violence, injury, punishment, damage, loss, or disadvantage for or on account of, or to induce any candidature, or withdrawal of candidature, or any vote or any omission to vote, or any support or opposition to any candidate, or any promise of any such vote, omission, support, or opposition; or

Undue influence.
971, 1908, s. 183.
Cf. U.K. 46 & 47 Vict. c. 51, s. 2.

- (b) uses, causes, inflicts, or procures any violence, punishment, damage, loss, or disadvantage for or on account of any such candidature, withdrawal, vote, omission, support, or opposition; or

- (c) at any time between the issue of the writ and the close of the poll publishes or exposes, or causes to be published or exposed, to public view any document or writing or printed matter containing any untrue statement defamatory of any candidate, and calculated to influence the vote of any elector, or verbally makes any such untrue statement,

Cf. U.K. 58 & 59 Vict. c. 40, s. 1.

shall be guilty of undue influence.

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

Definition of "undue influence."
971, 1908, s. 184.

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

Exception.
Ibid., s. 185.

PART XV.

Illegal practices.
971, 1908,
s. 186.

151. Bribery and undue influence and the following shall be illegal practices:—

- (a) any personal solicitation by a candidate of the vote of any elector within eight hours before the opening of the poll on polling day, or at any time during polling day before the close of the polling;
- (b) any attendance by a candidate at any meeting of electors held for electoral purposes at any time during polling day before the close of the polling;
- (c) any contravention of the provisions of Part XIV. with reference to electoral expenses and the filing of returns and vouchers;
- (d) any publication of any electoral advertisement, which has not at the end thereof the name and address of the person authorising it or any issue of any electoral notice which has not on the face thereof the name and address of the person authorising the notice.

Punishment
for illegal
practices.
Ibid., s. 187.
Of. U.K.
46 & 47 Vict.
c. 51, ss. 4, 6.

152. Illegal practices shall be punishable as follows:—

- (a) bribery or undue influence by a fine not exceeding two hundred pounds or by imprisonment not exceeding one year;
- (b) any other illegal practice by a fine not exceeding one hundred pounds or by imprisonment not exceeding six months.

Disqualifica-
tion.
971, 1908,
s. 188.
Of. U.K.
46 & 47 Vict.
c. 51, s. 4.

153. If any candidate is by the Court of Disputed Returns found to be guilty of any illegal practice he shall be disqualified from election to Parliament for two years, and his election (if he is a successful candidate) shall be declared void.

Electoral
offences.
971, 1908,
s. 189.

154. The matters mentioned in the first column of the table at the foot of this section shall be electoral offences, and shall be punishable as provided in the second column of such table opposite the statement of the offence.

S. 151. PAGE V. WARD (1924) S.A.S.R. 90. An electoral advertisement within the meaning of paragraph (d) is anything calculated and intended to draw the attention of electors to a particular candidate or group of candidates or a particular party or issue, at a pending election, with the object of influencing votes for or against the candidate, party or issue.

Table of Electoral Offences and Punishments.

First Column—Offences.	Second Column—Punishments.
Falsely personating any person to secure a ballot-paper to which the personator is not entitled, or personating any other person for the purpose of voting	Imprisonment not exceeding two years Cf. U.K. 6 & 7 Vict. c. 18, ss. 86 et seq.
Fraudulently destroying or defacing any nomination or ballot-paper	Imprisonment not exceeding two years Cf. U.K. 35 & 36 Vict. c. 33, ss. 3, 24.
Fraudulently putting any ballot or other paper into the ballot box	Imprisonment not exceeding six months
Fraudulently taking any ballot-paper out of any polling booth	Imprisonment not exceeding six months
Forging or uttering, knowing the same to be forged, any nomination of ballot-paper	Imprisonment not exceeding two years
On polling day, in a polling booth or within fifty yards thereof	
(a) soliciting the vote of any elector; or	} Fine not exceeding Fifty Pounds, or imprisonment not exceeding three months
(b) in any way interfering with any elector with the intention of influencing him or advising him as to his vote; or	
(c) inducing any elector not to vote for any particular candidate; or	
(d) inducing any elector not to vote at the election	
In any polling booth on polling day misconducting oneself, or failing to obey the lawful directions of the presiding officer	Fine not exceeding Ten Pounds, or imprisonment not exceeding one month Cf. U.K. 35 & 36 Vict. c. 33, s. 9.
Supplying any ballot-paper without authority	Imprisonment not exceeding six months
Unlawfully destroying, taking, opening, or otherwise interfering with any ballot box or ballot-paper	Imprisonment not exceeding six months
Voting more than once at the same election	Fine not exceeding Fifty Pounds, or imprisonment not exceeding three months Cf. U.K. 7 & 8 Geo. 5 c. 64, s. 22.
Wagering on the result of any election ..	Fine not exceeding Fifty Pounds
Wilfully defacing, mutilating, destroying, or removing any list of voters, or any notice, list, or other document affixed by any returning officer or presiding officer, or by the authority of either of such officers	Fine not exceeding Two Pounds
Wilfully making any false statement in or with reference to any claim, application, return, or declaration, or in answer to a question put under the authority of this Act	Imprisonment not exceeding two years
Distributing advertisement, handbill, or pamphlet published in contravention of section 151	Penalty not exceeding Twenty Pounds, or imprisonment not exceeding one month
Any contravention of this Act, whether by act or omission, for which no other punishment is provided	Penalty not exceeding Twenty Pounds

