

IV. APPENDIX.

An Act to Consolidate and Amend the Laws relating to Parliamentary Elections and to make better Provision for Preventing Corrupt Practices at such Elections.

49 Vic. No. 13.
50 Vic. No. 3.
56 Vic. No. 7.
61 Vic. No. 26.

THE
ELECTIONS
ACTS, 1885
TO 1897.†
Preamble.

WHEREAS it is expedient to amend the laws relating to Parliamentary Elections, and to make better provision for preventing corrupt practices at such Elections: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled; and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

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

PART I.—
PRELIMINARY.
Division of
Act.

PART I.—PRELIMINARY;

PART II.—QUALIFICATIONS AND DISQUALIFICATIONS OF ELECTORS;

PART III.—PREPARATION OF ELECTORAL ROLLS;

PART IV.—RETURNING AND PRESIDING OFFICERS—
NOMINATION, POLLING, AND CONDUCT OF
ELECTIONS GENERALLY;

PART V.—DECLARATION OF THE RESULTS AND THE
RETURN OF WRITS OF ELECTION;

PART VI.—CORRUPT AND ILLEGAL PRACTICES;

PART VII.—SUPPLEMENTAL PROVISIONS.

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2. This Act may be cited as “*The Elections Act of 1885.*”

§ * * * * *

† Short title given, 61 Vic. No. 26, s. 1, *supra*, page 6205.

‡ Part VIII. repealed, 61 Vic. No. 26, s. 2, *supra*, page 6205.

§ Sections 3 and 4 repealed, 61 Vic. No. 26, s. 2, *supra*, page 6205.

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* When a larger number of electors is likely to vote at a polling-place than can conveniently vote in the same polling-booth, the returning officer may appoint two or more polling-booths at that polling-place, and shall, in such case, appoint presiding officers to take the poll at the polling-booths at which he does not himself preside.

Several
polling-
booths at the
same polling-
place.

All the provisions of this Act relating to presiding officers shall apply to presiding officers presiding at such polling-booths.

58. Forthwith after a poll stands appointed for any election, the returning officer shall cause to be printed or written ballot-papers containing the candidates' names in alphabetical order and nothing else, according to the following form—

Ballot-papers
to be printed
and furnished.

†

Doe, John
Roe, Richard
Smith, James
Thompson, Henry

and shall supply to the presiding officer of each polling-place so many of such ballot-papers as shall be fully equal to the number of electors likely to vote at such polling-place, and shall keep for himself a like sufficient number for the polling-place at which he is to preside.

If two candidates have the same † surname and Christian name, the residence and description of each candidate shall be added to his name on the ballot-paper.

59. At every booth or polling-place there shall be one or more compartment or compartments provided with all necessary materials for the purpose of enabling the electors to mark the ballot-papers as hereinafter provided, and in such booth or polling-place no person shall be entitled to be present other than the presiding officer, the poll clerk, the candidates and the scrutineers of the several candidates to be appointed as hereinafter provided, and the electors who for the time are voting.

Returning
officer to
provide a
ballot-room.

The presiding officer or poll clerk may summon to his assistance in such booth or polling-place any member of the police force for the purpose of preserving the public peace or preventing any breach thereof, and for removing

* Section 18 of Act of 1892, as amended, inserted, 61 Vic. No. 26, Schedule, *supra*, page 6215.

† Form repealed and new form substituted therefor, 61 Vic. No. 26, s. 20, *supra*, page 6213.

‡ Order of words changed, 61 Vic. No. 26, s. 20, *supra*, page 6213.

voting thereat except by reason of its appearing to the presiding officer, upon putting the questions hereinbefore prescribed or any of them, that he is not the person whose name appears on the roll, or that he has previously voted at the same election, or that he is otherwise not entitled to vote under this Act, or except by reason of such person refusing to answer any of such questions or to make such declaration.

Ballot-papers to be given to electors.

71. When an elector has satisfied the presiding officer that he is entitled to vote at the election the presiding officer shall deliver to him a ballot-paper.

To be first initialled by presiding officer, and marked with elector's number on the roll.

Before delivery of the ballot-paper to the elector the presiding officer shall mark the same on the *back thereof with his initials in ink or pencil, and shall also write upon the back of the left hand upper corner of the ballot-paper in ink or pencil the number set against the name of the elector in the electoral roll.

And number to be concealed.

The presiding officer shall then, and before delivery of the ballot-paper to the elector, fold down the corner of the paper so as to entirely conceal the number so written, and shall securely fasten the fold with gum or otherwise in such a manner that the number cannot be discovered without unfastening the fold.

Elector's name to be marked on roll.

72. Upon delivery of the ballot-paper to the elector, the presiding officer or poll clerk shall, upon the copy of the electoral roll in use by him, or, in the case of a presiding officer other than the returning officer, upon the certified copy of the roll supplied to him by the returning officer, make a mark against the name of the elector.

