

**210.** On any prosecution under this Act the certificate of the Chief Electoral Officer, Commonwealth Electoral Officer for a State, or Divisional Returning Officer that the election mentioned in the certificate was duly held and that the person named in the certificate was a candidate at the election shall be evidence of the matter stated.

Certificate evidence.

**211.** Any person who—

- (a) is convicted of bribery or undue influence, or of attempted bribery or undue influence, at an election; or
- (b) if found by the Court of Disputed Returns to have committed or attempted to commit bribery or undue influence when a candidate

Disqualification for bribery or undue influence.

shall, during a period of two years from the date of the conviction or finding, be incapable of being chosen or of sitting as a Member of either House of the Parliament.

**212.** Telegrams despatched after an election and containing the names of Divisions and Subdivisions, the names of candidates, the number of votes polled by each candidate, and the number of informal votes may, subject to the regulations, be transmitted at the rates set out in paragraph (a) of Part II. of the Second Schedule to the *Post and Telegraph Rates Act 1902-1931*, if the telegrams are transmitted from one State to another State, and at the rates set out in paragraph (b) of Part II. of that Schedule for telegrams within any State, if the telegrams are transmitted within any State.

Rates for telegrams.  
Substituted by No. 9, 1934, s. 12.

**213.** All electoral papers provided for by this Act may be transmitted through the post free of charge, subject to any postal regulations, and all papers so transmitted, if duly addressed, shall, on proof of posting, unless the contrary be shown, be deemed to have been duly served on and received by the person to whom they were addressed on the day when in the ordinary course of post they should have been received at his address.

Electoral matter to be sent free by post.

**214.**—(1.) In all cases where it is impracticable to communicate any electoral matter by post without occasioning undue delay, any telegraphic advice communicated in the ordinary course shall suffice for all the purposes of this Act as if the matter telegraphed had been communicated in manner provided by this Act.<sup>(a)</sup>

Electoral matter may be sent by telegraph.  
Amended by No. 2, 1929, s. 2.

(2.) Where after the result of a House of Representatives election has been declared, the Returning Officer has certified, by telegram addressed to the Chief Electoral Officer—

- (a) that by reason of distance, or the infrequency of, or any interruption to, the postal services, the writ for the election, indorsed by the Returning Officer with the

(a) But see footnote (a) to s. 187, *supra*.

name of the candidate elected, cannot reach the Governor-General, or the Speaker, as the case may be, within seven days ; and

(b) the name of the candidate elected, the Chief Electoral Officer may indorse upon a copy of the writ a certified copy of the telegram received by him, and the copy writ so indorsed shall have the same force and effect as if it were the original writ duly indorsed by the Returning Officer :

Provided that if, upon the return of the original writ to the Governor-General or the Speaker, as the case may be, any dis-conformity is found to exist between the original writ and the copy writ as to the name of the candidate elected, the copy writ shall thereupon cease to have any force or effect, and action shall be taken in accordance with the indorsement on the original writ.

Averments deemed to be proved.

Amended by No. 17, 1928, s. 30.

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

Defendant may be called upon to give evidence.

Amended by No. 19, 1940, s. 25.

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

Forms.

**217.**—(1.) Strict compliance with the forms in the Schedule shall not be required, and substantial compliance therewith shall suffice for the purposes of this Act.<sup>(a)</sup>

(2.) The forms in the Schedule may, subject to the provisions of this Act, be altered by the regulations.

(3.) The regulations may prescribe combined forms containing the substance of any two or more forms to the intent that the combined form may be used in lieu of any of those forms.

(4.) The regulations may permit the use of any repealed form for any prescribed period, notwithstanding that a new form has been prescribed in lieu of it, and without any attestation or witnessing further than is provided for in the repealed form.

(a) *Per Isaacs J.* (sitting as a Court of Disputed Returns) this section does not relax the imperative nature of the requirements of s. 124 (a). *Kean v. Kerby*, (1920) 27 C.L.R. 449. *Per Starke J.* (sitting as a Court of Disputed Returns) this section does not authorize the Court to ignore the imperative provisions of the Act. *Blakey and Findley v. Elliott*, (1929) 41 C.L.R. 502 ; 35 A.L.R. 86 ; 2 A.L.J. 406.

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

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

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

Preservation of  
ballot-papers.

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

**218A.** On the day appointed as polling day for an election of the Senate or a general election of the House of Representatives, or the day fixed for the taking of the votes of the electors for the purposes of a referendum held under the provisions of the *Referendum (Constitution Alteration) Act 1906-1919*, no election or referendum or vote of the electors of any State or part of a State shall, without the authority of the Governor-General, be held or taken under the law of a State.<sup>(a)</sup>

No State  
referendum or  
vote to be held  
on polling day.  
Inserted by  
No. 14, 1922,  
s. 27.

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

Regulations.  
Amended by  
No. 10, 1924,  
s. 3.

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

(a) A similar provision in the *Commonwealth Electoral (War-time) Act 1917* was held by the High Court to be *intra vires* the Commonwealth Parliament. *R. v. Brisbane Licensing Court; Ex parte Daniell*, (1920) 28 C.L.R. 23; 14 Q.J.P.R. 131.

## THE SCHEDULE.

Section 59.

## FORM A.

*Writ for the Election of Senators.(a)*

COMMONWEALTH



OF AUSTRALIA.

HIS MAJESTY THE KING.

To the Commonwealth Electoral Officer for the State of [here insert name of State].  
GREETING.

We command you to cause election to be made according to law of [here insert number] Senators for our State of [here insert name of State] to serve in the Senate of the Parliament of the Commonwealth of Australia from and after [here insert "the date of their election" or "the day of 19 " as the case may be]. And we appoint the day of 19 , at twelve o'clock noon to be the day and time before which nominations of Senators at and for the said election are to be made. And we appoint the day of 19 , to be the day on which the poll is to be taken in the event of the said election being contested. And we appoint the office of the Commonwealth Electoral Officer at [here insert name of town] to be the place of nomination at the said election. And we command you to indorse on this our writ the names of the Senators elected and to return it so endorsed to our Governor in and over our said State on or before the day of 19 .

Witness [here insert the title of the Governor of the State issuing the writ] at [here insert place] in our said State the day of 19 in the year of our Lord One thousand nine hundred and

By His Excellency's command,

Section 59.

## FORM B.

*Writ for the Election of a Member of the House of Representatives.*

COMMONWEALTH



OF AUSTRALIA.

HIS MAJESTY THE KING.

To Returning Officer for the Electoral Division of [here insert name of Division] in the State of [here insert name of State].  
GREETING.

We command you that you cause election to be made according to law of one Member of the House of Representatives for the Electoral Division of [here insert name of Division], in the State of [here insert name of State], to serve in the Parliament of our Commonwealth of Australia, and we appoint the following dates for the purposes of the said election:—

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

Witness [here insert the Governor-General's title] at [here insert place] the day of 19 in the year of our Lord One thousand nine hundred and

By His Excellency's command,

(a) For form of writ for the Election of Senators where there are one or more casual vacancies to be filled, as well as periodical vacancies, see Schedule A to the *Senate Elections Act 1903-1948 (infra)*.

## FORM C.

COMMONWEALTH OF AUSTRALIA.

State of *[here insert name of State]*.*Nomination of Senator.*<sup>(a)</sup>

Section 71.

Amended by  
No. 14, 1921,  
s. 3, and by  
No. 9, 1934,  
s. 13.To the Commonwealth Electoral Officer for the State of *[here insert name of State]*.

We, the undersigned Electors on the Electoral Roll for the State of *[here insert name of State]*, and entitled to vote at the election of Senators for the said State do hereby nominate *[here insert the christian name or names in full, surname, place of residence, and occupation of the person nominated]* as a Senator for the State of *[here insert name of State]* to serve in the Senate of the Parliament of the Commonwealth.

Dated this                      day of                      19     .

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

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

*[Signature of Candidate.]*

Witness—

Address—

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

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

(a) For form of nomination of Senators where there are one or more casual vacancies to be filled, as well as periodical vacancies, see Schedule B to the *Senate Elections Act 1903-1948 (infra)*.



Section 71.

Amended by  
No. 14, 1921,  
s. 4.

## FORM D.

COMMONWEALTH OF AUSTRALIA.

State of *[here insert name of State]*.Division of *[here insert name of Division]*.*Nomination of a Member of the House of Representatives.*To the Returning Officer for the Electoral Division of *[here insert name of Division]*.

We, the undersigned electors on the Electoral Roll for the Electoral Division of *[here insert name of Division]*, in the State of *[here insert name of State]*, and entitled to vote at the Election of a Member of the House of Representatives for the said Division, do hereby nominate *[here insert the christian name or names in full, surname, place of residence, and occupation of person nominated]* as a Member of the House of Representatives for the above-mentioned Division.

Dated this                      day of                      19     .

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

I,                      of                      consent to the above nomination, and to act if elected, and declare that I am qualified under the Constitution and the laws of the Commonwealth to be elected as a Member of the House of Representatives.

*[Signature of Candidate.]*

Witness—

Address—

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

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

FORM E.  
Ballot Paper.  
COMMONWEALTH OF AUSTRALIA.

State of *[here insert name of State]*.

Election of *[here insert number]* Senators.

*Directions.*—Mark your vote on this ballot-paper by placing the numbers *[here insert 1, 2, and so on, as the case requires]* in the squares immediately to the left of the names of the respective candidates so as to indicate the order of your preference for them.

CANDIDATES.

A <input style="width: 40px; height: 20px;" type="text"/>	B <input style="width: 40px; height: 20px;" type="text"/>	C <input style="width: 40px; height: 20px;" type="text"/>	<input style="width: 40px; height: 20px;" type="text"/>
A <input style="width: 40px; height: 20px;" type="text"/>	B <input style="width: 40px; height: 20px;" type="text"/>	C <input style="width: 40px; height: 20px;" type="text"/>	<input style="width: 40px; height: 20px;" type="text"/>
A <input style="width: 40px; height: 20px;" type="text"/>	B <input style="width: 40px; height: 20px;" type="text"/>		<input style="width: 40px; height: 20px;" type="text"/>

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

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

FORM F.  
Ballot-paper.  
COMMONWEALTH OF AUSTRALIA.

Section 105.

Amended by  
No. 19, 1940,  
s. 27.

State of *[here insert name of State]*.

Electoral Division of *[here insert name of Division]*.

Election of one Member of the House of Representatives.

*Directions.*—Mark your vote on this ballot-paper by placing the numbers *(here insert "1 and 2" where there are two candidates, "1, 2 and 3" where there are three candidates, "1, 2, 3 and 4" where there are four candidates, and so on as the case requires)* in the squares respectively opposite the names of the candidates so as to indicate the order of your preference for them.

CANDIDATES.

<input style="width: 40px; height: 30px;" type="text"/>	BROOKMAN, JOHN.
<input style="width: 40px; height: 30px;" type="text"/>	CRANE, JOSEPH.
<input style="width: 40px; height: 30px;" type="text"/>	FRENCH, CHARLES.
<input style="width: 40px; height: 30px;" type="text"/>	KING, WILLIAM.
<input style="width: 40px; height: 30px;" type="text"/>	WILSON, HENRY.

Section 151.

## FORM G.

## COMMONWEALTH OF AUSTRALIA.

State of

The Commonwealth Electoral Act 1918.

*Return of Electoral Expenses.*

\*Insert name and address of candidate. I,\* a candidate at the election of held on the† day of 19 (in the State of , or †Insert day of polling or if no opposition date of nomination. in the Electoral Division of in the State of , as the case requires) make the following return respecting my electoral expenses at the election:—

*Expenditure.*

£ s. d.

‡The name and description and the nature of the work done by each person to whom any payment is made must be set out separately.

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

§The name, occupation, and address of each person to whom any sum is paid and the reason for which it was paid to him must be set out separately.

(2) § Paid for stationery, messages, postages, and telegrams ..

||The name, occupation, and address of each person to whom any sum is paid and the reason for which it was paid to him must be set out separately.

(3) || Paid for committee rooms .. .. .

¶The name, occupation, and address of each person to whom any sum is paid and the reason for which it was paid to him must be set out separately.

(4) ¶ Paid for public meetings and halls therefor .. .. .

\*\*The name of each scrutineer, the name of the polling-place at which he was employed, and the sum paid to him must be set out separately.

(5) \*\* Paid for scrutineers .. .. .



*Expenditure—continued.*

£   s.   d.

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

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

Total	..	..	..	..	..	..	_____
							_____

And I do solemnly and sincerely declare that this return is true in every particular, and that, except as appears by this return, I have not, and no person has with my knowledge or authority, paid any electoral expense incurred by me or on my behalf or in my interest at or in connexion with the said election, or incurred any such expense or any liability for any such expense or given or promised any reward office employment or valuable consideration on account or in respect of any such expense.

[Signature of Candidate.]

Declared and subscribed before me this                      day of                      19                      .

Justice of the Peace.

\_\_\_\_\_

## COMMONWEALTH EMPLOYEES' COMPENSATION ACT 1930-1950.<sup>(a)</sup>

An Act relating to Compensation to Employees of the Commonwealth for Injuries suffered in the course of their Employment.

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title.  
Amended by  
No. 32, 1918,  
s. 2.

Commence-  
ment.

Repeal.

1. This Act may be cited as the *Commonwealth Employees' Compensation Act 1930-1950*.<sup>(a)</sup>

2. This Act shall commence on a date to be fixed by Proclamation.<sup>(a)</sup>

3. The *Commonwealth Workmen's Compensation Act 1912* is repealed :

Provided that nothing in this section shall affect any right, privilege, obligation or liability acquired, accrued or incurred under that Act prior to the commencement of this Act :

Provided further that that Act shall continue in force to the extent necessary for the determination of, or the adjudication upon, any such right, privilege, obligation or liability.<sup>(b)</sup>

(a) The *Commonwealth Employees' Compensation Act 1930-1950* comprises the *Commonwealth Employees' Compensation Act 1930* as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table :—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Commonwealth Employees' Compensation Act 1930</i>	1930, No. 24 ..	14th August, 1930 ..	10th November, 1930. See <i>Gazette</i> , 1930, p. 2230
<i>Commonwealth Employees' Compensation Act 1944</i>	1944, No. 8 ..	3rd April, 1944 ..	1st May, 1944
<i>Commonwealth Employees' Compensation Act 1948</i>	1948, No. 61 ..	6th December, 1948	3rd January, 1949
<i>Statute Law Revision Act 1950</i>	1950, No. 80 ..	16th December, 1950	31st December, 1950

(b) Section 16 of the *Commonwealth Employees' Compensation Act 1948* reads as follows :—

“16.—(1.) Where at the date of commencement of this Act, a person is receiving weekly payments under the *Commonwealth Workmen's Compensation Act 1912* or is receiving or entitled to receive weekly payments in accordance with the First Schedule to the Principal Act he shall, on and from that date, be entitled to receive weekly payments in accordance with the provisions of the Principal Act, as amended by this Act.

(2.) Where before the date of commencement of this Act an employee sustained an injury or contracted a disease in respect of which weekly payments in accordance with the First Schedule to the Principal Act would have been payable at that date if he had been incapacitated for work at that date, and he is not, at that date, so incapacitated, but after that date he becomes incapacitated for work as a result of the injury or disease, weekly payments in respect of that incapacity shall be in accordance with the provisions of the Principal Act, as amended by this Act.

(3.) Where, after the date of commencement of this Act, death results from an injury or a disease which was sustained or contracted before that date and in respect of which compensation was payable under the Principal Act, compensation shall be paid in respect of that death in accordance with the provisions of the Principal Act, as amended by this Act.”

4.—(1.) In this Act, unless the contrary intention appears—

Definitions.

“ active service ” has the same meaning as in section one hundred of the *Australian Soldiers' Repatriation Act* 1920-1948 ;<sup>(a)</sup>

Substituted by  
No. 61, 1948,  
s. 2.

