



ANNO TERTIO

GEORGII V REGIS.

A.D. 1912.

No. 1104.

An Act to amend "The Early Closing Act, 1911," and for other purposes.

[Assented to, December 14th, 1912.]

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

1. (1) This Act may be cited alone as "The Early Closing Act Amendment Act, 1912." Short titles.
No. 1062 of 1911
(2) "The Early Closing Act, 1911" (hereinafter called "the principal Act"), and this Act may be cited together as "The Early Closing Acts, 1911 and 1912."
2. This Act is incorporated with the principal Act, and that Act and this Act shall be read as one Act. Incorporation with principal Act.
3. (1) The definition of the term "exempted goods" in section 4 of the principal Act is amended— Amendment of section 4 of principal Act.
Definitions of "exempted goods" and "shop."
 - I. By inserting, after the word "Schedule" in the second line thereof, the words "which is situated in a Shopping District"; and
 - II. By adding at the end, and as part of subdivision (b) thereof, the words "which are situated in such Shopping District."

(2) The

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(2) The definition of the term “shop” in section 4 of the principal Act is amended—

- i. By inserting, after the word “sale” in the third line of subdivision (a) of such definition, the words “by retail”; and
- ii. By adding at the end of such definition the following words:—“and as regards a publisher of newspapers does not include any building or place used exclusively for the publication and sale of newspapers.”

Meaning of “news-paper.”

4. Section 4 of the principal Act is further amended by inserting therein after the definition of “Minister” the following definition:—

“Newspaper” means any public print for the circulation of news, advertisements, intelligence as to public matters, or remarks or observations thereon, published for sale periodically or in parts or numbers, at intervals not exceeding seven days between the publication of any two of such papers, parts, or numbers.’

Amendment of section 11—Half-holiday in Murray Bridge District.

5. Section 11 of the principal Act is amended by substituting the word “Saturday” for the word “Wednesday” in the last line thereof.

Amendment of section 12—
What territory may be comprised within a Shopping District.

6. Subsection (1) of section 12 of the principal Act is repealed and the following provision is hereby enacted and substituted in lieu thereof, namely:—

(1) A petition may be presented to the Minister praying that the area therein defined may be constituted a Shopping District under this Act: Provided that such area—

i. Shall not include any place within any Shopping District existing at the time of the presentation of the petition, nor within any proposed Shopping District as defined by any petition previously presented and not finally dealt with under this Act;

ii. Shall be a continuous territory, consisting of—

(a) The whole of one or more municipalities; or

(b) The whole of one or more district council districts; or

(c) The whole of one or more municipalities, together with the whole, or part or parts of one or more district council districts, which, or each of which, adjoins such municipality, or one or more of such municipalities (if more than one); or

(d) The whole of one or more district council districts, together with part or parts of one or more district council districts; or

(e) Part or parts of one or more district councils; and

iii. Shall

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111. Shall, unless it consists of or comprises a municipality or municipalities, be at least one square mile in extent.

7. (1) Section 12 of the principal Act is amended by adding thereto the following subsection:—

Further amendment of section 12—
When petition may be presented.

(3) A petition shall not be presented under this section with regard to any proposed Shopping District within three years of the day of the presentation of any other petition under this section with regard to the same proposed District.

(2) In case a petition under the said section 12 has been presented before the passing of this Act with regard to any proposed Shopping District, and such District has not been constituted before such passing, the said petition shall be regarded as a nullity and as not having been presented.

8. Section 13 of the principal Act is amended by inserting, after the word "with" in the first line thereof, the words "subsection (1) and."

Consequent amendment of section 13.

9. (1) Section 13 of the principal Act is further amended by striking out the words "who shall examine the signatures thereto" in subsection (1) thereof.

Amendments of sections 13, 15, and 24.—Duties of Returning Officers as to petitions.

(2) Section 15 of the principal Act is amended by striking out the words "examine the signatures thereto and" in subsection (2) thereof.

(3) Section 24 of the principal Act is amended by striking out the words "who shall examine the signatures thereto" in subsection (1) thereof.