The mark so made on the roll shall be *prima facie* evidence of the identity of the person to whom the ballot-paper is delivered with the elector whose name is so marked on the roll, and of the fact that such elector voted at the election.

The number marked upon the back of the ballot-paper shall, upon a scrutiny, be conclusive evidence that such ballot-paper was delivered to and used by the person who claimed to vote as the person against whose name such number is set in the electoral roll.

Mode of voting.

73. The elector having received a ballot-paper shall, in one of the compartments or ballot-rooms provided for the purpose, strike out from his ballot-paper the names of such candidates as he does not intend to vote for, and shall

* "Back" substituted for "face," 56 Vic. No. 17, s. 19, *supra*, page 4567.

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make no other mark or writing thereon, and shall forthwith fold up the paper in such manner as will conceal the names of the candidates, and deposit it in the ballot-box in the presence of the presiding officer. Provided that while an elector is in a compartment, preparing his ballot-paper, no other person shall be allowed in such compartment. Provided, nevertheless, that in case any elector is unable to read, or is blind, he shall signify the fact to the presiding officer, who shall thereupon, in the booth or polling-place, and in the presence and sight of the poll clerks, candidates, and scrutineers, strike out the names of the candidate or candidates other than the candidate or candidates for whom the elector says that he desires to vote.

No elector shall take out of the booth or polling-place any ballot-paper either before or after the same has been so marked.

Any elector wilfully infringing any of the provisions of this section, or obstructing the polling by any unnecessary delay in performing any act within the ballot-room, shall be guilty of a misdemeanour.

*The elector shall fold up the paper in such a manner as to show the initials of the presiding officer on the back thereof, and shall exhibit such initials to the presiding officer before he is allowed to deposit the paper in the ballot-box.

If an elector, having received a ballot-paper from the presiding officer, attempts to leave the booth or polling-place without depositing the ballot-paper in the ballot-box in the manner herein provided, or to take the paper out of the booth or polling-place, he shall be guilty of a misdemeanour.

Ballot-papers
not to be
taken out of
polling-place.

The presiding officer shall direct any person who is reasonably suspected of committing an offence against this section to be summarily apprehended and taken before a justice to be dealt with according to law.

74. If at any booth or polling-place a ballot-paper has been delivered to any person who has claimed to vote as an elector, and afterwards another person claims to vote at such booth or polling-place as being the person in whose name such first-mentioned person received the ballot-paper, the presiding officer shall put to the person so secondly claiming to vote the prescribed questions, and such person and such ballot-paper shall be dealt with in all respects in the same manner as any other person claiming to vote, but

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

* Part of section 19 of Act of 1892 inserted, 61 Vic. No. 26, Schedule, *supra*, page 6215.

his ballot-paper shall not be deposited in the ballot-box or allowed by the presiding officer, but shall be set aside for separate custody.

Every such ballot-paper shall be dealt with as hereinafter provided, and may be allowed and counted by order of the Elections Tribunal on a scrutiny, but not otherwise.

Elector may vote for number of members to be elected or any less number.

For what causes ballot-paper to be rejected.

75. An elector may vote *in the first instance for any number of candidates not exceeding the number of members then to be elected.

76. Every ballot-paper which—

- (1) Does not bear the initials of the presiding officer, or
- (2) Does not appear to have the elector's number written upon the back of it by the presiding officer as hereinbefore provided, or
- (3) Has such number torn off, or
- (4) Contains a greater number of names of candidates not struck out than the number of members to be elected, or
- (5) Has upon it any mark or writing not by this Act authorised to be put thereon †which in the opinion of the returning officer will or may enable any person to identify the ballot-paper or the elector;

shall be rejected at the close of the poll.

Ballot-paper when not to be rejected.

‡**76A.** Notwithstanding anything in this Act contained, no ballot-paper shall be rejected merely because of some informality, or alleged informality, in the manner in which it has been dealt with by the elector or presiding officer if it is regular in other respects, and if, in the opinion of the returning officer, the intention of the elector in voting is clearly apparent, but nothing in this or the last preceding section contained shall be deemed to affect the jurisdiction of the Elections Tribunal with respect to elections.

Proceedings in case of riot or violence.

77. If the proceedings at any election are interrupted or obstructed by any riot or open violence, the presiding officer shall not for such cause finally close the poll, but shall adjourn the poll at the particular polling-place at which the interruption or obstruction happens, to the

* Words "in the first instance" inserted, 61 Vic. No. 26, s. 18, *supra*, page 6213.

† Words to end of subsection inserted, 61 Vic. No. 26, s. 19, *supra*, page 6213.