155. (1) No person shall at any time between the time of the issue of the writ for any election and the polling day in any picture theatre on the occasion of any entertainment consisting wholly or partly of moving pictures exhibit or

Prohibition of use of cinematograph for electoral purposes.

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cause to be exhibited whether by means of a cinematograph or otherwise any electoral matter in reference to such election. Any person who contravenes this subsection shall be guilty of an offence.

(2) Where an offence under subsection (1) is committed by a body corporate, any chairman, member of the governing body, director, manager, secretary or officer of that body corporate who knowingly authorises or permits the commission of the offence shall also be guilty of an offence.

(3) Any person who commits an offence against this section shall be liable to a penalty not exceeding two hundred pounds.

(4) In this section—

“cinematograph” includes cinematograph and any other similar apparatus for the exhibition of moving pictures:

“picture theatre” means any building, garden, or place, used for the exhibition of pictures by means of a cinematograph:

“electoral matter” includes any words, signs, drawings, or pictures relating to any State election or to any candidate thereat or any political party interested therein or any issue before the electors.

Failure to
transmit claim.
Com., s. 173.

156. Any person who accepts for transmission to the returning officer for the State or a registrar the custody of a claim for enrolment or transfer of enrolment shall forthwith transmit the claim to the returning officer for the State or the registrar.

Penalty: Fifty pounds.

Duty of
employers to
allow
employees
leave of
absence to
vote.
971, 1908, s.
194.
Of. U.K.
48 & 49 Vict.
c. 56, s. 1.

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

(2) If any employee, having obtained leave of absence under this section, does not vote at the election, he shall, in the absence of a satisfactory reason, be guilty of a contravention of this Act.

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

158. If any person purporting to act for and on behalf of a candidate incurs or authorises any electoral expense without the written authority of the candidate or of his election agent, he shall be guilty of a contravention of this Act.

Expenditure on behalf of a candidate.
971, 1908,
s. 195.

159. Any person who neglects or fails to do any act or thing which by this Act he is required to do, or does any act or thing which is forbidden by this Act, shall be guilty of a contravention of this Act.

Contravention of this Act.
Ibid., s. 196.

160. (1) Whoever in any polling booth on any polling day misconducts himself, or fails to obey the lawful directions of the presiding officer, may be removed from the polling booth by any member of the police force, or by the presiding officer or any person authorised by the presiding officer.

Power to remove offenders from polling booth.
Ibid., s. 197.
Of. U.K.
35 & 36 Vict.
c. 33, s. 9.

(2) Any person so removed who re-enters without the permission of the presiding officer shall be guilty of a further electoral offence, punishable on conviction by twice the penalties prescribed for the original offence.

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

Liability for indirect acts.
971, 1908,
s. 198.
Of. U.K.
31 & 32 Vict.
c. 125, s. 17.

162. (1) Witnesses called on the part of the prosecutor in any prosecution for an offence under this Act may, unless the court orders the contrary, be cross-examined by the prosecutor or his counsel.

Cross-examination of witnesses.
971, 1908,
s. 200.

(2) The court may, without argument, order that the prosecutor or his counsel be not allowed to cross-examine any witness called on his part if such witness appears to the court to be hostile to the person charged.

163. On any prosecution under this Act the certificate of the returning officer that the election mentioned in the certificate was duly held and that the person named in the certificate was a candidate at such election shall be conclusive evidence of the matter stated.