“ County Court ” means a County Court, District Court, Local Court, or any court exercising a limited civil jurisdiction and presided over by a judge or a police, stipendiary or special magistrate, of a State or a Territory of the Commonwealth ;

“ dependant ” means, in relation to a deceased employee—

- (a) a member of the employee's family ;
- (b) a person to whom the employee stood *in loco parentis* or who stood *in loco parentis* to the employee ;
- (c) any ex-nuptial child or grand-child of the employee ; and
- (d) if the employee was an ex-nuptial child, any parent or grand-parent of the employee,

who was wholly or in part dependent upon his earnings at the date of his death or who would, but for his incapacity due to the injury, have been so dependent ;

“ disease ” includes any physical or mental ailment, disorder, defect or morbid condition, whether of sudden or gradual development, and also includes the aggravation, acceleration or recurrence of a pre-existing disease ;

“ employee ” means—

- (a) an officer who is subject to the *Commonwealth Public Service Act* 1922-1948 ;<sup>(b)</sup>
- (b) a person who is temporarily employed under that Act ;
- (c) an officer or employee to whom, or included in a class of officers or employees to which, the Governor-General has declared in pursuance of that Act that the provisions of that Act shall not apply ;
- (d) any member of the Naval, Military or Air Forces of the Commonwealth except—
  - (i) a member of any of those Forces who, prior to the first day of July, One thousand nine hundred and forty-seven, was appointed or enlisted—

(a) Now the *Repatriation Act* 1920-1950, *infra*.

(b) Now the *Public Service Act* 1922-1950, *infra*.

- (1) for service in any part of those Forces which was raised in time of war for war service, or solely for service in time of war or during that time and a definite time thereafter ; or
- (2) in the Citizen Forces and called up for continuous service for the duration of and directly in connexion with the war ;
- (ii) a member of the Permanent Forces who was appointed or enlisted prior to the first day of July, One thousand nine hundred and forty-seven, and is not included in either of the classes specified in the preceding sub-paragraph of this definition—during any time of war prior to the first day of January, One thousand nine hundred and forty-nine, for which he is employed on active service ; and
- (iii) a member of the Interim Forces ; and
- (e) a person who has entered into or works under a contract of service or apprenticeship with the Commonwealth,<sup>(a)</sup> whether by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing,

but does not include—

- (f) an outworker ;
- (g) an officer or employee of the Public Service of a Territory of the Commonwealth ; or
- (h) any master, mate or engineer, or operator of the wireless telegraph installation, of a ship engaged in trade and commerce ;

“ injury ” means any physical or mental injury and includes the aggravation, acceleration or recurrence of a pre-existing injury ;

“ medical, surgical or hospital treatment ” means—

- (a) treatment by a duly qualified medical practitioner, a registered dentist, a registered physio-therapist or a registered masseur ;

(a) Held by the County Court of Victoria, sitting as a Court of Appeal from a determination of the Commissioner, that a registered waterside worker who was injured while going to a pick up bureau of the Stevedoring Industry Commission pursuant to instructions from the Commission had not entered into and was not working under any contract of service with the Commission and was therefore not an “ employee ” within s. 4. *Brown v. The Commonwealth*, [1950] A.L.R. C.N. 8.

- (b) the provision of skiagrams, crutches, artificial members and artificial replacements ;
- (c) treatment and maintenance as a patient at a hospital ; or
- (d) nursing attendance, medicines, medical and surgical supplies and curative apparatus supplied or provided in a hospital or otherwise ;

“ member of the family ”, in relation to an employee, means the wife or husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister, adopted child, mother-in-law or any woman who for not less than three years immediately prior to his death or incapacity was wholly or mainly maintained by the employee and who, although not legally married to him, lived with him as his wife on a permanent and *bona fide* domestic basis and who, at the date of his death or incapacity, is maintaining one or more children under sixteen years of age or is not less than fifty years of age ;

“ member of the Interim Forces ” has the same meaning as in the *Interim Forces Benefits Act 1947* ;

“ outworker ” means a person to whom articles or materials are given out to be treated or manufactured in his own home or on other premises not under the control or management of the Commonwealth ;

“ Territory of the Commonwealth ” includes a Territory administered as a trust territory by Australia in pursuance of Chapter XII. of the Charter of the United Nations ;

“ the Commissioner ” means the Commissioner for Employees' Compensation ;

“ time of war ” and “ war service ” have the same respective meanings as in the *Defence Act 1903-1948*, but any reference to “ war ” or to “ the war ” is a reference to the war which commenced on the third day of September, One thousand nine hundred and thirty-nine.

(2.) In the application of the provisions of this Act to and in relation to an employee to whom section ten of this Act applies, any reference in those provisions to personal injury by accident arising out of or in the course of an employee's employment by the Commonwealth shall be read as including a reference to a disease due to the nature of the employment in which the first-mentioned employee was engaged by the Commonwealth.

(3.) For the purposes of sections seventeen and seventeen A of this Act, any reference to an employee shall, where the employee



has died as the result of the injury, be read as a reference to any dependant of the deceased employee who has a legal claim in respect of the death of the employee.

(4.) Any reference in the provisions of this Act applicable to an employee after the date of the injury shall be read as including a reference to a retired employee.

Application  
of Act.

Inserted by  
No. 8, 1944,  
s. 3.

Amended by  
No. 61, 1948,  
s. 3.

4A. This Act shall apply to and in relation to any employee, whether employed by the Commonwealth within or outside the territorial limits of Australia.

Commissioner.

5.—(1.) For the purposes of this Act there shall be a Commissioner for Employees' Compensation.

(2.) The Secretary to the Treasury shall be *ex officio* Commissioner for Employees' Compensation.

Powers and  
functions of  
Commissioner.

6.—(1.) The Commissioner shall have power to examine, hear and determine all matters and questions arising under this Act and the Regulations.

(2.) The Commissioner may reconsider any such determination and may alter, amend or revoke any such determination.

(3.) In the determination of matters and questions, the Commissioner shall be guided by equity, good conscience and the substantial merits of the case without regard to technicalities or legal precedent and shall not be bound by any rules of evidence.

(4.) In particular, the power of the Commissioner shall extend to determining—

- (a) the question whether an injury received by an employee entitles him to compensation under this Act ;
- (b) the existence and degree of incapacity for work by reason of injury ;
- (c) the permanence of incapacity by reason of injury ;
- (d) the degree of diminution of earning capacity by reason of injury ;
- (e) the amount of the weekly pay of an employee ;
- (f) the existence, for the purposes of this Act, of the relationship of any member of the family of an employee as defined in this Act ; and
- (g) the existence and extent of dependency.

Delegation by  
Commissioner.

7.—(1.) The Commissioner may by writing under his hand delegate all or any of his powers and functions (except this power of delegation).

(2.) Any delegation by the Commissioner under this section shall be revocable in writing at will and no delegation shall prevent the exercise of any power or function by the Commissioner.

8. Subject to section twenty of this Act, no action, suit or proceeding shall be instituted, brought or maintained against the Commonwealth or the Commissioner or any delegate of the Commissioner in respect of any action or determination taken or made under this Act.

No action maintainable against Commissioner.

9.—(1.) If personal injury by accident arising out of or in the course of his employment by the Commonwealth is caused to an employee, the Commonwealth shall, subject to this Act, be liable to pay compensation in accordance with the First Schedule to this Act. <sup>(a) (b)</sup>

Compensation for personal injuries to employees.  
Substituted by No. 61, 1948, s. 4.

(2.) Where an employee is required by the terms of his employment by the Commonwealth, or is expected by the Commonwealth, to attend a trade, technical or other training school, he shall, for the purposes of this Act, be deemed to be employed by the Commonwealth while he is attending that school.

(3.) If it is proved that the injury to an employee is attributable to his serious and wilful misconduct, any compensation claimed in respect of that injury shall, unless the injury results in death or serious and permanent disablement, be disallowed.

9A.—(1.) Where personal injury by accident is caused to an employee while he is travelling to or from—

Injury while travelling to or from place of employment, &c.

(a) his place of employment by the Commonwealth (including any school in relation to which sub-section (2.) of the last preceding section applies) ; or

Substituted by No. 61, 1948, s. 4.

(b) any place which it is necessary for him to attend to obtain a medical certificate or to receive medical, surgical or hospital treatment or compensation in respect of a previous injury,

the Commonwealth shall, subject to this Act, be liable to pay compensation in accordance with this Act as if the accident were an accident arising out of or in the course of his employment.

(2.) In this section, "travelling" means travelling by the shortest convenient route for the journey and does not include travelling during or after any substantial interruption of the

(a) T. was injured by an accident arising out of and in the course of his employment with the Commonwealth. He received weekly payments of compensation under the Act for more than two years, then brought an action claiming damages on the ground that this injury had been caused by the negligence of the Commonwealth or its servants. T. was not aware until shortly before the commencement of the action that he had any right to claim for damages independently of the Act. Held by the Supreme Court of South Australia (Napier C.J.) that the fact that T. had received compensation under the Act precluded him from maintaining the action. *Thomson v. The Commonwealth*, 1948 S.A.S.R. 116. (This case was decided on the section as it stood prior to the repeal and substitution effected by Act No. 61, 1948, s. 4.)

(b) See footnote (b) to s. 3, *supra*.

journey or any substantial deviation from the route made for a reason unconnected with the employee's employment, attendance at the school or obtaining the certificate, treatment or compensation, as the case may be :

Provided that the Commissioner may, on behalf of the Commonwealth, accept liability, if he considers that in the circumstances of any particular case the nature, extent, degree and content of the risk of accident was not materially changed or increased by reason only of any such interruption or deviation.

(3.) For the purpose of the application of the provisions of this section to and in relation to a member of the Defence Force who is an employee, the place at which the employee performs naval, military or air-force duty, training, practice or exercise shall be deemed to be the place of his employment by the Commonwealth.

Compensation  
in respect of  
death or  
incapacity  
of employee  
through disease  
caused by  
employment.

Amended by  
No. 8, 1944,  
s. 6, and by  
No. 61, 1948,  
s. 5.

#### 10.—(1.) Where—

(a) an employee is suffering from a disease and is thereby incapacitated for work ; or

(b) the death of an employee is caused by a disease,

and the disease is due to the nature of the employment in which the employee was engaged by the Commonwealth, the Commonwealth shall, subject to this Act, be liable to pay compensation in accordance with this Act as if the disease were a personal injury by accident arising out of or in the course of his employment.

(2.) If the Commissioner is satisfied that the employee, at the time of entering the employment of the Commonwealth, wilfully and falsely represented himself as not having previously suffered from the disease, compensation shall not be payable.

(3.) A claimant for compensation under this section shall, if so required, furnish the Commissioner with such information as to the names and addresses of other employers of the employee as the claimant possesses.

(4.) If the disease is of such a nature as is contracted by a gradual process, the Commonwealth shall be entitled to be indemnified by any other employers (if those employers are also liable to pay compensation) who employed the employee prior to the incapacity in the employment to which the disease is due, and all questions as to the right to, and amount of, any such indemnity shall in default of agreement be settled by arbitration or by action in any County Court.

Sub-section (5.)  
omitted by  
No. 61, 1948,  
s. 5.

Medical, &c.,  
benefits.

Substituted by  
No. 8, 1944,  
s. 7.

Amended by  
No. 61, 1948,  
s. 6.

11.—(1.) Where any compensation is payable by the Commonwealth under this Act to, or in respect of, an employee, or where, but for the fact that the employee is not incapacitated for work or but for the operation of clause (ii) of sub-paragraph (b) of paragraph (1A.) of the First Schedule to this Act, compensation would be so payable, the Commonwealth shall, subject to the next

succeeding sub-section, pay the cost of such medical, surgical or hospital treatment in relation to the injury as is, in the opinion of the Commissioner, reasonably necessary.

(2.) The sum for which the Commonwealth shall be liable in respect of the medical, surgical or hospital treatment of an employee shall be such sum as the Commissioner considers reasonably appropriate to the treatment afforded, having regard to the customary charge made in the community for such treatment, but shall not exceed One hundred pounds unless the Commissioner considers that the exceptional circumstances of any case warrant special approval of an amount in excess of that sum.

(3.) Where any compensation is payable by the Commonwealth under this Act to, or in respect of, an employee, any payment in pursuance of this section shall be in addition to that compensation.

12.—(1.) Subject to this Act, where an employee sustains, by accident arising out of or in the course of his employment, any of the injuries specified in the first column of the Third Schedule to this Act, the compensation payable shall, when the injury results in incapacity other than total and permanent incapacity for work, be the amount specified in the second column of that Schedule opposite the specification of the injury in the first column.

Compensation  
for certain  
injuries.

Amended by  
No. 8, 1944,  
s. 8, and by  
No. 61, 1948,  
s. 7.

(1A.) Upon payment of an amount under this section the employee shall not be entitled to any payment in accordance with sub-paragraph (b) or sub-paragraph (c) of paragraph (1.) of the First Schedule to this Act in respect of a period of incapacity for work resulting from the injury, but the amount payable under this section shall not be subject to any deduction in respect of any amount previously paid to the employee in accordance with either of those sub-paragraphs.

(2.) Where an employee habitually uses his left hand and arm to perform work usually performed by an employee with his right hand and arm, the compensation payable to the first-mentioned employee under this section shall be—

- (a) for the loss of his left arm or any part thereof—the amount which would have been payable to an employee for a similar loss in respect of his right arm or the corresponding part thereof; and
- (b) for the loss of his right arm or any part thereof—the amount which would have been payable to an employee for a similar loss in respect of his left arm or the corresponding part thereof.

(3.) Where an employee sustains an injury which causes the loss of the sight of both eyes or of an only useful eye, any compensation previously paid under this section in respect of loss of sight shall be deducted from the compensation payable under this section.



(4.) Where an employee sustains an injury which causes partial and permanent loss of the sight of one eye, there shall be payable an amount of compensation equivalent to such percentage of the amount of compensation payable under this section in respect of the loss of the sight of one eye as is equal to the percentage of the diminution of sight.

(5.) Where an employee sustains an injury which causes partial and permanent loss of the efficient use of a part of the body specified in the Third Schedule to this Act in and for the purposes of his employment at the date of the injury, there shall be payable an amount of compensation equivalent to such percentage of the amount of compensation payable under this section in respect of the loss of that part as is equal to the percentage of the diminution of the efficient use of that part.

(6.) For the purposes of this section and of the Third Schedule to this Act, the loss of a specified part of the body shall be deemed to include—

- (a) the permanent loss of the use of that part ; and
- (b) the permanent loss of the efficient use of that part in and for the purposes of his employment at the date of the injury.

Maximum  
compensation.

Substituted by  
No. 61, 1948,  
s. 8.

**13.**—(1.) Notwithstanding anything contained in this Act, the amount of compensation payable in respect of an injury or injuries caused by any one accident shall not, except as provided by this section, exceed One thousand two hundred and fifty pounds.

(2.) Where an injury results in the death or the total and permanent incapacity of the employee for work, sub-section (1.) of this section shall not apply to limit the total amount of compensation payable under this Act.

(3.) In the application of sub-section (1.) of this section in relation to the total amount of compensation payable to an employee under section twelve of this Act the total amount of any compensation paid to the employee in accordance with the First Schedule to this Act previously to payment to him of the amount specified in the Third Schedule to this Act shall be disregarded.

(4.) Sub-section (1.) of this section shall not apply to limit the amount of any lump sum payable in pursuance of paragraph (10A.) of the First Schedule to this Act.

Defence  
civil  
employees and  
members of the  
Defence Force  
who are  
employees.

Amended by  
No. 61, 1948,  
s. 9, and by  
No. 80, 1950,  
s. 3 and First  
Schedule.

**14.**—(1.) The terms and conditions which may be prescribed by regulation under the *Naval Defence Act 1910-1949* governing the employment of persons in a civil capacity under that Act shall not include provision for the grant of compensation or other benefits in respect of personal injury by accident arising out of or in the course of the employment of such persons and any such provision in force at the commencement of this Act shall be of no effect :



Provided that nothing in this sub-section shall affect any grant of compensation or other benefits made under any such provision prior to the commencement of this Act.

(2.) The provisions of the *Australian Soldiers' Repatriation Act* 1920-1948,<sup>(a)</sup> the *Defence Act* 1903-1948, the *Naval Defence Act* 1910-1948, the regulations made under those Acts and the Air Force Regulations relating to the payment of pension, compensation or other benefits in respect of the incapacity or death of members of the Defence Force shall not apply to or in relation to a member of that Force who is an employee :

Provided that nothing in this sub-section shall affect—

- (a) any grant of pension, compensation or other benefits under any of those provisions which has been made ;
- (b) any right to any such grant which has accrued ; or
- (c) any such member's eligibility for any such grant which arises in respect of the period of his service in that Force,

prior to the commencement of this sub-section.

15. Where in any determination made by the Public Service Arbitrator appointed under the *Arbitration (Public Service) Act* 1920-1929,<sup>(b)</sup> provision is made for the grant of compensation or other benefits to employees in respect of personal injury by accident arising out of or in the course of their employment, any employee to whom the determination applies shall not be entitled to compensation or benefits both under the determination and under this Act but may elect to take compensation or benefits either under the determination or under this Act.