‡ New section inserted, 61 Vic. No. 26, s. 19, *supra*, page 6213.

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following day, and if necessary shall further adjourn such poll from day to day until the interruption or obstruction has ceased, when the presiding officer shall again proceed with the business of taking the poll at the place at which it was so interrupted or obstructed. And any day whereto the poll is so finally adjourned shall, as to such place, be reckoned the day of polling at such election within the meaning of this Act.

Provided that no adjournment shall be made to any day beyond that named as the return day in the writ, and if the election has not been completed by that day the returning officer shall specially return that fact. And when any poll has been so adjourned by any presiding officer other than the returning officer he shall forthwith give notice of such adjournment to the returning officer, who shall not finally declare the state of the poll or the name or names of the member or members chosen until the poll has been finally closed and the ballot-papers have been examined and counted by him as hereinafter provided.

78. Every presiding officer shall have power and authority to maintain and enforce order and keep the peace at any election held by or before him, and shall cause to be arrested and taken before a justice of the peace any person who is reasonably suspected of personation as hereinafter defined, or who causes a disturbance.

Power of
presiding
officer.*Provisions for securing Absolute Majority of Votes.*

***78A.** In the succeeding sections of this Act the term "absolute majority of votes" means a number of votes greater than one-half of the number of all the electors who vote at an election, exclusive of electors whose ballot-papers are rejected, but the casting vote of the returning officer, when given, shall be included in reckoning an absolute majority of votes.

Meaning of
"absolute
majority of
votes."

***78B.** When a poll is taken at an election a candidate shall not, except as hereinafter provided, be elected as a member unless he receives an absolute majority of votes.

Members
must obtain
absolute
majority of
votes polled.

***78c.** Notwithstanding the provisions of the seventy-third section of †this Act, an elector may, if he thinks fit, indicate on his ballot-paper the name or names of any candidate or candidates for whom he does not vote in the

Electors
may give
contingent
votes.

* Sections 20 to 27 of Act of 1892 inserted, 61 Vic. No. 26, Schedule, *supra*, page 6215.

† "This" substituted for "the Principal," 61 Vic. No. 26, Schedule, *supra*, page 6215.

first instance, but for whom he desires his vote or votes to be counted in the event of any candidate or candidates for whom he votes in the first instance not receiving an absolute majority of votes; and, if he indicates more than one such candidate, may indicate the order in which he desires that his vote or votes shall be counted for any such candidate or candidates.

Such indication shall be made by writing the figures 2, 3, or any subsequent number, opposite to the name or names of the candidate or candidates for whom he does not vote in the first instance, but for whom he desires his vote or votes to be so counted, and the order indicated by such numbers shall be taken to be the order in which he desires his vote or votes to be so counted:

Provided always that no mere irregularity or error in writing such figures shall invalidate the vote or votes given by an elector in favour of any candidate or candidates in the first instance if the ballot-paper of such elector is otherwise in order.

When one
member only
to be returned.

* 78D. When one member only is to be returned at the election, if there is no candidate who receives an absolute majority of votes, all the candidates except those two who receive the greatest number of votes shall be deemed defeated candidates.

The vote of every elector who has voted for a defeated candidate shall be counted for that one (if any) of the remaining two candidates for whom he has indicated in the manner aforesaid that he desires his vote to be counted.

The votes so counted for such remaining candidates shall be added to the votes originally given for them, and the candidate who receives the greatest number of votes, including the votes so counted (if any), shall be elected.

When two
members to be
returned and
not more
than four
candidates.

* 78E. When two members are to be returned, and there are not more than four candidates, the two candidates who receive the greatest number of votes shall be elected.

When more
than four
candidates.

* 78F. When two members are to be returned, and there are more than four candidates, if there is no candidate who receives an absolute majority of votes, all the candidates except those four who receive the greatest number of votes shall be deemed defeated candidates.

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The vote or votes of every elector who has voted for a defeated candidate or defeated candidates shall be counted for that one or those two of the remaining four candidates for whom the elector has not voted in the first instance but for whom he has indicated in the manner aforesaid that he desires his vote or votes to be counted.

The votes so counted for such remaining candidates shall be added to the votes originally given for them, and the candidates who receive the greatest number of votes, including the votes so counted (if any), shall be elected.

If only one candidate receives an absolute majority of of votes, he shall be elected.

In that case all the other candidates except those two who receive the next greatest number of votes shall be deemed defeated candidates.

The vote of every elector who has voted for a defeated candidate shall be counted for that one (if any) of the remaining two candidates for whom the elector has not voted in the first instance but for whom he has indicated in the manner aforesaid that he desires his vote to be counted.

The votes so counted for such remaining candidates shall be added to the votes originally given for them, and the candidate who receives the greatest number of votes, including the votes so counted (if any), shall be elected.