Evidentiary effect of returning officer's certificate.
Ibid., s. 201.

164. Any person whose name appears as claimant on a form of application for enrolment or transfer of enrolment shall in all legal proceedings be deemed, in the absence of evidence to the contrary, to have signed his name thereto,

Evidentiary effect of signature on claim.
1147, 1913,
s. 35.

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and if his name appears as the person making a declaration set out on the form to have also declared to the truth of the statements contained in that declaration.

Indictable offences.
971, 1908,
s. 208.

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

Summary proceedings for offences.
Ibid., s. 204.

166. All proceedings for offences against this Act other than indictable offences shall be dealt with summarily.

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DISPUTED RETURNS.

The Court.
Ibid., s. 206.
Cf. U.K.
31 & 32 Vict.
c. 125, s. 2.

167. There shall be a Court of Disputed Returns, in this Part called "the Court."

Constitution of Court.
971, 1908,
s. 207.
Cf. U.K.
31 & 32 Vict.
c. 125, s. 11;
42 & 43 Vict.
c. 75, s. 2.

168. The Court shall be constituted of the Junior Puisne Judge of the Supreme Court, or the sole Judge of the Supreme Court for the time being acting as such, and—

- (a) four members of the Council, in Council cases:
- (b) four members of the Assembly, in Assembly cases.

Election.
971, 1908,
s. 208.

169. The members of the Court, other than the Judge, shall be elected—

- (a) as to the Council Members, by the members of the Council after each periodical or general election:
- (b) as to the Assembly Members, by the members of the Assembly after each general election.

Vacancy.
Ibid., s. 209.

170. If any member of the Court, other than the Judge, dies, or resigns, or refuses to act, or vacates his seat in the House which elected him, he shall cease to be a member of the Court, and the vacancy shall be filled by another election.

Failure to elect.
971, 1908,
s. 210.

171. If either House fails to elect members of the Court for one week after the first meeting of such House, at which such election could be made, the vacancies shall be supplied by nomination of the necessary members or member by the President or Speaker of the House affected.

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172. All elections or nominations to the Court shall be recorded in the proceedings of the House from which the election or nomination is made; and a copy of the record, certified by the Clerk of the House, shall be conclusive proof of the proper constitution of the Court.

Records.
971, 1908,
s. 211.

173. The Court shall not meet unless convened by order of either House.

Meeting.
Ibid., s. 212.

174. The Judge shall be the President of the Court.

President of
Court.
Ibid., s. 213.

175. The Court shall not proceed to hear any case until each of its members has subscribed the following declaration:—

Declaration of
members.
Ibid., s. 214.

"I, _____, being a member of the Court of Disputed Returns, do solemnly promise that I will to the best of my ability do justice in all matters brought before this Court."

176. The Court shall have jurisdiction to hear and determine all questions of disputed returns referred to it by either House, and affecting the House by which the reference is made, and also to hear petitions for exoneration from liability for failure to file returns or vouchers under Part XIV.

Jurisdiction.
Ibid., s. 215.

177. (1) The Court shall sit as an open court, and its powers shall include the following:—

Powers of
Court.
971, 1908,
s. 216.
Of U.K.
31 & 32 Vict.
c. 125, s. 11
(12), s. 32.

(a) to adjourn:

(b) to compel the attendance of witnesses and the production of documents:

(c) to examine witnesses upon oath, affirmation, or declaration:

(d) subject to any rules made under section 191, to regulate the form and mode of its proceedings in each case:

(e) to declare that any person who was returned as elected was not duly elected:

(f) to declare any candidate duly elected who was not returned as elected:

(g) to declare any election void:

(h) to dismiss or uphold any petition, in whole or in part:

(i) to award any costs:

Of U.K.
31 & 32 Vict.
c. 125, s. 41.

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*Cf. U.K.
31 & 32 Vict.
c. 125, s. 29.*

(j) 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 any election void, may be exercised on the ground that illegal practices were committed in connection with the election.