Compensation under determination by Public Service Arbitrator. Amended by No. 61, 1948, s. 10.

16.—(1.) The Commissioner shall not admit a claim for compensation under this Act for an injury unless notice of the accident has been served upon him as soon as practicable after it has happened, and before the employee has voluntarily left the employment of the Commonwealth, and unless the claim for compensation has been made—

Time for taking proceedings.

- (a) within six months from the occurrence of the accident ; or
- (b) in case of death—within six months after advice of the death has been received by the claimant :

Provided always that—

- (i) the want of or any defect or inaccuracy in the notice shall not prevent consideration of the claim by the Commissioner if he finds that the Commonwealth is not prejudiced by the want, defect or inaccuracy, or

(a) Now the *Repatriation Act* 1920-1950, *infra*.

(b) Now the *Public Service Arbitration Act* 1920-1950, *infra*.

that the want, defect or inaccuracy was occasioned by mistake, absence from Australia or other reasonable cause ; and

- (ii) the failure to make a claim within the period above specified shall not prevent consideration of the claim by the Commissioner if he finds that the failure was occasioned by mistake, absence from Australia or other reasonable cause.

(2.) Notice in respect of any injury to which this Act applies shall contain the name and address of the person injured, and a statement in ordinary language of the cause of the injury and the date at which the accident happened.

(3.) The notice may be served by sending it by post in a registered letter properly addressed to the Permanent Head or Chief Officer of the Department or authority in or by which the employee was employed at the time of the accident, or by delivering it at the head office of the Department or authority or to the officer in charge of the work on which the employee was so employed, or in any other prescribed manner.

Remedy  
against a  
stranger.  
Substituted  
by No. 61,  
1948, s. 11.

17. If an injury in respect of which compensation is payable under this Act is caused under circumstances which appear to create a legal liability in some person other than the Commonwealth to pay damages in respect of the injury—

- (a) the employee may take proceedings against that person to recover damages and may also make a claim against the Commonwealth for compensation, but shall not be entitled to retain both damages and compensation ;
- (b) the Commissioner may request the employee to take such proceedings and, where the employee takes such proceedings on the request of the Commissioner, the proceedings shall be conducted on the employee's behalf at the expense of the Commonwealth ;
- (c) where the employee receives both compensation under this Act and damages from that other person, he shall repay to the Commonwealth such amount of the compensation as does not exceed the amount of damages recovered from that person ;
- (d) upon notice to that person, the Commonwealth shall have a first charge on moneys payable by that person to the employee to the extent of any compensation which the Commonwealth has paid to the employee under this Act ;
- (e) where the employee has received compensation under this Act, but no damages or less than the full amount of the damages to which he is entitled, the person liable to pay the damages shall indemnify the Commonwealth

against so much of the compensation paid to the employee as does not exceed the damages for which that person is liable ; and

- (f) payment of money by that person to the Commonwealth under the last preceding paragraph shall, to the extent of the amount paid, be a satisfaction of the liability of that person to the employee.

17A.—(1.) Except as provided by this Act, an employee shall not be entitled, in respect of personal injury by accident arising out of or in the course of his employment by the Commonwealth, to receive compensation or any payment by way of compensation from the Commonwealth both independently of and also under this Act.

Liability of the Commonwealth independently of this Act.  
Inserted by No. 61, 1948, s. 11.

(2.) If the injury is an injury in respect of which an employee is entitled to receive a pension under the *Australian Soldiers' Repatriation Act* 1920-1948,<sup>(a)</sup> the employee shall not be entitled to compensation under the provisions of this Act.

(3.) Where personal injury is caused to an employee in circumstances which appear to create a legal liability in the Commonwealth to pay damages in respect thereof and the employee has received compensation under this Act, the employee shall not be entitled to take proceedings against the Commonwealth to recover damages unless he commences those proceedings within twelve months after the date upon which he received payment, or the first payment, of compensation under this Act.

(4.) An employee who recovers damages from the Commonwealth in respect of an injury shall not be entitled to compensation or any payment under this Act in respect of the same injury and any sum received by him under this Act in respect of that injury prior to the award of the damages shall be deducted from the amount of the damages recoverable from the Commonwealth.

18.—(1.) The Governor-General may appoint any duly qualified medical practitioners to be medical referees for the purposes of this Act.

Medical referees.

(2.) Medical referees shall be paid such fees as are prescribed.

(3.) The fees of medical referees shall be paid out of moneys provided by Parliament for the purpose.

(4.) A medical referee who has been employed as a medical practitioner in connexion with any case by or on behalf of the Commonwealth or an employee, or by any insurers interested, shall not act as a medical referee in that case.

19.—(1.) Where notice has been given of an injury to an employee, or any employee is receiving weekly payments under this Act, any such employee shall, if so required by the Com-

Medical examinations.  
Amended by No. 8, 1944, s. 10.

(a) Now the *Repatriation Act* 1920-1950, *infra*.

missioner, submit himself for examination by a medical referee or a medical board consisting of two or more medical referees, and if he refuses to submit himself to such examination, or in any way obstructs the examination, his right to compensation shall be suspended until the examination has taken place.

(2.) Where an employee is required by the Commissioner to submit himself for examination by a medical board, the employee may, within the prescribed period after being so required, nominate a medical practitioner who shall thereupon be one of the members of that board.

(3.) An employee shall not be required to submit himself for medical examination, otherwise than in accordance with this Act and the regulations or at more frequent intervals than are prescribed.

(4.) The medical referee, medical practitioner or medical board to whom any matter is referred shall, as prescribed, give a certificate as to the condition of the employee, and his fitness for employment, specifying, where necessary, the kind of employment for which he is fit, and such other information as the Commissioner requires. Any such certificate given by a medical board shall be conclusive evidence as to the matters so certified.

(4A.) Where a medical board consists of more than two medical referees, a certificate given by the majority of the board shall be deemed to be the certificate of the board.

(5.) The cost of conducting any examination required for the purposes of this section, and the expenses incurred by an employee in travelling to and from the place of examination, shall be paid by the Commonwealth.

Appeals.

20. Any person affected by any determination or action of the Commissioner under this Act may, within thirty days of the date of the determination or the taking of the action or within such extended time as the Court upon application in that behalf allows, appeal to a County Court against the determination or action and the Court shall have jurisdiction to hear and determine the appeal, and such appeal may be in the nature of a re-hearing.

Returns as to compensation.

21. The Commissioner shall, as prescribed, furnish to the Minister correct returns specifying—

- (a) the number of injuries in respect of which compensation has been paid under this Act during the previous year ;
- (b) the amount of compensation paid during that year ; and
- (c) such other particulars as are prescribed.

Application of Act to Commonwealth Authorities.

Amended by No. 61, 1948, s. 12.

22.—(1.) The application of this Act shall extend to employees of such authorities under the Commonwealth as are prescribed.

(2.) Where the application of this Act is extended to employees of an authority under the Commonwealth, liability under this Act



to pay compensation in respect of personal injury by accident arising out of or in the course of the employment of those employees shall, unless otherwise prescribed, be borne by that authority.

23. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for giving effect to this Act and in particular for prescribing the procedure in regard to the medical examination of injured employees, the manner in which documents are to be furnished or served, and applications made, and the forms to be used for those purposes and as to fees and expenses to be paid for medical examinations and medical, surgical and hospital treatment.

Regulations.  
Amended by  
No. 8, 1944,  
s. 11.

## THE SCHEDULES.

### THE FIRST SCHEDULE.

#### SCALE AND CONDITIONS OF COMPENSATION.

Section 9.  
Amended by  
No. 8, 1944,  
s. 12, and by  
No. 61, 1948,  
s. 13.

- (1.) The amount of compensation shall be—
  - (a) where the death of the employee results from the injury—
    - (i) if the employee leaves any dependants wholly dependent upon his earnings—the sum of One thousand pounds and, in addition, an amount of Fifty pounds in respect of each child who, being a dependant under the age of sixteen years at the date of either the injury or the death of the employee, was at the date of the injury wholly or mainly dependent upon the earnings of the employee ;
    - (ii) if the employee does not leave any dependants wholly dependent upon his earnings, but leaves dependants in part dependent upon his earnings—such sum, not exceeding in any case the amount payable under clause (i) of this sub-paragraph as is considered by the Commissioner to be reasonable and proportionate to the injury to the dependants ; and
    - (iii) if the employee leaves no dependants—such sum, not exceeding Twenty-five pounds, on account of the expenses of the employee's burial, as the Commissioner considers reasonable ;
  - (b) where the employee is totally incapacitated for work by the injury—
 a weekly payment during his incapacity of the sum of Four pounds and, in addition, the sum of—
    - (i) One pound five shillings in respect of—
      - (1) the wife of the employee ; or
      - (2) if he has no wife, or if compensation is not payable in respect of his wife—one female, over the age of sixteen years, who is—
        - (A) caring for a child under the age of sixteen years and wholly or mainly dependent upon the earnings of the employee ; or



## THE SCHEDULE—continued.

- (u) a member of the employee's family, if she was wholly or mainly dependent upon the earnings of the employee at the date of the injury and remains so dependent ; and
  - (ii) Ten shillings in respect of each child who, at the date of the injury, was under the age of sixteen years and wholly or mainly dependent upon the earnings of the employee and who, being under the age of sixteen years, remains so dependent ; and
- (c) where the employee is partially incapacitated for work by the injury—
  - a weekly payment during his incapacity of the amount of the difference between the weekly amount which he is earning, or is able to earn in some suitable employment or business, after the injury and—
    - (i) his weekly pay at the date of the injury, provided that the payment does not exceed Four pounds ; or
    - (ii) the weekly amount which would have been payable to him under sub-paragraph (b) of this paragraph, if he had been totally incapacitated,
 whichever is the greater.
- (1a.) Notwithstanding anything contained in paragraph (1.) of this Schedule—
  - (a) where death results from the injury—
    - (i) any amount paid or payable before the death of the employee by way of weekly payments in respect of his total or partial incapacity for work shall not be deducted from the sum payable under clause (i) of sub-paragraph (a) of that paragraph, or shall be disregarded in determining the sum payable under clause (ii) of that sub-paragraph, as the case may be ; but
    - (ii) the amount by which any lump sum, paid to an employee in pursuance of paragraph (10a.) or paragraph (11.) of this Schedule or section twelve of this Act before the death of the employee, exceeds the total of all weekly payments which would have been payable under sub-paragraph (b) or sub-paragraph (c) of that paragraph, if they had continued until the date of his death, shall be deducted from the sum payable under clause (i) of sub-paragraph (a) of paragraph (1.) of this Schedule, or shall be taken into account in determining the sum payable under clause (ii) of that sub-paragraph, as the case may be, provided that the sum so payable is not reduced to less than Two hundred pounds ; or
  - (b) where the employee is totally or partially incapacitated for work by the injury—
    - (i) no payment shall be made under sub-paragraph (b) or sub-paragraph (c) of that paragraph which will be in excess of the amount of the weekly pay of the employee at the date of the injury ;
    - (ii) the Commissioner shall take into account any payment, allowance or benefit (except child endowment under Part VI. of the *Social Services Consolidation Act 1947-1948*, any pension or allowance in respect of a child dependent upon the earnings of the employee, any payment other than a pension under the *Superannuation Act 1922-1948* or the *Defence Forces Retirement Benefits Act 1948*, deferred pay payable to the employee, any payment under section seventy-four of the *Commonwealth Public Service Act 1922-1948(a)* or under section eight of the *Commonwealth Employees' Furlough Act 1943-1944*) which the employee receives from the Commonwealth during the period of his incapacity and shall reduce the amount of the weekly

(a) Now the *Public Service Act 1922-1950*, *infra*.

## THE SCHEDULE—continued.

payment otherwise payable under sub-paragraph (b) or sub-paragraph (c) of paragraph (1.) of this Schedule to such amount (if any) as he thinks just and proper ; and

- (iii) if the employee is a minor who is not entitled under the terms of any award, order or determination of an industrial authority, any industrial agreement or any law to receive the same rate of pay as an adult, the words " Three pounds " shall be deemed to be substituted for the words " Four pounds " in the application of the provisions of sub-paragraph (b) or sub-paragraph (c) of that paragraph in relation to the employee while he remains such a minor.

\* \* \* \* \*

Paragraph (1B.)  
omitted by  
No. 61, 1948,  
s. 13.

(2.) The amount of child endowment paid under Part VI. of the *Social Services Consolidation Act 1947-1948* in respect of a child shall be disregarded in ascertaining, for the purposes of this Schedule, whether or not that child is or was dependent upon the earnings of the employee.

(3.) For the purposes of this Schedule—

(a) " pay " means the salary or wages of the employee, and includes—

- (i) where at the date of the injury the employee was engaged in part-time work for the Commonwealth, or, being a member of the Defence Force, was not paid as such—his earnings from any other employment ; and
- (ii) unless otherwise prescribed—any allowance payable to the employee in respect of his employment, but, subject to the regulations, does not include any allowance which is intermittent or which is payable in respect of special expenses incurred or likely to be incurred by the employee in respect of his employment ; and

(b) any reference to the weekly pay of the employee at the date of the injury means, if the rate of pay of employees of the same class is subsequently varied by competent authority or following upon a variation in the cost of living, the rate of pay as so varied.

(4.) Where an employee has given notice of an accident, he shall, if so required by the Commissioner, submit himself for examination by a duly qualified medical practitioner provided and paid by the Commonwealth, and, if he refuses to submit himself to such examination, or in any way obstructs the same, his right to compensation, and to take or prosecute any proceeding under this Act in relation to compensation, shall be suspended until such examination has taken place.

(5.) The payment in the case of death shall, unless otherwise provided in this Schedule or by the Regulations, be paid to the Commissioner, and the sum so paid shall be invested or applied by the Commissioner, in such manner as he thinks fit, for the benefit of the persons entitled thereto :

Provided that, if so agreed, the payment in case of death shall, if the employee leaves no dependants, be made to his legal personal representative, or, if he has no such representative, to the person to whom the cost of medical, surgical and hospital treatment and the expenses of burial are due.

(6.) Where a weekly payment is payable under this Act to a person under any legal disability, the weekly payment shall be paid during the disability to the Commissioner, and dealt with by him, in such manner as he thinks fit, for the benefit of the person entitled thereto.

(7.) Where any person under any legal disability is entitled to any amount of compensation under this Act in the form of a lump sum, that amount may be

## THE SCHEDULE—continued.

paid to such trustee or trustees as the Commissioner appoints and the amount so paid shall be held for the benefit of the person entitled thereto upon such trusts as the Commissioner approves.

(8.) Where there are both total and partial dependants, the Commissioner may allot the compensation partly to the total and partly to the partial dependants.

(9.) Where, on application being made to the Commissioner that, on account of neglect of children on the part of a widow, or on account of the variation of the circumstances of any of the dependants, or for any other sufficient cause, a determination by the Commissioner as to the apportionment amongst the several dependants of any sum paid as compensation, or as to the manner in which any sum payable to any dependant is to be dealt with, ought to be varied, the Commissioner may vary that determination in such manner as he thinks just.

(10.) Any weekly payment may be reviewed by the Commissioner at the request either of the Commonwealth or of the employee and on such review may be ended, diminished or increased, subject to the maximum above provided.

(10A.) Where an employee is, subject to clause (ii) of sub-paragraph (b) of paragraph (1A.) of this Schedule, entitled to weekly payments in accordance with sub-paragraph (b) or sub-paragraph (c) of paragraph (1.) of this Schedule and, by reason of his retirement on the ground of invalidity caused by the injury, is also entitled to a pension under the *Superannuation Act 1922-1948* or the *Defence Forces Retirement Benefits Act 1948*, the liability for the weekly payments shall, subject to the regulations, be redeemed by the payment of a lump sum of such amount, not exceeding One thousand pounds, as is determined by the Commissioner, having regard to the injury and the age and occupation of the employee at the date of the injury, and the lump sum may be invested or otherwise applied by the Commissioner for the benefit of the person entitled thereto:

Provided that, if the injury is an injury specified in the Third Schedule to this Act and the amount specified in that Schedule in relation to the injury exceeds One thousand pounds, the amount of the lump sum payable under this paragraph shall be not less than the amount so specified.