*78G. When two or more candidates, neither of whom is elected, receive an equal number of votes, the returning officer shall decide by his casting vote which of them have or has the greatest number of votes.

*78H. If an elector writes a figure opposite to the name of a candidate for whom he votes in the first instance, the ballot-paper shall not be rejected for that reason only.

Casting vote.
Ballot-paper
not to be
rejected for
certain
informalities.

PART V.—DECLARATION OF THE RESULT AND RETURN OF WRITS OF ELECTION.

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79. Every presiding officer other than the returning officer shall, at the close of the poll, in the presence of the poll clerk, if any, and of such of the candidates and scrutineers as may attend, examine and count the number of votes received for each candidate at the polling-place at which he presided, and shall make out a written statement, signed by himself and countersigned by his poll clerk, if

Presiding
officer to seal
and forward
ballot-papers
to returning
officer.

* Sections 20 to 27 of Act of 1892 inserted, 61 Vic. No. 26, Schedule, *supra*, page 6215.

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any, and any scrutineers who are present and consent to sign the same, containing the numbers in words as well as figures of the votes received for each candidate so counted as aforesaid; and after making out and signing such statement shall make up in one parcel all the ballot-papers together with the roll supplied to him by the returning officer (which shall be signed by him and the poll clerk, if any) and all books and papers used by him during the polling, and in another parcel all ballot-papers set aside for separate custody as aforesaid, and shall seal up such parcels and permit the same to be sealed by the scrutineers present if they so desire, and shall with the least possible delay deliver such parcels and statement or cause them to be delivered to the returning officer; and shall, by the next practicable opportunity thereafter, also transmit a duplicate of such statement, signed and countersigned as aforesaid.

Returning officer to examine and count votes at his polling-place and then seal up the same.

80. Every returning officer shall, at the close of the poll, in the presence of his poll clerk, if any, and of such of the candidates and scrutineers as may attend, examine and count the number of votes received for each candidate at his own polling-place, and shall make out a written statement, signed by himself and countersigned by his poll clerk, if any, and by any scrutineers who are present and consent to sign the same, containing the numbers in words and figures of the votes received for each candidate so counted as aforesaid; and after making out and signing such statement shall make up in one parcel all the ballot-papers, rolls, books, and papers kept and used by him during the polling, and in another parcel all ballot-papers set aside for separate custody as aforesaid, and shall seal up such parcels and permit the same to be sealed by the scrutineers present if they so desire; and shall endorse the same when so sealed with a description of the contents thereof, and with the name of the electoral district and polling-place, and the date of polling, and sign such endorsement with his name.

Returning officer to open sealed parcels transmitted by presiding officers and count the votes, after which each parcel to be re-sealed.

81. As soon as possible after the returning officer has received from the several presiding officers the sealed parcels so transmitted to him, containing the ballot-papers taken at the polling-places at which such presiding officers respectively presided, and the several statements of the numbers of votes so transmitted by them, he shall from his own and such other statements ascertain the gross number of votes for each candidate, and shall also, in the presence of his poll clerk (if any) and of such candidates

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and scrutineers as may attend, open such sealed parcels, and examine and count the number of votes for each candidate at each polling-place; and after having counted the same shall make up in separate parcels the ballot-papers, rolls, books, and papers received from each presiding officer in like manner as hereinbefore required concerning the ballot-papers, rolls, books, and papers kept and used by him at his own polling-place, and shall seal up, and also permit to be sealed up by the scrutineers, and shall endorse in like manner as aforesaid, the said several parcels, and deal with the same as hereinafter provided.

The returning officer shall also make out in respect of each polling-place a like written statement, signed and countersigned as hereinbefore required, concerning his own polling-place.

The returning officer shall also examine the rolls which have been used and marked by himself and the presiding officers at the several polling-places, and ascertain whether any electors appear to have voted at more than one polling-place, and shall make out a list showing the names and numbers of all electors who appear to have so voted at more than one polling-place, and shall forward a copy thereof to each of the candidates and shall enclose the original list in the sealed packet to be made up by him as hereinafter provided.

No returning officer shall open or examine any sealed packet in the joint absence of any candidate and his scrutineer unless he has given twenty-four hours' previous notice in writing to such candidate, or to his scrutineer, of his intention to open and examine the same.

82. The returning officer, as soon as possible after he has examined and counted all the ballot-papers taken at the different polling-places and ascertained the gross number of votes received for each candidate, shall then at the place of nomination openly declare the general state of the poll so ascertained, and shall at the same time and place declare the name or names of the person or persons elected.

In the event of the number of votes for any two or more candidates being found to be equal, he shall decide by his casting vote which shall be elected.

No returning officer shall vote at any election for the electoral district of which he is the returning officer except in the case of an equality of votes.