*Petitions.
971, 1908,
s. 217.*

178. No return on a writ shall be disputed except by petition to the Court.

*Provisions as
to petitions.
Ibid. s. 218.
Cf. U.K.
31 & 32 Vict.
c. 125, ss. 5,
6, 28.*

179. No petition to the Court shall be noticed nor shall any proceedings be had thereon unless the petition—

I. is addressed to the House affected, and presented to that House, by a member thereof, or left with the Clerk thereof, within the following times:—

(a) in the case of a petition against a return, within twenty-eight days after the day of the declaration of the poll at the election:

(b) in the case of a petition under section 141 for exoneration from liability, before any proceedings have been commenced to enforce that liability:

II. is signed by a candidate at the election in dispute or by a person who was qualified to vote thereat, the signature being attested by two witnesses, whose occupations and addresses are stated:

III. is, in case of a petition against a return, accompanied by a certificate of the Clerk of the House affected that fifty pounds has been lodged with him as security for costs.

*Time.
971, 1908,
s. 219.
Cf. U.K.
31 & 32 Vict.
c. 125, s. 6
(2).
Cf. U.K.
46 & 47 Vict.
c. 51, s. 40.*

180. Every petition shall, within ten days after it has been received, be referred to the Court if Parliament is then in session, but otherwise within ten days after the commencement of the next session of Parliament.

*Inquiries by
Court.
971, 1908,
s. 220.*

181. The Court shall inquire whether or not the petition is duly signed, but the Court shall not inquire into the correctness of any electoral roll, or into the qualification of any

nominator; or into the sufficiency of any nomination, or into the qualifications of persons whose votes have been either admitted or rejected, but so far as rolls and voting are concerned, only into the identity of the persons, and whether their votes were improperly admitted or rejected, assuming the rolls to be correct.

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

Voiding election for illegal practices.
971, 1908,
s. 221.

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

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

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

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

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

183. When the Court finds that any person has committed an illegal practice the Clerk of the House affected shall forthwith report the finding to the Minister.

Duty of the Court to report illegal practices.
Ibid., s. 223.
Of U.K.
81 & 82 Vict.
c. 125, s. 11
(14).

184. 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.

Duty of Court to be guided by substantial merits.
971, 1908,
s. 227.

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

Effect of immaterial errors.
Ibid., s. 224.

186. Every decision of the Court shall be final and conclusive and without appeal, and shall not be questioned in any way.

Decisions to be final.
Ibid., s. 226.

PART XVI.

Minutes.

971, 1908,
s. 227.

187. The Court shall be attended by an officer of the House affected, who shall minute the proceedings as directed by the Court, and a copy of the minutes shall be furnished to such House.

Deposit applic-
able for costs.
Ibid., s. 228.

188. If costs are awarded to any party against the petitioner, the deposit, on the order of the President or Speaker (as the case may be) shall be applicable in payment of the sum ordered, but otherwise the deposit shall be repaid to the petitioner.

Other costs.

Ibid., s. 229.
Of. U.K.
31 & 32 Vict.
c. 125, s. 41.

189. 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 that order, certified by the President of the Court, shall be entered as a judgment of the Supreme Court, and shall be enforced accordingly.

Effect of deci-
sion.971, 1908,
s. 230.

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

- (a) if any person returned is declared not to have been duly elected, he shall cease to be a member of the Council or Assembly (as the case may be):
- (b) if any person not returned is declared to have been duly elected, he shall take his seat accordingly:
- (c) if any election is declared void, a new election shall be held.

Power to make
rules.Ibid., s. 231.
Of. U.K.
31 & 32 Vict.
c. 125, s. 25.

191. The Judges of the Supreme Court or any two of them may make such rules of court, not being inconsistent with this Act, as may be necessary or convenient for carrying this Part 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 the parties.

PART XVII.

PART XVII.

SUPPLEMENTARY.

Sec. 192
repealed
by Constitu-
tion Act,
1934, s. 2.

* * * * *

Power to
telegraph
electoral
matter.971, 1908,
s. 232.

193. If it is impracticable to communicate any electoral information or matter by post without causing undue delay, any telegraphic advice communicated in the ordinary course

shall suffice for all the purposes of this Act as if the information or matter telegraphed had been communicated in manner provided by this Act.

194. The Governor, may by proclamation, make such alterations and additions to the forms in the schedules contained in this Act or any Act amending this Act as he may think fit.

Power to
amend
schedules.
971, 1908,
s. 238.

195. All moneys received for printed copies of electoral rolls shall be paid to the Treasurer.

Payment of
fees to
Treasurer.

196. When any officer is by this Act required or authorised to give a public notice, and no special mode of giving it is mentioned, he may give it by advertisement, placard, handbills, or such other means as he thinks best calculated to give the information to the electors interested.

Notices.
Ibid., s. 237.