(11.) Except as provided in the last preceding paragraph, where, in any case other than one of total and permanent incapacity, any weekly payment has been continued for not less than six months, the liability therefor may, at the option of the Commissioner, and with the consent of the employee, but subject to the Regulations, be redeemed by the payment of a lump sum of such an amount as is determined by the Commissioner having regard to the injury and the age and occupation of the employee at the date of the injury and such lump sum may be invested or otherwise applied by the Commissioner for the benefit of the person entitled thereto.

(12.) If an employee receiving a weekly payment in Australia ceases to reside in Australia, he shall cease to be entitled to receive any weekly payment, unless a medical referee certifies that the incapacity resulting from the injury is likely to be of a permanent nature. If the medical referee so certifies, the employee shall be entitled to receive quarterly the amount of the weekly payments accruing due during the preceding quarter so long as he proves, in such manner and at such intervals as are prescribed, his identity and the continuance of the incapacity in respect of which the weekly payment is payable.

(13.) A weekly payment, or a sum paid by way of redemption thereof, shall not be capable of being assigned, charged or attached, and shall not pass to any other person by operation of law, nor shall any claim be set off against it.

(14.) Where under this Schedule, a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension.

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THE THIRD SCHEDULE.  
COMPENSATION FOR SPECIFIED INJURIES.

Section 12.  
Substituted by  
No. 61, 1948.  
s. 15.

Nature of Injury.	Amount Payable.		
	£	s.	d.
Loss of both eyes .. .. .	1,250	0	0
Loss of an only useful eye, the other being blind or absent ..	1,250	0	0
Loss of one eye, with serious diminution of the sight of the other ..	937	10	0
Loss of one eye .. .. .	500	0	0
Loss of hearing .. .. .	875	0	0
Complete deafness of one ear .. .. .	250	0	0
Loss of both hands .. .. .	1,250	0	0
Loss of right arm or greater part thereof .. .. .	1,000	0	0
Loss of left arm or greater part thereof .. .. .	900	0	0
Loss of lower part of right arm, right hand or five fingers of right hand .. .. .	875	0	0
Loss of lower part of left arm, left hand or five fingers of left hand ..	787	10	0
Loss of right thumb .. .. .	375	0	0
Loss of left thumb .. .. .	337	10	0
Loss of right forefinger .. .. .	250	0	0
Loss of left forefinger .. .. .	225	0	0
Loss of right middle finger .. .. .	200	0	0
Loss of left middle finger .. .. .	187	10	0
Loss of right ring finger .. .. .	175	0	0
Loss of left ring finger .. .. .	162	10	0
Loss of right little finger .. .. .	162	10	0
Loss of left little finger .. .. .	150	0	0
Loss of total movement of joint of right thumb .. .. .	175	0	0
Loss of total movement of joint of left thumb .. .. .	162	10	0
Loss of distal phalanx or joint of right thumb .. .. .	200	0	0
Loss of distal phalanx or joint of left thumb .. .. .	187	10	0
Loss of portion of terminal segment of right thumb involving one-third of its flexor surface without loss of distal phalanx or joint ..	175	0	0
Loss of portion of terminal segment of left thumb involving one-third of its flexor surface without loss of distal phalanx or joint ..	162	10	0
Loss of two phalanges or joints of right forefinger .. .. .	150	0	0
Loss of two phalanges or joints of left forefinger .. .. .	137	10	0
Loss of two phalanges or joints of right middle or ring fingers ..	137	10	0
Loss of two phalanges or joints of left middle or ring fingers ..	125	0	0
Loss of two phalanges or joints of right little finger .. .. .	125	0	0
Loss of two phalanges or joints of left little finger .. .. .	112	10	0
Loss of distal phalanx or joint of right forefinger .. .. .	125	0	0
Loss of distal phalanx or joint of left forefinger .. .. .	112	10	0
Loss of distal phalanx or joint of other finger of right hand ..	100	0	0
Loss of distal phalanx or joint of other finger of left hand ..	90	0	0
Loss of hand and foot .. .. .	1,250	0	0
Loss of both feet .. .. .	1,250	0	0
Loss of leg above knee .. .. .	937	10	0
Loss of leg below knee .. .. .	812	10	0
Loss of foot .. .. .	750	0	0
Loss of great toe .. .. .	250	0	0
Loss of any other toe .. .. .	100	0	0
Loss of two phalanges or joints of any other toe .. .. .	80	0	0
Loss of phalanx or joint of great toe .. .. .	125	0	0
Loss of phalanx or joint of any other toe .. .. .	75	0	0



## COMMONWEALTH EMPLOYEES' FURLOUGH ACT 1943-1944.<sup>(a)</sup>

An Act to make provision for the granting of long-service leave to Commonwealth Employees.

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title  
and citation.

Short title  
amended by  
No. 32, 1918,  
s. 2.

1.—(1.) This Act may be cited as the *Commonwealth Employees' Furlough Act 1943-1944*.<sup>(a)</sup>

(2.) The *Commonwealth Public Service Act 1922-1941*, as amended by this Act, may be cited as the *Commonwealth Public Service Act 1922-1943*.<sup>(b)</sup>

Commence-  
ment.

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Definitions.

Amended by  
No. 33, 1944,  
s. 3.

3. In this Act, unless the contrary intention appears—

“ approving authority ” means—

(a) in the case of a Commonwealth employee employed by the Parliament—

(i) if the employee is employed by the Senate—the President of the Senate ;

(ii) if the employee is employed by the House of Representatives—the Speaker of the House of Representatives ; or

(iii) in any other case—the President and the Speaker ; or

(b) in any other case, such authority as is prescribed ;

“ authority of a State ” means a public authority constituted under the law of a State for the purpose of discharging,

(a) The *Commonwealth Employees' Furlough Act 1943-1944* comprises the Acts set out in the following table :—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Commonwealth Employees' Furlough Act 1943</i>	1943, No. 19 . .	29th March, 1943 . .	29th March, 1943
<i>Commonwealth Employees' Furlough Act 1944</i>	1944, No. 33 . .	6th October, 1944 . .	29th March, 1943*

\* Except for sections 4 and 7, which came into operation on 6th October, 1944 (*see s. 2 of Act No. 33 of 1944*).

(b) Now the *Public Service Act 1922-1950*, *infra*.



subject to the direction or control of a Minister of State for the State, functions which are within the province of the State Government, and does not include any local governing body ;

" Commonwealth employee " means any person to whom this Act is expressed by section five to apply ;

" salary " includes such emoluments as are prescribed.

4. (a) \* \* \* \* \*

5. The provisions of this Act, other than the amendments effected by section four, shall apply to and in relation to—

Application  
of Act.

(a) every person employed by the Commonwealth or by an authority of the Commonwealth, other than—

Amended  
by No. 33,  
1944, s. 4.

(i) a Justice of the High Court of Australia or a Judge of any other court created by the Parliament ;

(ii) a person who is an officer for the purposes of section seventy-three or seventy-four of the *Commonwealth Public Service Act 1922-1943* ;<sup>(b)</sup> or

(iii) a person employed in the Naval, Military or Air Forces only,

but shall not apply to or in relation to—

(b) any person employed as a part-time employee ;

(c) any person employed in an honorary capacity only ;

(d) any person remunerated by fees, allowances or commission only ;

(e) any person, employed by the Commonwealth or by an authority of the Commonwealth at the date of the commencement of this paragraph, to whom or in relation to whom the provisions of any Act, or any rules, regulations or by-laws under any Act, in force at that date, providing for the granting of long-service leave, are applicable ;<sup>(c)</sup>

(a) The amendments made to the *Commonwealth Public Service Act 1922-1948* by s. 4 have been incorporated in the print of that Act, now the *Public Service Act 1922-1950*, *infra*.

(b) Now the *Public Service Act 1922-1950*, *infra*.

(c) Section 7 of the *Commonwealth Employees' Furlough Act 1944* reads as follows :—

" 7.—(1.) Notwithstanding anything contained in section seven or section eight of the Act, if the provisions of any Act, rules, regulations or by-laws referred to in paragraph (e) of section five of the Act are repealed and the period of long service leave or the amount of the payment which could, under those provisions, have been granted or made to or in relation to any person who was, prior to that repeal, a person of the class referred to in that paragraph, is greater than the period of leave of absence or the amount of the sum equivalent to salary which may be granted or paid to or in relation to that person under section seven or section eight, as the case may be, of the Act, the approving authority may, in lieu of any leave of absence or payment which may be granted or authorized under either of those sections, grant to that person leave of absence for a period not exceeding that greater period, or authorize payment to him or his dependants of a sum not exceeding that greater amount.

(2.) In this section ' the Act ' means the *Commonwealth Employees' Furlough Act 1943-1944*, and expressions used in this section have the same meaning as in that Act."

- (f) any person who is temporarily transferred to the Commonwealth or an authority of the Commonwealth from the service of a State or an authority of a State, or whose services are temporarily loaned to the Commonwealth or an authority of the Commonwealth by a State or an authority of a State, whether the transfer or the loan is in accordance with law or in pursuance of any arrangement made between the Commonwealth or a Commonwealth authority and the State or an authority of the State ; or
- (g) any person holding office or employed under the *Commonwealth Bank Act* 1911-1932.

Period of  
service.  
Amended by  
No. 33, 1944,  
s. 5.

6.—(1.) Subject to this section, the period of service of a Commonwealth employee shall be the period during which he has been employed continuously by the Commonwealth (including an authority of the Commonwealth), and, where that employment is continuous with employment in—

- (a) any service of a State ;
- (b) any service of an authority of a State ; or
- (c) the Public Service of any Territory of the Commonwealth, shall include that last-mentioned employment.

(2.) Where a Commonwealth employee has been employed continuously—

- (a) in two or more of the services specified in paragraphs (a), (b) and (c) of the last preceding sub-section ; or
- (b) in one or more of those services and, prior to his current period of employment, by the Commonwealth (including an authority of the Commonwealth),

and the periods for which he was so employed are continuous with one another and with his current period of employment, the sum of those periods of employment shall, subject to this section, be included in his period of service for the purposes of this Act.

(3.) The period of service of a Commonwealth employee shall not include—

- (a) any employment as a part-time employee ;
- (b) any employment in an honorary capacity only ;
- (c) any employment remunerated by fees, allowances or commission only ;
- (d) any period of employment terminated by retirement, after attaining the age prescribed by any law specified in this paragraph after which an employee may retire or be retired, in respect of which any leave of absence or pay has been granted under this Act or under section forty-nine, seventy-three or seventy-four of the *Common-*

*wealth Public Service Act 1922*<sup>(a)</sup> (or of that Act as amended and in force at any particular time) or under any other law of the Commonwealth or of a State or Territory of the Commonwealth which provides for the granting of similar leave of absence or pay ; or

- (ε) in the case of an employee who is not entitled to continue in office until he reaches a specified age, any period by which, at the date on which leave of absence is granted, or payment of a sum equivalent to salary is authorized, under section seven or section eight of this Act, the total period of his employment in one or both of the services specified in paragraphs (a) and (b) of sub-section (1.) of this section, which may be included in his period of service under that sub-section or sub-section (2.) of this section, exceeds the total period of his employment by the Commonwealth (including an authority of the Commonwealth), and of his employment (if any) in the Public Service of a Territory of the Commonwealth, which may be so included.

(4.) Except in the event of his discharge on account of unsatisfactory service, the continuity of the service of a Commonwealth employee shall not be deemed to be, or to have been, broken by any periods of absence, if—

- (a) any period of absence does not exceed, or has not exceeded, twelve months in a continuous period ; and
- (b) the periods of absence do not exceed in the aggregate one-seventh of the total number of working days and holidays occurring after the commencement of the first period of his employment which may be included in the period of his service under sub-section (1.) or sub-section (2.) of this section,

but the period of any absences shall, for the purposes of this Act, be deducted from the employee's period of service.

(5.) For the purposes of this section, a person shall not be deemed to break, or to have broken, the continuity of his service or to be, or to have been, absent by reason of his being—

- (a) on leave of absence with pay or part pay ; or
- (b) on leave of absence without pay, where the leave of absence is granted—
  - (i) on account of illness ;
  - (ii) for any of the purposes specified in section seventy-two of the *Commonwealth Public Service Act 1922-1943* ;<sup>(b)</sup> or
  - (iii) for such other purpose as is prescribed.

(a) Now the *Public Service Act 1922-1950*, *infra*.

(b) Now the *Public Service Act 1922-1950*, *infra*.

Grant of  
furlough to  
temporary  
employees.

7.<sup>(a)</sup>—(1.) Where the period of service of a Commonwealth employee is at least twenty years, the approving authority may grant to him leave of absence for a period not exceeding one month and a half on full salary or three months on half salary, in respect of each completed five years of his period of service :

Provided that the employee shall not be granted leave of absence to exceed a continuous period of twelve months at any one time.

(2.) Where a Commonwealth employee whose period of service is at least twenty years ceases to be a Commonwealth employee (other than by discharge on account of unsatisfactory service) the approving authority may authorize payment to him of a sum equivalent to the salary for a period of leave not exceeding that which the employee could have been granted under the last preceding sub-section.

(3.) Upon the death of any Commonwealth employee who at the date of his death was eligible under this section for the grant of leave of absence or, if the approving authority, after consideration of all the circumstances, directs that the death of a Commonwealth employee so eligible be presumed, the approving authority may authorize payment to the dependants of the employee of a sum equivalent to the amount of salary which would, under this section, have been granted to the employee had he ceased to be a Commonwealth employee on the date of his death or, in any case where the approving authority has directed that the death of the employee be presumed, a date determined by the approving authority.

Grant of  
extended leave  
or pay in lieu  
to temporary  
employees not  
entitled to  
furlough.

8.<sup>(a)</sup>—(1.) The approving authority may grant to any Commonwealth employee whose period of service is less than twenty years, who is not eligible for furlough under the last preceding section, immediately prior to his ceasing to be a Commonwealth employee (other than by discharge on account of unsatisfactory service) on, or subsequent to, his attaining the age of sixty years, leave of absence on full salary for a period not exceeding that appropriate to his service as specified in the following scale :—

Service.	Leave.
16 years and less than 20 years .. ..	5 months
12 years and less than 16 years .. ..	4 months
8 years and less than 12 years .. ..	3 months

(2.) In lieu of leave in accordance with the last preceding sub-section, the approving authority may authorize payment to a Commonwealth employee eligible for leave in pursuance of that sub-section, upon his ceasing to be a Commonwealth employee (other than by discharge on account of unsatisfactory service), of a sum equivalent to the salary for a period of leave not exceeding that which the employee could have been granted under that sub-section.

(a) See footnote (c) to s. 5 (c) *supra*.



(3.) Where a person who is less than sixty years of age ceases to be a Commonwealth employee after less than twenty years service, and produces to the approving authority satisfactory evidence that his ceasing to be a Commonwealth employee is due to ill-health and that such ill-health is permanent and is not due to misconduct or to causes within his own control, the approving authority may authorize payment to the employee of a sum equivalent to the salary for a period of leave not exceeding that for which, had he attained the age of sixty years, he would have been eligible under sub-section (1.) of this section.

(4.) Where, before a Commonwealth employee has completed a period of service of twenty years and either before or after he has attained the age of sixty years—

(a) the employee dies ; or

(b) the approving authority, after consideration of all the circumstances, directs that the death of the employee be presumed,

the approving authority may authorize payment to the dependants of the employee of a sum equivalent to the salary for the period of leave which the employee would have received had he, under sub-section (1.) of this section, been eligible for, and granted, leave of absence at the date of his death, or in any case where the approving authority has directed that the death of the employee be presumed, at a date determined by the approving authority.

9.—(1.) Notwithstanding anything contained in this Act—

(a) there shall not be granted or authorized under this Act, in respect of the service of any Commonwealth employee, any leave of absence or pay or payment of any sum on his ceasing to be a Commonwealth employee, or on his death, or in any case where the approving authority has directed that the death of the employee be presumed, which, when added to any similar leave of absence or pay or sum which may be or has been granted or payment of which may be or has been authorized under any other law of the Commonwealth or of a State or Territory of the Commonwealth, exceeds, in the whole, twelve months on full salary or its equivalent ; and

(b) except in the case of a person who ceases to be a Commonwealth employee after he attains the age of sixty years, leave of absence for recreation shall not be granted to that person in respect of the year in which leave of absence granted under this Act commences, and if leave of absence for recreation has been granted in the year in which leave of absence under this Act commences, it shall be regarded as part of the period of leave of absence granted under this Act.

Limit of  
furlough or  
payment in  
lieu thereof.

Amended by  
No. 33, 1944,  
s. 6.



(2.) The total period of leave of absence for recreation which, under paragraph (b) of the last preceding sub-section or under any similar provision in any other law of the Commonwealth, may be so withheld or regarded, shall not, during a Commonwealth employee's period of service, exceed the period of leave of absence for recreation which may be granted in respect of one year of service.

Conduct of  
employee to  
be taken into  
account.

10. The official conduct record of a Commonwealth employee shall be taken into consideration in determining whether the whole or any portion of the leave of absence or pay provided in this Act may be granted.

Regulations.

11. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

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# COMMONWEALTH GRANTS COMMISSION ACT 1933-1950.<sup>(a)</sup>

An Act relating to a Commission to deal with the matter of Grants by the Commonwealth of financial assistance to the States.

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1. This Act may be cited as the *Commonwealth Grants Commission Act 1933-1950.*<sup>(a)</sup>

Short title.  
Short title  
amended, No.  
32, 1918, s. 2.

2. In this Act, unless the contrary intention appears—  
“the Commission” means the Commonwealth Grants Commission constituted under this Act.

Definition.

3.—(1.) There shall be a Commonwealth Grants Commission which shall consist of three members.

Constitution of  
Commonwealth  
Grants  
Commission.

(2.) The members of the Commission shall be appointed by the Governor-General and, upon the happening of a vacancy in any office of member of the Commission, the Governor-General shall appoint a person to the vacant office.

(3.) Each appointment shall be for such term not exceeding three years as is specified in the instrument of appointment.

(4.) Where the Governor-General—

(a) suspends a member from office in pursuance of this Act ;  
or

(b) is satisfied that a member will, for a period not less than one month, be unable to act as such member,

he may appoint a person to act as the deputy of that member during his suspension or inability to act, and the deputy shall, while so acting, have all the powers and perform all the duties of a member of the Commission.

(a) The *Commonwealth Grants Commission Act 1933-1950* comprises the *Commonwealth Grants Commission Act 1933* as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table :—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Commonwealth Grants Commission Act 1933</i>	1933, No. 3 ..	30th May, 1933 ..	30th May, 1933
<i>Port Augusta to Port Pirie Railway Act 1935</i>	1935, No. 72 ..	9th December, 1935	9th December, 1935
<i>Statute Law Revision Act 1950</i>	1950, No. 80 ..	16th December, 1950	31st December, 1950

Chairman.

4.—(1.) The Governor-General shall appoint one of the members of the Commission to be the Chairman of the Commission, and in the event of the Governor-General—

(a) suspending from office, in pursuance of this Act, the member who has been appointed Chairman; or

(b) being satisfied that the Chairman will, for a period not less than one month, be unable to act as Chairman,

he shall appoint one of the other members of the Commission to act as Chairman during the suspension of the Chairman or during his inability to act, as the case may be.

(2.) Where the Chairman is absent from any meeting of the Commission and a member has not been appointed under the last preceding sub-section to act as Chairman, the members of the Commission present shall appoint one of their number to preside at that meeting.

Remuneration and expenses of members.

5.—(1.) The Chairman of the Commission shall receive a salary of Three hundred pounds a year and each of the other members of the Commission shall receive a salary of Two hundred pounds a year.

(2.) Each member of the Commission shall, in addition to the salaries provided in the last preceding sub-section, and each deputy of a member shall, receive a fee of Five guineas for each day upon which he attends a meeting of the Commission.

(3.) There shall be paid to each member, and to each deputy of a member, of the Commission, on account of his expenses in travelling to discharge the duties of his office, such sums as are prescribed.

Sub-section (4) omitted by No. 80, 1950, s. 3 and First Schedule.

\* \* \* \* \*

Sittings of the Commission.

6. Meetings of the Commission may be convened by the Chairman, whenever he thinks proper, and shall be convened by him whenever he is requested so to do by the Minister.

Quorum.

7.—(1.) For the conduct of business any two members of the Commission (including any deputy of a member) shall be a quorum.

(2.) If at any meeting of the Commission the members present are equally divided in opinion upon any matter, the determination of the matter shall be postponed until all the members are present.

Suspension of member.

8.—(1.) The Governor-General may suspend any member from office for misbehaviour or incapacity.

(2.) The Minister shall cause to be laid before each House of the Parliament, within seven sitting days of that House after the date of the suspension, a full statement of the grounds of the suspension.

(3.) If within sixty days after a statement of the cause of suspension of a member has been laid before both Houses of the Parliament an address is presented to the Governor-General by both Houses of the Parliament praying for the restoration of that member to office, the member shall be restored accordingly; but if no such address is so presented the Governor-General may confirm the suspension and declare the office of that member to be vacant and the office shall thereupon become and be vacant.

(4.) A member who is suspended from office under sub-section (1.) of this section shall not be paid salary in respect of the period of his suspension unless and until he is restored to office under the last preceding sub-section.

9.—(1.) The Commission shall inquire into and report to the Governor-General upon—

Functions of  
the Commis-  
sion.

- (a) applications made by any State to the Commonwealth for the grant by the Parliament of financial assistance in pursuance of section ninety-six of the Constitution;
- (b) any matters relating to grants of financial assistance made in pursuance of that section by the Parliament to any State which are referred to the Commission by the Governor-General; and
- (c) any matters relating to the making of any grant of financial assistance by the Parliament to any State in pursuance of that section, which are referred to the Commission by the Governor-General.

(2.) The Commission shall, in connexion with any application or matter relating to the State of South Australia which is dealt with by the Commission in pursuance of this section, take into consideration any claim submitted to the Commission by the State for the payment by the Commonwealth of any sum, additional to the sums payable under clause six of the Agreement between the Commonwealth and the State (a copy of which Agreement is set forth in the First Schedule to the *Port Augusta to Port Pirie Railway Act 1935*), in respect of the matter specified in paragraphs (a) to (c) of that clause.

Added by No.  
72, 1935, s. 18.

10. All evidence given by witnesses appearing before the Commission shall be on oath or affirmation.

Evidence to  
be on oath.

11. The Chairman, or any member of the Commission acting or presiding as Chairman, may administer an oath or affirmation to any person appearing as a witness before the Commission.

Administration  
of oaths.

12. If a person, who has taken an oath or affirmation as a witness before the Commission, refuses or fails, without reasonable excuse, to answer any question relevant to the inquiry being made by the

Penalty for  
refusing to  
give evidence.

Commission which is put to him either by a member of the Commission or, with the authority of the Commission, by any person authorized by the Commission to appear before it, he shall be guilty of an offence.

Penalty : Five hundred pounds.

Giving false  
testimony.

**13.** Any witness before the Commission who knowingly gives false testimony touching any matter, material in the inquiry being made by the Commission, shall be guilty of an indictable offence.

Penalty : Imprisonment for five years.

Report to be  
laid before  
Parliament.

**14.**—(1.) The Minister may cause any report made under section nine of this Act to be laid before each House of the Parliament and shall, before any proposed law relating to the subject of the report originates in the Parliament, cause the report to be laid before each House thereof.

(2.) The Minister may cause to be attached to any report laid before the Houses of the Parliament in pursuance of this section such statement, recommendation or comment by him as he thinks proper.

Regulations.

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

(a) regulating the practice and procedure of the Commission ; and

(b) prescribing the form in which applications for financial assistance shall be made.

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## COMMONWEALTH INSCRIBED STOCK ACT 1911-1946.<sup>(a)</sup>

An Act to provide for the issue of Stock, Bonds and other Securities by the Commonwealth and for other purposes.

Title amended  
by No. 25,  
1932, s. 3.

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

### PART I.—PRELIMINARY.

1. This Act may be cited as the *Commonwealth Inscribed Stock Act 1911-1946.*<sup>(a)</sup>

Short title.  
Short title  
amended.  
No. 32, 1918,  
s. 2.
2. This Act is divided into Parts as follows:—
  - Part I.—Preliminary.
  - Part II.—Creation and Issue of Stock.
  - Part III.—Inscription of Stock.
    - Division 1.—Registries and Registrars.
    - Division 2.—Inscription of Stock.
    - Division 3.—Transfers and Transmissions.
    - \* \* \* \* \*
    - Division 5.—Legal Provisions.

Parts.  
Amended by  
No. 6, 1918,  
s. 2. by No. 7,  
1918, s. 2. and  
by No. 26,  
1945 s. 2.

(a) The *Commonwealth Inscribed Stock Act 1911-1946* comprises the *Commonwealth Inscribed Stock Act 1911* as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table:—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Commonwealth Inscribed Stock Act 1911</i>	1911, No. 20 ..	22nd December, 1911	22nd December, 1911
<i>Commonwealth Inscribed Stock Act 1912</i>	1912, No. 40 ..	24th December, 1912	24th December, 1912
<i>Commonwealth Inscribed Stock Act 1913</i>	1913, No. 16 ..	19th December, 1913	19th December, 1913
<i>Commonwealth Inscribed Stock Act 1915</i>	1915, No. 26 ..	16th August, 1915 ..	16th August, 1915
<i>Loans Sinking Fund Act 1918</i>	1918, No. 6 ..	28th May, 1918 ..	1st July, 1916
<i>Commonwealth Inscribed Stock Act 1918</i>	1918, No. 7 ..	28th May, 1918 ..	28th May, 1918
<i>Commonwealth Inscribed Stock Act 1927</i>	1927, No. 2 ..	8th April, 1927 ..	8th April, 1927
<i>Commonwealth Inscribed Stock Act 1932</i>	1932, No. 25 ..	30th May, 1932 ..	12th September, 1931
<i>Commonwealth Inscribed Stock Act 1933</i>	1933, No. 5 ..	30th May, 1933 ..	30th May, 1933
<i>Commonwealth Inscribed Stock Act 1940</i>	1940, No. 25 ..	1st June, 1940 ..	29th June, 1940
<i>Commonwealth Inscribed Stock Act 1943</i>	1943, No. 58 ..	22nd October, 1943 ..	22nd October, 1943
<i>Commonwealth Inscribed Stock Act 1945</i>	1945, No. 26 ..	16th August, 1945 ..	13th September, 1945
<i>Commonwealth Inscribed Stock Act 1946</i>	1946, No. 21 ..	1st August, 1946 ..	29th August, 1946

\* \* \* \* \*

Part V.—Penal Provisions.

Part VA.—Treasury Bonds.

Part VI.—Miscellaneous.

Definitions.

Amended by  
No. 25, 1932,  
s. 4, and  
No. 26, 1945,  
s. 3.

3. In this Act, unless the contrary intention appears—

“Registrar” means the Registrar of Stock, or a Deputy Registrar of Stock ;

“Registry” means a Registry for the inscription of stock ;

“Stock” means Commonwealth Government Inscribed Stock or Australian Consolidated Inscribed Stock ;

“Treasury Bond” includes an Australian Consolidated Treasury Bond and any coupon issued in connexion with a Treasury Bond or an Australian Consolidated Treasury Bond.

#### PART II.—CREATION AND ISSUE OF STOCK.

Power to create  
stock.

Amended by  
No. 25, 1932,  
s. 5, and by  
No. 26, 1945,  
s. 4.

4. The Governor-General may by order create capital stock called Commonwealth Government Inscribed Stock or Australian Consolidated Inscribed Stock for—

(a) raising by way of loan any money authority to borrow which is granted by any Act ;<sup>(a)</sup>

(aa) converting any loan raised by the Commonwealth into any other loan so raised ; and

(b) paying any expenses of carrying this Act into effect which the Governor-General considers are properly payable out of capital.

Interest.

Amended by  
No. 26, 1915,  
s. 2.

5. Stock shall bear interest at a rate to be fixed by the order creating the stock, and the interest shall be payable half-yearly on days to be fixed by the order creating the stock.

Stock and  
interest a  
charge on  
revenue.

6. The principal money secured by any stock and the interest thereon shall rank equally and without priority or preference, and shall be a charge on and payable out of the Consolidated Revenue Fund which is hereby appropriated for the purpose.

Terms and  
conditions of  
issue.

7. Stock may be issued and sold in such amounts and manner and at such prices and on such terms and conditions as the Governor-General directs.

Redemption  
of stock.

Substituted by  
No. 5, 1933,  
s. 2 (1.).

8. Stock shall be redeemable at par on or after a date to be fixed in the order creating the stock and as specified in the order, or

(a) As to the regulation of the power of the Treasurer to borrow moneys, see s. 3 of the *Loans Securities Act 1919, infra*.

shall be redeemable by instalments<sup>(a)</sup> of such amounts, and payable on such dates, as are specified in that order, or may be made interminable, reserving to the Treasurer the right, on or after a date fixed by the Governor-General in the order creating the stock, to redeem the stock at par upon such notice given in such time and manner as is prescribed.

9. Stock redeemable after a date fixed in the order creating the stock may be redeemed by the Treasurer upon such notice and in such manner as he directs. Redemption of stock redeemable at fixed date.

10. Stock made interminable may be redeemed by the Treasurer at any time after the expiration of the prescribed notice in such order and manner as he directs, or as is prescribed. Redemption of interminable stock.

11. After the expiration of the notice for the redemption of any stock the interest on the stock specified in the notice shall cease. When interest to cease.

12. All moneys raised by the sale of stock shall be placed to the credit of the Loan Fund. Moneys raised to be placed to credit of Loan Fund.

13. Stock shall be personal property. Stock personal property.

### PART III.—INSCRIPTION OF STOCK.

#### *Division 1.—Registries and Registrars.*

14. The Governor-General may— Establishment of registries and appointment of Registrars.
- (a) establish Registries for the inscription of stock within the Commonwealth ;
  - (b) establish a Registry for the inscription of stock at London in the United Kingdom ;
  - (c) appoint such Registrars of Stock and Deputy Registrars of Stock as he thinks necessary.

#### *Division 2.—Inscription of Stock.*

15. All stock issued shall be inscribed in a Stock Ledger at a Registry by entering therein the name of the owner of the stock and the amount thereof, and such other particulars as are prescribed. Stock to be inscribed.

16. No stock shall be inscribed in the names of more than four persons. Limit of number of names.

17. The Registrar shall upon demand of the owner of any stock issue to him a certificate of the proprietorship of the stock, and such Stock certificates.

(a) Section 2 (2.) of the *Commonwealth Inscribed Stock Act 1933* reads :—

“(2.) Where at any time prior to the commencement of this section the Governor-General has specified, in an order creating any stock, that such stock shall be redeemable on a specified date or by instalments of specified amounts payable on specified dates, such order shall be deemed to be as valid and effectual as if this section had been in force when the order was made.”

certificate shall be *prima facie* evidence of the title of the holder to the stock therein specified; but the want of such certificate shall not prevent the owner of any stock from disposing of it.

Owner of  
stock.

18. The person whose name is inscribed in the Stock Ledger as the owner of any stock shall be deemed to be the owner of the stock, and shall have power to dispose of and transfer the stock subject to and in manner provided by this Act, and to give effectual receipts for any money paid to him by way of consideration.

Notice of  
trusts not  
received.

19. No notice of any trust express implied or constructive shall be received by the Registrar, or the Government of the Commonwealth, or entered in any Stock Ledger or other book kept by the Registrar.

Equitable  
interests  
preserved.

20. Without prejudice to the provisions of this Act relating to the disposal and transfer of stock and notice of trusts, it is the intention of this Act that equitable interests may be enforced against the owners of stock in the same manner as in respect of any other personal property.<sup>(a)</sup>

Section 20A  
repealed by  
No. 26, 1945,  
s. 5.

\* \* \* \* \*

Stock in joint  
names of infant  
and an adult.

21. Stock may be inscribed in the name of an infant jointly with one or more adult persons, but shall not, without the order of a Justice of the High Court or a Judge of the Supreme Court of a State or Territory, be transferred until the coming of age or decease of the infant.

Receipts for  
interest.

22. Any one of the persons in whose names any stock is inscribed may give valid receipts for interest.

Inscription  
in name of  
Friendly  
Society or  
Trade Union.  
Inserted by  
No. 2, 1927,  
s. 2.

22A.—(1.) Notwithstanding anything contained in this Act, stock may, subject to this section, be inscribed in the name of any Friendly Society or Trade Union which the Registrar is satisfied is registered under the laws of any State or any branch of a Friendly Society or Trade Union so registered.

(2.) An application by a Friendly Society, Trade Union or any branch thereof, for inscribed stock shall be in such form and contain such particulars as are prescribed, and any documents prescribed by or under this Act and relating to that stock shall be signed by such two or more persons as are appointed in that behalf by the Society, Trade Union or branch, as the case may be.