197. (1) The Governor may, by proclamation direct that at any election a voting-machine specified in the proclamation shall be used by way of experiment and any such proclamation shall be complied with by the returning officer at such election.

Voting
machines.
971, 1908,
s. 238.

(2) By the proclamation the Governor shall prescribe the mode in which the machine shall be used.

(3) On the making of any such proclamation the returning officer for the State shall provide the returning officer with a sufficient number of such voting-machines.

198. The Governor may make regulations, not inconsistent with this Act, prescribing fees payable to officers for performing duties under this Act and all matters which by this Act are required or permitted to be prescribed, or which may be necessary or convenient for giving effect to this Act, and any such regulations may impose a penalty not exceeding twenty pounds for any breach thereof or of any regulation under this Act.

Regulations.
Ibid., s. 239.

199. No declaration made for the purposes of this Act shall be chargeable with stamp duty.

Exemption of
declarations
from stamp
duty.

THE SCHEDULES.

THE FIRST SCHEDULE.

REPEALED ACTS.

Number of Act.	Title of Act.	Extent of Repeal.
No. 971 of 1908 . . .	The Electoral Code, 1908	The whole.
No. 1147 of 1913 . . .	The Electoral Code Amendment Act, 1913 . .	The whole.
No. 1446 of 1920 . . .	Electoral Code Further Amendment Act, 1920	The whole, except sections 53 and 54 thereof.
No. 1691 of 1925 . . .	Electoral Code Amendment Act, 1925	The whole.

THE SECOND SCHEDULE.

FORM A.

WRIT.

State of South [Royal Arms] Australia.

To
in the State of South Australia: Returning Officer for the District,
Greeting—

By virtue of the provisions of "The Electoral Act, 1929," I, the Governor of the State of South Australia (or the President of the Legislative Council, or the Speaker of the House of Assembly), hereby command you that you cause election to be made according to law of member for the [here set out name of District for which election is to be held] to serve in the Legislative Council (or House of Assembly) of the said State, and I appoint the following dates for the purposes of the said election:—

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

Given [if issued by the Governor, "under my hand and the public seal of South Australia"; if issued by the President or Speaker, "under my hand and seal"] at Adelaide, the day of , 19 .

Indorsements.

I, , Returning Officer for the District, do hereby certify that I have received the within writ on the day of , 19 .

I, , Returning Officer for the District, do hereby certify that on the* day of , duly elected member to serve in the Legislative Council (or House of Assembly) for the said District.

*[Fill in date of nomination if election uncontested, and date of polling day if contested.]

, Returning Officer.

The execution of this writ appears by the indorsements made by me hereon, and sealed up and transmitted by me to His Excellency the Governor (or the Honourable the President of the Legislative Council, or the Honourable the Speaker of the House of Assembly).

, Returning Officer for the District.

THE THIRD SCHEDULE.

FORM B.

Legislative Council Nomination Paper.

To the Returning Officer for

District.

Sir—We, the undersigned, being electors entitled to vote at an election for the District, and being enrolled on the electoral roll for the Legislative Council for the subdivision of , do hereby nominate [Christian names and surname, residence, and occupation of person nominated], as a candidate to serve in Parliament as a member of the Legislative Council for the said District.

Dated the day of , 19 .

Signature of Nominator.	Place of Living of Nominator.	Subdivision for which Nominator Enrolled.	No. on Roll.

I, , of , consent to the above nomination, and to act if elected, and I declare that I am qualified under the laws of the State to be elected as a member of the Legislative Council.
[Signature of Candidate.]

Witness—

Address—

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

FORM C.

House of Assembly Nomination Paper.

To the Returning Officer for

District.

Sir—We, the undersigned, being electors entitled to vote at an election for the District, and being registered on the electoral roll for the House of Assembly for the subdivision of , do hereby nominate [Christian names and surname, residence, and occupation of person nominated] as a candidate to serve in Parliament as a member of the House of Assembly for the District.

Dated the day of , 19 .

Signature of Nominator.	Place of Living of Nominator.	Subdivision for which Nominator Enrolled.	No. on Roll.

I, , of , consent to the above nomination, and to act if elected, and I declare that I am qualified under the laws of the State to be elected as a member of the House of Assembly.

[Signature of Candidate.]

Witness—

Address—

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

THE FOURTH SCHEDULE.

FORM D.

BALLOT-PAPER WHERE TWO OR MORE MEMBERS ARE REQUIRED TO BE ELECTED.

State of South Australia.