(a) *Per Rich, Dixon, Evatt and McTiernan JJ.*, although this section may contemplate the possibility of trusts and equities coming into existence, it does not of its own force confer a right or power to create them. It does no more than place the securities in the same category as other personal property with reference to trusts and equitable interests. *Fairbairn v. Comptroller of Stamps*, (1935) 53 C.L.R. 463; 41 A.L.R. 377.



(3.) Certificates, receipts and other documents relating to stock inscribed in the name of a Friendly Society, Trade Union or branch shall be issued only to such person as the Society, Trade Union or branch, as the case may be, appoints in that behalf.

(4.) No transactions under this Act shall be effected in relation to stock inscribed under this section unless they are authorized by the persons appointed by the Society, Trade Union or branch, as the case may be, in accordance with sub-section (2.) of this section, and the Commonwealth shall be under no legal liability in respect of any such transaction which is so authorized.

*Division 3.—Transfers and Transmissions.*

23. Stock may in the manner prescribed be transferred from one Registry to another Registry.

Transfer to another registry.

24. Stock may be transferred from one person to another by instrument in the prescribed form.

Transfer by instrument.

Amended by No. 5, 1933, s. 3.\*

25. Every instrument of transfer shall be executed by all parties, and the signatures to it shall be attested in the prescribed manner.

Execution of transfer.

Amended by No. 5, 1933, s. 4.\*

26. Every instrument of transfer when executed shall be delivered to the Registrar at the registry at which the stock specified in it is inscribed, and the Registrar shall register it by entering a memorial of it in the Stock Ledger, and shall inscribe the name of the transferee in the Stock Ledger as the owner of the stock.

Registration of transfer.

Amended by No. 5, 1933, s. 5.\*

27. Except with the approval of the Treasurer, a transaction relating to stock shall not be registered or dealt with within fourteen days prior to the date upon which interest is due or within one month prior to the date of maturity of the stock.

Transfers, &c., not to be registered within fourteen days before due date of interest.

Substituted by No. 26, 1945, s. 6.

28. Any person to whom any stock is transmitted may apply in the prescribed form to the Registrar at the registry where the stock is inscribed to be inscribed as the owner of the stock.

Transmission application.

29.—(1.) Every transmission application shall be verified by statutory declaration or in such other manner as the Treasurer allows, and

Verification of transmission.

Amended by No. 26, 1945, s. 7.

(a) in the case of a transmission consequent on death, the probate of the will, letters of administration or other instrument authorizing a person to administer the estate of a deceased person shall be produced to the Registrar ; and

\* Section 6 of the *Commonwealth Inscribed Stock Act 1933* reads :—

“6. The amendments effected by sections three, four and five of this Act shall be deemed to have commenced on the date of commencement of the Principal Act.”



- (b) in the case of a transmission consequent on bankruptcy or insolvency, an office copy of the adjudication or order of sequestration shall be delivered to the Registrar.

Added by  
No. 2, 1927,  
s. 3.

(2.) Where a person dies leaving any stock of an amount not exceeding One hundred pounds, the Treasurer may dispense with the requirement of paragraph (a) of the last preceding sub-section, and may authorize the transmission of the stock to such person as he thinks fit.

Added by  
No. 2, 1927,  
s. 3.

(3.) No person shall have any claim against the Commonwealth in respect of any transmission in pursuance of the last preceding sub-section, but nothing in this section shall relieve the person to whom the stock is transmitted from any liability to account for or deal with the stock in accordance with law.

Registration of  
transmission.

**30.** The Registrar shall, if he is satisfied that the provisions of this Act have been complied with, register the transmission by entering a memorial of it in the Stock Ledger and inscribe the name of the person to whom the stock has been transmitted in the Stock Ledger as the owner of the stock.

Stock certifi-  
cate to be  
delivered up.

**31.** Before registering any transfer or transmission, the Registrar may require the stock certificate relating to the stock to be delivered up to be cancelled.

Amount of  
stock  
transferable.

Substituted by  
No. 26, 1915,  
s. 3.

**32.** Transfers of stock may be made in such amounts as are approved by the Governor-General.

Division 4  
(ss. 33-42)  
repealed by  
No. 26, 1945,  
s. 8.

\* \* \* \* \*

#### *Division 5.—Legal Provisions.*

Orders to be  
carried into  
effect.

**43.** The Registrar, upon being served with any order relating to stock or having the effect of vesting stock in any person made by the High Court or a Justice thereof, or the Supreme Court of a State or a Judge thereof, or the Supreme Court of a Territory or a Judge thereof, shall make any entries in the Stock Ledger necessary to be made for the purpose of carrying the order into effect.

Copies of books  
&c. evidence.

**44.** A copy of, or extract from, any entry in any Stock Ledger and a copy of any document relating to stock in the custody of a Registrar, shall be admissible in evidence in all courts within the Commonwealth—

- (a) if it is proved to be an examined copy or extract; or
- (b) if it purports to be signed and certified as a true copy or extract by the Registrar.

**44A.**—(1.) Whenever, by the final judgment decree rule or order of any court of competent jurisdiction in the United Kingdom, any sum of money is adjudged to be payable by the Commonwealth in respect of any stock, the Treasurer shall forthwith pay the sum out of the Consolidated Revenue Fund, which is hereby appropriated accordingly.

Provision for payment of judgments in United Kingdom.  
 Cf. N.S.W., 1902, No. 79, s. 13; Vict., No. 1703; Q., 1 Edw. 7, No. 5 S.A., No. 764, s. 3; W.A., 64; Vict., No. 12, s. 3; Tas., 1 Edw. 7, No. 4, s. 3.

(2.) In this section "final judgment decree rule or order" means, in case of appeal, the final judgment decree rule or order of the ultimate court hearing the appeal.

(3.) Without in any way limiting the foregoing provisions of this section, it is hereby declared that, in the case of stock being colonial stock to which the Imperial Acts known as the Colonial Stock Acts 1877 to 1900 apply, the Treasurer shall forthwith pay out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, whatever sums of money are from time to time required to enable the Registrar to comply forthwith with any judgment decree rule or order with which under the Imperial Acts the Registrar is required to comply.

Inserted by No. 16, 1913, s. 2.

\* \* \* \* \*

Part IV.  
 repealed by No. 6, 1918, s. 2.

#### PART V.—PENAL PROVISIONS.

**48.**—(1.) Any person who, with intent to defraud, forges, or utters knowing it to be forged—

Forging or uttering stock certificates, &c.  
 Amended by No. 26, 1945, s. 9.

- (a) any stock certificate, or
- (b) any transfer of stock, or
- (c) any coupon, warrant, or document for the payment of money in respect of stock, or
- (d) any power of attorney in respect of stock, or
- (e) the signature of any person as witness to the execution of any instrument or document in respect of stock,

shall be guilty of an indictable offence.

Penalty: Imprisonment for ten years.

(2.) Any person who, without authority, proof whereof shall lie upon him—

- (a) makes, or has in his possession, any form of stock certificate, or
- (b) makes, or has in his possession, any form of any coupon, warrant, or document for the payment of money in respect of stock, or
- (c) makes any instrument or thing for the purpose of making any imitation of any distinctive mark or signature on any stock certificate, or coupon, warrant, or document for the payment of money in respect of stock, or has in his possession any instrument or thing so made,

shall be guilty of an offence.

Penalty: Imprisonment for two years.

(3.) In this section "form" in relation to any instrument or document includes any form resembling or apparently intended to resemble or pass for a form of the instrument or document.

False personation.

49. Any person who, with intent to defraud, falsely personates any person entitled to any stock or to any money payable in respect of any stock, shall be guilty of an indictable offence.

Penalty : Imprisonment for ten years.

Falsification of books or documents.

Amended by No. 26, 1945, s. 10.

50. Any person who fraudulently—

- (a) makes any false entry in any book, record, or document relating to stock, or
- (b) omits to make any entry in any book, record, or document relating to stock, or
- (c) by act or omission falsifies any book, record, or document relating to stock, or
- (d) destroys any book, record, or document relating to stock, or
- (e) delivers to any person not entitled thereto any stock certificate, or any coupon, warrant, or document for the payment of any money payable in respect of any stock,

shall be guilty of an indictable offence.

Penalty : Imprisonment for ten years.

Forfeiture of forged documents and illicit forms.

51. All forged instruments or documents, the forging or uttering of which is punishable under this Act, and all forms, instruments, and things made or had in possession in contravention of this Act, shall be forfeited to the King, and may be seized by any member of the police force of the Commonwealth or a State.

#### PART VA.—TREASURY BONDS.<sup>(a)</sup>

Power to make out and issue Treasury Bonds.

Inserted by No. 26, 1915, s. 4; amended by No. 25, 1932, s. 6, and by No. 26, 1945, s. 11.

51A. The Governor-General may authorize the Treasurer from time to time to make out and issue bonds called Treasury Bonds or Australian Consolidated Treasury Bonds, Debentures and such other securities as are prescribed, for—

- (a) raising by way of loan any money, authority to borrow which is granted by any Act ;
- (aa) converting any loan raised by the Commonwealth into any other loan so raised ; and
- (b) paying any expenses of carrying this Act into effect which the Governor-General considers are properly payable out of capital.

<sup>(a)</sup> Part VA. was inserted by the *Commonwealth Inscribed Stock Act 1915*, s. 4.

As to the regulation of the power of the Treasurer to borrow moneys, see s. 3 of the *Loans Securities Act 1919*, *infra*.

**51B.** Treasury Bonds, Debentures and other prescribed securities may be issued and sold in such amounts and manner, and at such price, and on such terms and conditions, as the Governor-General directs.

Sale of Treasury Bonds.  
Inserted by No. 26, 1915, s. 4; amended by No. 25, 1932, s. 7.

**51BA.** Any person who contravenes or fails to comply with any term or condition on which a Treasury Bond, Debenture or other prescribed security is issued or sold, shall be guilty of an offence against this Act.

Breach of terms or conditions of issue of Treasury Bonds.

Penalty: One hundred pounds or imprisonment for six months, or both, and, in addition, an amount equal to Ten per centum of the nominal value of the Treasury Bond, Debenture or other prescribed security in respect of which the offence is committed.

Inserted by No. 25, 1940, s. 2.

**51C.** Subject to the Regulations, the provisions of the *Treasury Bills Act* 1914-1915 shall apply to Treasury Bonds, Debentures and other prescribed securities, as if they were Treasury Bills issued under that Act.

Treasury Bills Act to apply to Bonds and other securities.  
Inserted by No. 26, 1915, s. 4; amended by No. 25, 1932, s. 8.

\* \* \* \* \*

S. 51D inserted by No. 26, 1915, s. 4, and repealed by No. 25, 1932, s. 9.

**51E.** Stock may, in the prescribed manner, and on such terms and conditions as are prescribed, be exchanged for Treasury Bonds, and Treasury Bonds may, in the prescribed manner, and on such terms and conditions as are prescribed, be exchanged for Stock.

Conversion of stock and Bonds.  
Inserted by No. 26, 1915, s. 4.

**51F.** When, in accordance with the terms and conditions under which Treasury Bonds are sold, the interest payable on such Treasury Bonds is accumulated, and the payment of the interest is deferred until the Treasury Bonds are presented for payment, the Treasurer may, in each year during which the interest is accumulated, pay to a Trust Account, to be established for the purpose under section sixty-two A of the *Audit Act* 1901-1917, such amount as he thinks necessary to provide for the payment of the interest on the maturity of the Treasury Bonds.

Interest on Treasury Bonds may be paid to Trust Fund.  
Inserted by No. 7, 1918, s. 4.

**51G.** When Treasury Bonds which have been issued and sold for raising money by way of loan for war purposes are presented for payment in accordance with the terms and conditions under which they were issued and sold, the Treasurer may repurchase or redeem them from the proceeds of any loan raised for war purposes.

Treasury Bonds may be repurchased out of war loans.  
Inserted by No. 7, 1918, s. 4.

#### PART VI.—MISCELLANEOUS.

**52.** Any person who is authorized to invest money upon any security of the Government of the Commonwealth or of a State may invest such money in stock.

Investments in stock.



Stock certificates, &c., not liable to stamp duty.

Substituted by No. 26, 1945, s. 12.

52A. The following instruments and documents shall not be liable to stamp duty or other tax<sup>(a)</sup> under any other law of the Commonwealth or of a State or Territory of the Commonwealth unless they are declared to be so liable by the prospectus relating to the loan in respect of which they are issued or used :—

- (a) stock certificates, Treasury Bonds, Debentures and other prescribed securities ;
- (b) documents relating to the purchase, sale, transfer,<sup>(b)</sup> transmission, conversion, renewal or redemption of stock, Treasury Bonds, Debentures or other prescribed securities ;
- (c) cheques and drafts drawn by a bank on behalf of the Commonwealth in connexion with any such conversion, renewal or redemption ;
- (d) documents relating to the payment of interest on stock, Treasury Bonds, Debentures or other prescribed securities ; and
- (e) cheques and drafts drawn by a bank on behalf of the Commonwealth for the payment of any such interest.

Liability of interest to income tax.

Inserted by No. 26, 1915, s. 5 ; amended by No. 7, 1918, s. 6,\* by No. 25, 1932, s. 11, by No. 25, 1940, s. 3, and by No. 21, 1946, s. 2 .

52B.—(1.) The interest derived from Stock or Treasury Bonds shall not be liable to income tax under any law of a State unless the interest is declared to be so liable by the prospectus relating to the loan on which the interest is payable.<sup>(c)</sup>

(a) Held by the High Court (Gavan Duffy C.J., Starke, Dixon, Evatt and McTiernan JJ.; Rich J. dissenting) (prior to the Amending Act of 1932) that estate duty was not a "stamp duty or other tax". *Perpetual Trustee Co. (Ltd.) v. Federal Commissioner of Taxation*, (1932) 47 C.L.R. 402; 6 A.L.J. 78; 38 A.L.R. 305; 1 A.T.D. 375. Gavan Duffy C.J., Starke and Evatt JJ. based their decision on the view that the section merely exempted from taxation the actual securities and transfers of such securities as distinguished from taxation on the property created or transferred by the instruments which it prescribed. Dixon and McTiernan JJ. based their decision on the grounds that estate duty was not imposed immediately upon the instruments or securities as such but was a duty levied upon the amount by which the value of an aggregation of property exceeded the deceased's liabilities. The grounds of that decision have since been considered by the Supreme Court of Queensland (after the Amending Act of 1932) which held that probate duty is a "stamp duty or other tax". *Re Guest, Deceased, Union Trustee Co. of Australia Ltd. v. The Commissioner of Stamp Duties*, 1935 St.R.Qd. 248. Held by the Supreme Court of Queensland that a State Act purporting to tax a gift of Commonwealth Inscribed Stock is *pro tanto* invalid. *Counsell v. Commissioner of Stamps*, 1929 St.R.Qd. 99. Held by the High Court that an indenture of settlement transferring only the equitable interest in Australian Consolidated Inscribed Stock to trustees for the benefit of the settlor's wife and daughter is not a "document relating to the purchase sale transfer or transmission of any stock &c." so as to be exempt from stamp duty. *Fairbairn v. Comptroller of Stamps*, (1935) 53 C.L.R. 463; 41 A.L.R. 377.

(b) Held by the High Court that an indenture by a holder of Commonwealth stock declaring that he holds the stock in trust for others is not a transfer of stock within the meaning of this section as it read prior to the amending Act of 1917 and accordingly not exempt from stamp duty. *Commissioner of Stamps (Queensland) v. Counsell*, (1937) 57 C.L.R. 248; 43 A.L.R. 420; 11 A.L.J. 239. Held, by the Supreme Court of N.S.W., that an indenture whereby the owner of treasury bonds agreed to transfer the bonds to himself and two other persons as trustees is a document relating to the transfer of treasury bonds within the meaning of this section. *Chartres v. Commissioner of Stamp Duties*, 47 S.R. (N.S.W.) 389.

(c) Held by the High Court (Knox C.J., Isaacs, Higgins and Rich JJ.; Gavan Duffy and Starke JJ. dissenting) that a State Act which, although it exempts such interest from taxation, includes that interest for the purpose of determining gross income and thereby renders the bondholder liable to a higher rate of taxation, is *pro tanto* invalid. Held further by Knox C.J., Isaacs, Higgins, Rich and Starke JJ., that this section is a valid exercise of the powers of the Parliament. *Commonwealth v. State of Queensland*, (1920) 29 C.L.R. 1; 27 A.L.R. 73. *Per Henchman J.*, of the Supreme Court of Queensland, in the case of a trustee-investor the exemption extends also to a beneficiary being paid an annuity out of the proceeds of the exemption. *In re Income Tax Acts 1924-1928 (No. 2)* 1929 St.R.Qd. 276. Held by the High Court that bonds issued under the *Loans Securities Act 1919*, the principal and interest being payable in New York in dollars, are not Treasury Bonds and not therefore within the exemption provided by this section. *Ervin v. Federal Commissioner of Taxation*, (1935) 53 C.L.R. 235; 41 A.L.R. 364; 3 A.T.D. 238.