[Name of Council or Assembly District.]

Election of [here insert number] members of

Directions.—In marking his vote on this ballot-paper the voter must place in the squares respectively opposite the names of at least [here insert the number which represents twice the number of members to be elected, plus one, or, if the number of candidates is less than that number, the total number of candidates] candidates the numbers 1, 2, 3, 4, and so on, up to and inclusive of the number of [here insert the number which represents twice the number of members to be elected, plus one, or, if the number of candidates is less than that number, the total number of candidates] so as to indicate the order of his preference for such candidates, and if there are any more candidates may, in addition, indicate the order of his preference for as many of them as he pleases by placing in the squares respectively opposite their names other numbers next in numerical order after those already used by him.

Candidates.

A <input type="checkbox"/> Brown, Charles William Henry	B <input type="checkbox"/> Brown, Samuel Wilson	C <input type="checkbox"/> Smith, John Edward	<input type="checkbox"/> Johns, Roy William
A <input type="checkbox"/> King, Henry	B <input type="checkbox"/> Lovell, Edward Thomas	C <input type="checkbox"/> Thomas, Ian Alexander Johnson	<input type="checkbox"/> Mahon, James Robert
A <input type="checkbox"/> Russell, Percy John	B <input type="checkbox"/> Quick, Richard James		<input type="checkbox"/> Pearce, Charles

NOTE.—The letter "A" or "B" or "C," &c., appearing before the square opposite a candidate's surname indicates that that candidate and each other candidate who has the same letter appearing before the square opposite his surname have been grouped by mutual consent.

The fact that no letter appears before the square opposite a candidate's surname indicates that the name of that candidate has not been included in any group.

FORM E.

BALLOT-PAPER WHERE ONE MEMBER ONLY IS REQUIRED TO BE ELECTED.

State of South Australia.

[Name of Council or Assembly District.]

Election of one member of

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

Candidates

- ☐ Albert, John
- ☐ Andrews, Joseph
- ☐ Dickens, Charles
- ☐ McPhee, William
- ☐ Walker, Henry

THE FIFTH SCHEDULE.

FORM F.

Return of Electoral Expenses.

I, A.B., a candidate at the election for the _____ District
on _____ day of _____, make the following return
respecting my electoral expenses at the election:—

Receipts.

£ s. d.

Received of J.K.

[Here set out the name and description of every person, club, society, or association from whom any money was received in respect of expenses]

<i>Expenditure.</i>		£	s.	d.
Paid to G.H.,	, my election agent			
Paid to I.J.,	, clerk, for days' services ..			
Paid to K.L.,	, scrutineer at			
[The names and descriptions of the agent and every clerk and scrutineer, and the sum paid to each, must be set out separately.]				
Paid to the following persons in respect of goods supplied or work and labour done				
[The names and description, and the nature of the goods supplied, or the work and labour done by each, must be set out separately.]				
Paid hire of rooms for holding public meetings				
Paid hire of rooms for holding committee meetings				
Paid for miscellaneous matters				
[The name and description of each person to whom any sum is paid, and the reason for which it was paid to him, must be set out separately.]				
In addition to the above, I am aware of the following disputed and unpaid claims, viz.:—				
By T.U., for				
[Here set out the name and description of each person whose claim is unpaid or disputed, the amount of the claim, and the goods, work, or other matter on the ground on which the claim is based.]				
Except as appears from the above, I have not, and to the best of my knowledge and belief, no person has made on my behalf or in my interest, any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said election.				
I have paid the sum of		altogether, and no more, for the purpose of the election, and except as specified above, no money, security, or equivalent for money, has, to my knowledge or belief, been paid, advanced, given, or deposited by any one to any other person for the purpose of defraying any expenses incurred on my behalf or in my interest on account of or in respect of the conduct or management of the said election.		
		[Signature of Candidate A.B.]		
Signed the	day of	in the presence of		
		E.F., Justice of the Peace.		

Regulations.

The following regulations were in force under this Act on 22nd March, 1937:—

GENERAL REGULATIONS—

Gazette—16th January, 1930, p. 71.
 29th January, 1931, p. 142.
 10th September, 1931, p. 430.
 1st December, 1932, p. 1037.

REGULATIONS AS TO JOINT COMMONWEALTH AND STATE ELECTORAL ROLLS—

Gazette—10th February, 1921, p. 279.
 16th May, 1929, p. 1003.

ELECTORAL DISTRICTS

see Constitution.