\* Section 6 (2.) of the *Commonwealth Inscribed Stock Act 1918* reads :—

"This section shall be deemed to have commenced on the first day of January One thousand nine hundred and eighteen."



(2.) Notwithstanding anything contained in the *Taxation of Loans Act* 1923 or in any other Act, if in any prospectus or form of application issued in relation to a loan raised after the twelfth day of September One thousand nine hundred and thirty-one it is so declared, the interest derived by any person in any financial year from that loan shall be free from income tax payable under the law of the Commonwealth to the same extent as interest derived from new securities referred to in section twenty of the *Commonwealth Debt Conversion Act* 1931.<sup>(a)</sup>

(3.) Notwithstanding anything contained in the *Taxation of Loans Act* 1923 or in any other Act, where it is declared, in any prospectus relating to the raising of a loan by means of the issue of Treasury Bonds known as War Savings Certificates or Savings Certificates, that the certificates will be free of Commonwealth income tax, the interest derived by any person in any financial year from those Bonds shall be free from income tax payable under any law of the Commonwealth.

**52c.** Stock may be accepted at par, and Treasury Bonds may be accepted at their face value, in payment of estate duty payable under any law of the Commonwealth.

Stock or Bonds may be used to pay estate duty.

Inserted by  
No. 26, 1915,  
s. 5.

**53.** All ledgers and transfer books shall be examined once a month by the Auditor-General or his Deputy.

Auditor-General to examine ledgers.

**54.—(1.)** Each Registrar shall keep lists of persons upon whose stock interest is unclaimed for ten years, together with their registered addresses and descriptions.

List of unclaimed interest.

(2.) Such lists shall be open for inspection upon payment of the prescribed fee.

**55.—(1.)** Each Registrar shall keep the prescribed forms.

Forms.

(2.) No forms other than the prescribed forms shall be used except with the approval of the Treasurer.

**56.—(1.)** Any person may, by power of attorney under his hand and seal and attested, appoint some person to be his attorney for any purpose in relation to stock.

Powers of attorney.

Amended by  
No. 26, 1945,  
s. 13.

(2.) Every power of attorney in relation to stock shall be deposited, or produced to the Registrar, at the Registry where the stock to which it relates is inscribed.

(3.) A power of attorney shall be valid and effectual for all the purposes therein mentioned until notice of its revocation, or of the bankruptcy, insolvency, lunacy, unsoundness of mind, or death

<sup>(a)</sup> See also s. 45 of the *Income Tax and Social Services Contribution Assessment Act* 1936-950, *infra*.

of the principal, has been received by the Registrar at the Registry where the power of attorney is deposited or produced.

War Savings  
Stamps.

Section 57  
repealed by  
No. 2, 1927,  
s. 5.

Re-inserted by  
No. 58, 1943,  
s. 3;  
amended by  
No. 21, 1946,  
s. 3.

Savings  
Stamps.

Inserted by  
No. 21, 1946,  
s. 4.

**57.**—(1.) Stamps (to be known as War Savings Stamps) may be made and sold in such denominations as the Treasurer determines.

(2.) War Savings Stamps may be accepted at their face value in payment for Treasury Bonds known as War Savings Certificates or Savings Certificates.

**57AA.**—(1.) Stamps (to be known as Savings Stamps) may be made and sold in such denominations as the Treasurer determines.

(2.) Savings Stamps may be accepted at their face value in payment for Treasury Bonds known as War Savings Certificates or Savings Certificates.

Conversion of  
War Savings  
Certificates and  
Savings  
Certificates.

Inserted by  
No. 21, 1946,  
s. 4.

National  
Savings  
Stamps.

Inserted by  
No. 58, 1943,  
s. 3.

Amended by  
No. 26, 1945,  
s. 14.

**57AB.** War Savings Certificates may be exchanged for Savings Certificates and Savings Certificates may be exchanged for War Savings Certificates.

**57A.**—(1.) Stamps (to be known as National Savings Stamps) may be made and sold in such denominations as the Treasurer determines.

(2.) National Savings Stamps may be accepted at their face value in payment for Treasury Bonds (other than Treasury Bonds known as War Savings Certificates) or Stock.

Application of  
certain  
provisions of  
Treasury Bills  
Act to stamps.

Inserted by  
No. 58, 1943,  
s. 3.

Amended by  
No. 21, 1946,  
s. 5.

Regulations.

**57B.** The provisions of sections thirteen, thirteen A, thirteen B and fourteen of the *Treasury Bills Act 1914-1940* shall apply in relation to War Savings Stamps, Savings Stamps and National Savings Stamps in the like manner as they apply in relation to Treasury Bills.

**58.** The Governor-General may make regulations, not inconsistent with this Act, prescribing the fees payable under this Act and all matters and forms required or necessary or convenient to be prescribed for carrying out or for giving effect to this Act or for the conduct of any business at or in connexion with any Registry.

## COMMONWEALTH OBSERVATORY FUND ACT 1930-1944.<sup>(a)</sup>

An Act to provide a Fund for the Establishment and Endowment of an Observatory in the Australian Capital Territory. Title amended by No. 41, 1944, s. 3.

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1. This Act may be cited as the *Commonwealth Observatory Fund Act 1930-1944.*<sup>(a)</sup> Short title.  
Short title amended.  
No. 32, 1918, s. 2.
2. In this Act, unless the contrary intention appears—
  - "the Commonwealth Astronomer" includes the officer in charge of the Observatory during any vacancy in the office of Commonwealth Astronomer ;
  - "the Fund" means the Fund established under this Act ;
  - "the Observatory" means the Commonwealth Observatory in the Australian Capital Territory ;
  - "the trustees" means the trustees appointed by or under this Act.Definitions.  
Amended by No. 41, 1944, s. 4.
3. For the purposes of this Act, there shall be a Fund which shall be known as "The Commonwealth Observatory Foundation and Endowment Fund".<sup>(b)</sup> Establishment of Fund.  
Amended by No. 41, 1944, s. 5.
4. The Fund shall be vested in and placed under the control of the trustees. Control of Fund.

(a) The *Commonwealth Observatory Fund Act 1930-1944* comprises the *Solar Observatory Fund Act 1930* as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table :—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Solar Observatory Fund Act 1930</i>	1930, No. 5 ..	29th March, 1930 ..	29th March, 1930
<i>Solar Observatory Fund Act 1931</i>	1931, No. 4 ..	13th May, 1931 ..	13th May, 1931
<i>Solar Observatory Fund Act 1932</i>	1932, No. 28 ..	30th May, 1932 ..	30th May, 1932
<i>Commonwealth Observatory Fund Act 1944</i>	1944, No. 41 ..	7th December, 1944	7th December, 1944

(b) Section 9 of the *Commonwealth Observatory Fund Act 1944* reads as follows :—

"9. All moneys standing to the credit of the Commonwealth Solar Observatory Foundation and Endowment Fund and the Director's Account established under the Principal Act shall, upon the commencement of this Act, be transferred respectively to the Commonwealth Observatory Foundation and Endowment Fund and the Commonwealth Astronomer's Account established under the Principal Act as amended by this Act, and all investments made out of the first-mentioned Fund and Account shall, as from the commencement of this Act, be deemed to have been made out of the second-mentioned Fund and Account respectively, and may be dealt with accordingly."

Trustees.

Amended by  
No. 28, 1932,  
s. 2, and by  
No. 41, 1944,  
s. 6.

5. The Commonwealth Astronomer, the Secretary to the Department of the Treasury, the Secretary to the Department of the Interior, and such other person as the Minister may appoint, shall be the trustees of the Fund.

Constitution of  
Fund.

6. The Fund shall consist of—

- (a) donations contributed for the purposes of the foundation and endowment of the Observatory whether such donations are in the form of money or securities ;
- (b) investments made out of donations contributed prior to the commencement of this Act for the purposes of the Observatory ; and
- (c) any other money or property received by the trustees for the purposes of the Fund.

Bequests and  
donations.

7. Where any money or other property is given, devised or bequeathed to the Commonwealth for the purposes of the Observatory, the Minister may, after report by the trustees, direct that the money or property, or any specified part thereof, shall form part of the Fund and thereupon that money or property or part thereof shall be paid or transferred to the trustees for the purposes of the Fund.

Investment of  
Fund.

8. The trustees may—

- (a) invest moneys standing to the credit of the Fund in securities of the Commonwealth or on deposit in the Commonwealth Bank or in the Commonwealth Savings Bank ; and
- (b) convert into money any securities forming part of the Fund.

Commonwealth  
Astronomer's  
Account.

Substituted by  
No. 41, 1944,  
s. 7.

9.—(1.) The trustees shall, at the end of each quarter in each financial year, deposit to the credit of the Commonwealth Astronomer in an account to be opened in the Commonwealth Savings Bank (in this section referred to as "the Commonwealth Astronomer's Account") the net income accruing during that quarter from investments of moneys constituting the Fund.

(2.) The Commonwealth Astronomer may expend for the purposes of the Observatory any moneys standing to his credit in the Commonwealth Astronomer's Account.

(3.) The Commonwealth Astronomer may invest in securities of the Commonwealth any moneys standing to his credit in the Commonwealth Astronomer's Account.

(4.) The Commonwealth Astronomer may convert any such securities into money, and shall pay the proceeds of any such conversion into the Commonwealth Astronomer's Account.

(5.) The Commonwealth Astronomer shall, within fourteen days after the commencement of each financial year, furnish the trustees with a report showing particulars of the amounts paid into the Commonwealth Astronomer's Account during the preceding financial year, the withdrawals from that account during the year, the purposes for which the withdrawals were made, the investments made or converted by him in pursuance of this section during the year, the unexpended balance remaining in the Commonwealth Astronomer's Account at the end of the year and the investments held at the end of the year.

10. The trustees shall, in the month of July in each year, furnish Report. the Minister with a report showing the amount at credit of the Fund, the total amount of donations received during the preceding financial year, the securities in which moneys constituting the Fund have been invested, the income accruing therefrom and the total expenditure during the preceding financial year from the income of those securities and the purposes for which the expenditure was incurred.

11. All books and accounts kept by the trustees and by the Audit. Commonwealth Astronomer shall be audited from time to time by Amended by the Auditor-General for the Commonwealth who shall make a No. 4, 1931, report of each audit to the Minister. s. 3, and by  
No. 41, 1944,  
s. 3.

12. The Governor-General may make regulations, not incon- Regulations. sistent with this Act, prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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COMMONWEALTH PUBLIC WORKS COMMITTEE  
ACT 1913-1947.<sup>(a)</sup>

An Act to provide for the establishment of a Parliamentary Standing Committee on Public Works and for other purposes.

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

Short title.  
Short title  
amended.  
No. 32, 1918,  
s. 2.

1. This Act may be cited as the *Commonwealth Public Works Committee Act 1913-1947*.<sup>(a) (b)</sup>

Parts.  
Amended by  
No. 92, 1936,  
s. 3.

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

Part I.—Preliminary.

Part II.—Parliamentary Standing Committee on Public Works.

Part III.—Powers of the Committee.

Part IV.—Sectional Committees.

Part V.—Miscellaneous.

PART II.—PARLIAMENTARY STANDING COMMITTEE ON  
PUBLIC WORKS.

Constitution of  
of Committee.  
Cf. Vict.  
No. 1899, s. 2.

3.—(1.) As soon as conveniently practicable after the commencement of this Act, and thereafter at the commencement of the first session of every Parliament, a Joint Committee of nine members of Parliament, to be called the Parliamentary Standing Committee on Public Works (in this Act referred to as "the Committee"), shall

(a) The *Commonwealth Public Works Committee Act 1913-1947* comprises the Acts set out in the following table :—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Commonwealth Public Works Committee Act 1913</i>	1913, No. 20..	19th December, 1913	19th December, 1913
<i>Commonwealth Public Works Committee Act 1914</i>	1914, No. 32..	21st December, 1914	21st December, 1914
<i>Commonwealth Public Works Committee Act 1921</i>	1921, No. 19..	15th December, 1921	15th December, 1921
<i>Commonwealth Public Works Committee Act 1936</i>	1936, No. 92..	7th December, 1936	7th December, 1936
<i>Commonwealth Public Works Committee Act 1947</i>	1947, No. 69..	4th December, 1947	4th December, 1947

(b) Section 2 of the *Commonwealth Public Works Committee Act 1936* reads as follows :—  
" 2. The *Commonwealth Public Works Committee Act 1932* is hereby repealed."

be appointed according to the practice of the Parliament with reference to the appointment of members to serve on Joint Select Committees of both Houses of the Parliament.

(2.) Three of the members of the Committee shall be members of and appointed by the Senate, and six of the members of the Committee shall be members of and appointed by the House of Representatives.

(3.) No Minister of State shall be a member of the Committee. No President of the Senate, Speaker of the House of Representatives, or Chairman of Committees of either House of Parliament shall be a member of the Committee.

(4.) The members of the Committee shall hold office as a Joint Committee for the duration of the Parliament for the time being, but shall cease to hold office as soon as the House of Representatives expires by dissolution or effluxion of time; and shall have and may exercise such powers and authorities, perform such duties, and be liable to such obligations as are by this Act vested in or imposed upon the Committee.

4. Every member of the Committee, before entering on the duties of his office or sitting at any meeting of the Committee, shall make and subscribe a declaration in Form A in the Schedule.

Declaration to be subscribed by members.

Cf. N.S.W. 1912, No. 45, s. 16.

5.—(1.) Any member of the Committee may resign his seat on the Committee by writing under his hand addressed to the President of the Senate if he be a Senator, or to the Speaker of the House of Representatives if he be a Member of the House of Representatives.

Resignation.

Cf. N.S.W. ib. s. 11.

Vict. No. 1177 s. 4.

(2.) The seat of any member of the Committee shall also be deemed to have become vacant if he ceases to be a member of the Senate or the House of Representatives (as the case may be).

6. Where a vacancy occurs in the Committee, it shall be filled by appointment as aforesaid within thirty days from the happening of the vacancy if the Parliament is then in session, and, if not, within thirty days after the next meeting of the Parliament.

Vacancies.

Cf. N.S.W. ib. s. 12.

7. Any five members of the Committee shall form a quorum competent to exercise all powers and authorities and to incur all obligations conferred or imposed by this Act upon the Committee.

Quorum.

Cf. N.S.W. 1912, No. 45, s. 13.

Vict. No. 1899, s. 3.

8. There shall be a chairman and vice-chairman of the Committee, who shall be elected by the members of the Committee at their first meeting, or as soon thereafter as is practicable. The chairman, or in case of his absence or other disability the vice-chairman, shall preside at all meetings of the Committee:

Chairman and vice-chairman.

Cf. N.S.W. ib. s. 14.

Vict. No. 1177, s. 5.

Provided that at any meeting of the Committee at which a quorum is present, the members in attendance may, in the absence of the chairman and vice-chairman, appoint one of their number then present to be temporary chairman, and the temporary chairman shall have, during the absence of the chairman and vice-chairman, all the powers given by this Act to the chairman or vice-chairman.

Division,  
casting vote,  
Cf. N.S.W.  
ib. s. 15.  
Vict. No. 1177,  
s. 5.

**9.**—(1.) All questions which arise in the Committee or a Sectional Committee shall be decided by a majority of votes of the members present, and when the votes are equal the chairman shall have a second or casting vote.

(2.) In all cases of divisions the names of the persons voting shall be stated on the minutes and in the report.

Power to sit  
during recess  
and in open  
court.  
Cf. N.S.W.  
ib. s. 17.  
Vict. ib. s. 8.

**10.** The Committee or a Sectional Committee may sit and transact business during any adjournment or recess as well as during the session, and may sit at such times and in such places, and conduct their proceedings in such manner, as they deem proper, and shall sit in open court :

Provided that the Committee or a Sectional Committee shall not hold any meeting whilst either House of the Parliament is actually sitting, except by leave of that House.

Reports.  
Cf. N.S.W.  
ib. s. 18.  
Vict. ib. s. 18.

**11.** The Committee shall, before the commencement of each session of the Parliament, make a report to the Governor-General of their proceedings under this Act ; and the report shall be laid before both Houses of the Parliament within fourteen days after the making thereof, if the Parliament is then sitting, and if not, then within fourteen days after the commencement of the next session.

Minutes.  
Cf. N.S.W.  
ib. s. 19.  
Vict. ib. s. 9.

**12.** The Committee shall keep full minutes of their proceedings in such manner as the Governor-General directs.

Evidence taken  
before previous  
Committees.  
Cf. N.S.W.  
ib. s. 20.  
Vict. ib. s. 17.

**13.** Where any public work is referred to any Committee, and the Committee lapses or ceases to have legal existence before it reports thereon, the evidence taken before the Committee and before any Sectional Committee shall, nevertheless, be considered by any subsequent Committee to which the same public work is referred for report, as if it had been given before the subsequent Committee.

### PART III.—POWERS OF THE COMMITTEE.

Functions of  
Committee.  
N.S.W. 1912,  
No. 45, s. 24,  
Vict. No. 1177,  
s. 12.  
Amended by  
No. 92, 1936,  
s. 4.

**14.**—(1.) The Committee shall, subject to the provisions of this Act, consider and report upon any public work the estimated cost of which exceeds Twenty-five thousand pounds which is referred to it by Resolution of the House of Representatives as provided in this Act.

(2.) In considering and reporting on any work, the Committee shall have regard to—

(a) the stated purpose thereof ;

(b) the necessity or advisability of carrying it out ; and where the work purports to be of a reproductive or revenue-producing character, the amount of revenue which it may reasonably be expected to produce ; and

(c) the present and prospective public value of the work ;

and generally the Committee shall in all cases take such measures and procure such information as may enable them to inform or satisfy the Parliament as to the expedience of carrying out the work.

15.—(1.) The Minister or any Member of the House of Representatives may move that any proposed public work the estimated cost of which exceeds Twenty-five thousand pounds shall be referred by that House to the Committee for report.

Conditions precedent to commencing public works.  
Cf. N.S.W. ib. s. 34.

(2.) Upon the moving of the motion a Minister of State shall furnish to the House an explanation of the proposed work.

Vict. ib. s. 13.  
Amended by No. 32, 1914, s. 2, and by No. 92, 1936, s. 5.

(3.) The explanation shall comprise an estimate of the cost of the work when completed, together with such plans and specifications or other descriptions as the Minister deems proper, together with the prescribed reports on the probable cost of construction and maintenance, and estimates of the probable revenue (if any) to be derived therefrom, such estimates, plans, specifications, descriptions, and reports to be authenticated or verified in the prescribed manner.

(4.) If the motion for the reference is agreed to the proposed work shall be referred to the Committee for their report thereon.

(5.) The Committee shall with all convenient despatch deal with the matter, and shall, as soon as conveniently practicable, regard being had to the nature and importance of the proposed work, report to the House of Representatives the result of their inquiries.

(6.) After the receipt of the report of the Committee, the House of Representatives shall by resolution declare, either that it is expedient to carry out the proposed work, or that it is not expedient to carry it out :

Provided that the House of Representatives may, instead of declaring affirmatively or negatively as aforesaid, resolve that the report of the Committee shall, for reasons or purposes stated in the resolution, be remitted for their further consideration and report to the Committee; in which case the Committee shall consider the matter of the new reference, and report thereon accordingly.

(7.) A proposed public work which is referred to the Committee in pursuance of this section shall not be commenced unless and until the House of Representatives by resolution declares that it is expedient to carry out the proposed work.

(8.) For the purposes of this section " public work " includes any work which is a continuation, completion, repair, re-construction, or extension of a public work.

16. If the resolution of the House of Representatives declares that it is not expedient to carry out any proposed work, no proposal for a public work in substance identical with that work shall be submitted to the House of Representatives until after the expiration of one year from the date of the resolution unless the Governor-General, by writing under his hand addressed to the Committee, declares that in his opinion, and in view of the public interest, it is desirable that any such proposal should be re-submitted to the House of Representatives.

Circumstances under which negatived proposals may be re-submitted.  
N.S.W. 1912, No. 45, s. 36.  
Vict. No. 1177, s. 15.



Power to  
summon  
witnesses.

Cf. N.S.W.,  
1901, No. 43,  
s. 4.

Vict. ib.  
s. 10.

**17.**—(1.) The Committee or a Sectional Committee may summon witnesses to appear before it to give evidence and produce documents.

(2.) A summons to a witness may be in accordance with Form B in the Schedule, and shall be signed by the Chairman or Vice-Chairman.

(3.) A summons to a witness may be served upon the witness either personally or by being left at or sent by post to his usual place of business or of abode.

Warrant in  
case of  
disobedience of  
summons.  
Vict. ib. s. 10  
(6).

**18.**—(1.) If any witness, upon whom a summons under this Act has been served after the tender of prescribed expenses, fails to appear or to continue in attendance in obedience to the summons, the Chairman or Vice-Chairman may issue a warrant for his apprehension.

(2.) The warrant may be in accordance with Form C in the Schedule, and shall authorize the apprehension of the witness, and his being brought before the Committee to give evidence, and his detention in custody for that purpose until he is released by order of the Chairman or Vice-Chairman.

(3.) The warrant may be executed by the person to whom it is addressed or by any person whom he appoints to assist him in its execution, and the person executing the warrant shall have power to break and enter any building, place, or ship for the purpose of executing it.

Penalty for  
disobedience of  
summons.

**19.** If any witness, upon whom a summons under this Act has been served, fails, without reasonable excuse (proof whereof shall lie upon him), to appear or to continue in attendance in obedience to the summons, he shall be guilty of an offence.

Preventing  
witnesses from  
giving evidence.

**20.** Whoever, by act or omission, knowingly dissuades or prevents any witness from obeying a summons under this Act, shall be guilty of an offence.

Power to take  
evidence on  
oath or  
affirmation.

Cf. N.S.W.,  
1901, No. 43,  
s. 10.

Vict. No. 1177,  
s. 10 (4).

**21.**—(1.) The Committee or a sectional Committee may take evidence on oath or affirmation, and the Chairman may administer oaths or affirmations to witnesses appearing before the Committee or Sectional Committee.

(2.) The oath or affirmation administered to a witness may be in accordance with Form D or E in the Schedule, as the case requires.

(3.) A witness who objects to take an oath shall not be compelled to take an oath, but may be compelled to make an affirmation.

Penalty for  
refusing to be  
sworn, &c.

Vict. ib.  
s. 10 (5).

**22.** If any witness refuses, without just cause (proof whereof shall lie upon him), to be sworn or make an affirmation, or to answer any question put to him by the Committee or a sectional Committee, or by any member thereof, or to produce any document which he is required by the Committee or sectional Committee to produce, he shall be guilty of an offence.

Taking of  
evidence in  
private.

Cf. 1904,  
No. 13, s. 85.

**23.**—(1.) If a witness appearing before the Committee or a Sectional Committee so requests, any evidence given by him relating to a professional or trade secret, or to the profits or financial



position, of himself or of any person, shall be taken by the Committee or Sectional Committee, in private, and shall not be disclosed or published without the consent of the person entitled to the non-disclosure.

(2.) Any person who discloses or publishes any evidence in contravention of this section shall be guilty of an offence.

Penalty : Five hundred pounds or three months' imprisonment.

24. Every witness summoned to appear or appearing before the Committee or a Sectional Committee shall have the same protection and privilege as a witness in a case tried in the High Court.

Privileges of witnesses.  
Cf. 1902, No. 13, s. 7.

25. Any person who wilfully gives false evidence on oath or affirmation before the Committee or a Sectional Committee shall be guilty of an indictable offence.

False evidence.  
Cf. N.S.W., 1901, No. 43, s. 13.  
Vic. No. 1177, s. 10 (5).

Penalty : Five years' imprisonment.

26. Whoever uses, causes, inflicts, or procures any violence, punishment, damage, loss, or disadvantage to any person for or on account of his having appeared as a witness before the Committee or a Sectional Committee, or for or on account of any evidence lawfully given by him before the Committee or a Sectional Committee, shall be guilty of an offence.

Protection to witnesses.

27. Every witness appearing before the Committee or a Sectional Committee to give evidence shall be entitled to be paid such witness fees and travelling expenses as the Chairman or Vice-Chairman thinks fit to allow in accordance with a scale prescribed by the Governor-General.

Witnesses' expenses.

28. Offences against this Act, not declared to be indictable offences, shall be triable on indictment or by a court of summary jurisdiction.

Offences triable on indictment or summarily.

29.—(1.) Proceedings for offences against this Act shall be instituted only by the Attorney-General or by his direction.

Proceedings to be instituted by Attorney-General only.

(2.) The Attorney-General or person acting under his direction may in respect of any offence other than an offence declared to be an indictable offence institute proceedings for the summary conviction of the accused or for his commitment for trial on indictment as the Attorney-General thinks fit.

30. A person convicted of an offence against this Act shall, if no higher penalty is provided, be punishable as follows :—

Punishment of offenders.

- (a) If convicted on indictment, by imprisonment not exceeding one year or by a penalty not exceeding Two hundred pounds :
- (b) If convicted by a court of summary jurisdiction, by imprisonment not exceeding six months or by a penalty not exceeding One hundred pounds.

Power to enter on land, &c.

Cf. N.S.W. No. 45, 1912, s. 21 (a);

Vict. ib. s. 10 (1).

**31.** The Committee, or a Sectional Committee, may, by themselves or by any person appointed by them to prosecute an inquiry, enter and inspect any land, building, place, or material, the entry or inspection of which appears to them requisite, upon the prescribed notice being given to the owners or occupiers of such land, building, place, or material.

Assessors.

Cf. N.S.W. ib. s. 23; Vict. ib. s. 11.

**32.**—(1.) The Committee, or a Sectional Committee, may, in the exercise of any power by this Act conferred upon them, call in the aid of one or more assessors who shall be persons of engineering or other technical knowledge, or possessing special local knowledge or experience.

(2.) There shall be paid to such assessors such remuneration as the chairman or vice-chairman thinks fit to allow in accordance with a scale prescribed by the Governor-General.

#### PART IV.—SECTIONAL COMMITTEES.

Sectional Committees may be appointed.

N.S.W., No. 45, 1912, s. 25.

**33.**—(1.) The Committee may at any meeting constitute Sectional Committees of itself for all purposes of this Act by appointing three or more of its members to be a Sectional Committee.

(2.) Every Sectional Committee shall have, and may exercise for the purpose of carrying out any business or inquiry delegated to them by the Committee either at or after the time of their appointment, all the powers by this Act conferred on the Committee, and shall sit in open Court.

(3.) Every Sectional Committee shall appoint a chairman or temporary chairman, who shall be the person to exercise the powers conferred by the Act on, or in the name of, the chairman or vice-chairman of the Committee.

Reports of Sectional Committee.  
N.S.W. ib. s. 27.

**34.** Every Sectional Committee shall make its report as soon as practicable to the Committee, in respect to all matters delegated to it by the Committee; and the report, together with any evidence taken by the Sectional Committee, shall be dealt with by the Committee in all respects, so far as possible, as reports of Select Committees are dealt with by the House of Representatives.

Limit of number of Sectional Committees, &c.

N.S.W., ib. s. 28.

**35.** Not more than two Sectional Committees shall be appointed or shall sit at the same time; but the Committee may sit at any time, notwithstanding that any such Sectional Committee may be sitting at the same time.

#### PART V.—MISCELLANEOUS.

Heading of Part V. amended by No. 92, 1936, s. 6.

Fees for attendance.

N.S.W., ib., s. 29; cf. Vict. No. 1579, s. 3.

**36.** The members of every Committee shall each receive, by way of remuneration for their services as such members, a fee for each attendance at a summoned meeting of the Committee at which a quorum was present, or of a Sectional Committee, according to the following scale:—

(a) The Chairman, or member presiding at any meeting in his absence, Two pounds for each sitting;

(b) Every other member, One pound ten shillings for each sitting.

**37.** The fees for attendance and sums for expenses made payable under this Part of this Act shall be payable upon the certificate of the Chairman or Vice-Chairman of the Committee and shall be charged on and paid out of the Consolidated Revenue Fund, which is hereby appropriated accordingly.

Fees to be a charge on Consolidated Revenue Fund. Cf. N.S.W., ib. ss. 30, 31 (2); Vict. No. 1899, s. 5; No. 2131, s. 5.

**38.**—(1.) In addition to fees payable to members for attendance, there shall, subject to this section, be payable—

Travelling expenses. Substituted by No. 69, 1947, s. 3.

(a) to each member of the Committee, while travelling in the course of his duties, an allowance for expenses at the rate of One pound five shillings per day; and

(b) to, or on behalf of, each member of the Committee, such sums as are necessary to pay the expenses of conveyance of that member when travelling in the course of his duties.

(2.) When a member of the Committee travels in the course of his duties—

(a) by ship or by railway, and the fare paid for the journey includes subsistence; or

(b) by air, and the fare paid for the journey, or any portion of the journey, includes meals and accommodation during an overnight stop,

the allowance payable for expenses in respect of that journey, or portion of a journey, as the case may be, shall be at the rate of one-quarter of the rate provided by paragraph (a) of sub-section (1.) of this section.

**39.**—(1.) Notwithstanding the preceding provisions of this Part, the total amount chargeable on and payable out of the Consolidated Revenue Fund under this Part shall not, during any financial year, exceed Three thousand five hundred pounds.

Proviso limiting total of fees and sums for expenses. N.S.W., No. 45, 1912, s. 32.

(2.) Where in any financial year the said amount of Three thousand five hundred pounds would, but for sub-section (1.) of this section, be exceeded, a proportionate abatement shall be made in the fees and sums payable to members of the Committee respectively, so as to reduce the amount so payable to the above-mentioned sum of Three thousand five hundred pounds.

Vict. No. 1899, s. 5, as amended by No. 2131, s. 5. Amended by No. 69, 1947, s. 4.

(3.) The Treasurer shall adjust the payments to the Committee so as to carry out the provisions of this section.

**40.** The names of the members of the Public Works Committee shall be published in the *Gazette*.

Gazetted. Amended by No. 92, 1936, s. 7.

**41.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

Regulations. Inserted by No. 92, 1936, s. 8.

## THE SCHEDULE.

## FORM A.

COMMONWEALTH OF AUSTRALIA.

The Commonwealth Public Works Committee Act 1913.

DECLARATION BY MEMBERS.

I, A.B., do solemnly and sincerely promise and declare that, according to the best of my skill and ability, I will faithfully, impartially, and truly execute the office and perform the duties of a member of the Parliamentary Standing Committee on Public Works.

[A.B.]

## FORM B.

COMMONWEALTH OF AUSTRALIA.

The Commonwealth Public Works Committee Act 1913.

SUMMONS TO A WITNESS.

To [here insert name, address, and occupation of witness].

You are hereby summoned to appear before the Standing Parliamentary Committee on Public Works [or before a Sectional Committee of the Parliamentary Standing Committee on Public Works, as the case may be] on the day of 19 , at o'clock in the noon, at [here insert place], then and there to give evidence and then and there to produce [here specify the documents required]: and you are required to continue in attendance as directed by the said Committee or the Chairman thereof, until your attendance is no longer required.

Dated the day of 19 .  
[Chairman or Vice-Chairman of the Committee, or  
Chairman of the Sectional Committee.]

## FORM C.

COMMONWEALTH OF AUSTRALIA.

The Commonwealth Public Works Committee Act 1913.

WARRANT FOR THE APPREHENSION OF A WITNESS WHO HAS DISOBEYED A SUMMONS.

WHEREAS [here insert name, address, and occupation of witness] has been summoned to appear before the Standing Parliamentary Committee on Public Works [or a sectional Committee of the Standing Parliamentary Committee on Public Works, as the case may be], but has failed to appear in obedience to the summons: These are therefore to command and authorize you to forthwith apprehend the said [here insert name of witness] and to bring him before the said Committee to give evidence and to detain him in custody for that purpose until he is released by order of the Chairman.

Given at the day of 19  
[Chairman.]

To [here insert description of persons to whom it is addressed]

## FORM D.

OATH TO WITNESS.

The evidence you shall give on this examination shall be the truth, the whole truth, and nothing but the truth. So help you God!

## FORM E.

AFFIRMATION TO WITNESS.

You do solemnly and sincerely affirm and declare that the evidence you shall give on this examination shall be the truth, the whole truth, and nothing but the truth.