10. Section 16 of the principal Act is amended by adding thereto the following subsection:—

Amendment of section 16—

(2) When under the foregoing provisions of this section the Governor is empowered to make a Proclamation, the petition shall be deemed to have been finally dealt with—

When petition deemed finally dealt with.

(a) Upon the publication of such Proclamation, or

(b) If no such Proclamation is published within the period of two months from the expiration of the time fixed under section 14, then at the close of the said period of two months.

11. Sections 17 to 21 (both inclusive) of the principal Act are repealed, and the following provisions are hereby enacted and substituted in lieu thereof, namely:—

Repeal of sections 17 to 21.

17. (1) If within the time fixed under section 14 there is duly presented to the Minister such a counter-petition as mentioned in that section, in the prescribed form, signed by a larger number of electors residing in the proposed District than the number of electors who signed the petition, and praying

Effect of counter-petition—Against constitution of district.

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praying that the proposed Shopping District be not constituted, then the petition shall not be granted, and shall be deemed to have been finally dealt with.

In favor of a different half-holiday.

(2) If no such counter-petition, signed as mentioned in subsection (1) hereof, and praying that the proposed District be not constituted, is duly presented to the Minister within the time fixed under section 14, but within that time there is duly presented to him such a counter-petition, signed as mentioned in subsection (1) hereof, and praying that a week-day therein specified other than the day stated in the petition be the compulsory half-holiday, then the Governor may, by Proclamation, constitute the proposed district a Shopping District under this Act, and assign a name thereto, and declare—

i. Subject to subsection (3) hereof, that in such Shopping District the compulsory half-holiday shall be the day specified in the counter-petition, and

ii. The date upon which this Act shall come into operation in such Shopping District, which shall not be earlier than one month from the date of the publication of the *Gazette* containing such Proclamation;

and such Shopping District shall be duly constituted as from such date, the compulsory half-holiday therein shall be the day declared by such Proclamation, and this Act shall come into operation in such District on the date so declared.

Where counter-petitions not all in favor of same half-holiday.

(3) If, in such a case as provided for in subsection (2) hereof, two or more counter-petitions, each signed as therein mentioned, are duly presented as therein mentioned, and such counter-petitions specify different days for the compulsory half-holiday, then the day specified in such one of the said counter-petitions as is most numerous signed shall, in the Proclamation under subsection (2) hereof, be declared to be the compulsory half-holiday.

When petition deemed finally dealt with.

(4) When under the provisions of subsection (2) hereof the Governor is empowered to make a Proclamation, the petition shall be deemed to have been finally dealt with—

(a) Upon the publication of such Proclamation, or

(b) If no such Proclamation is published within the period of two months from the expiration of the time fixed under section 14, then at the close of the said period of two months.

Amendment of section 23—
When petition for change of half-holiday may be presented.

12. Subsection (2) of section 23 of the principal Act is amended by substituting the following subdivision for subdivision (c) thereof, namely:—

“(c) Shall not be presented within three years of the day of the presentation of any other petition under this section with regard to such District.”

13. Section

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13. Section 25 of the principal Act is amended by striking out the words “later than two months before the said General Election” in subdivision (b), and inserting in lieu thereof the words “less than one month from the date of the latest of such publications.”

Amendment of section 25—
Date for counter-petition.

14. Section 28 of the principal Act is amended by striking out the remainder of the section after the word “then” in the fourth line and inserting in lieu thereof the words “the petition shall not be granted.”

Amendment of section 28—
Effect of counter-petition.

15. Section 29 of the principal Act is hereby repealed.

Repeal of section 29.

16. (1) The Returning Officer for the State may refer any petition presented under Part II. of the principal Act to the town clerk or district clerk of any municipality or district council district, which, or part of which, is comprised within the proposed Shopping District defined in such petition, with a request that such clerk will certify what signatories to such petition reside in such municipality or district council district or part, and the total number of electors who reside therein.

Town and district clerks to assist the Returning Officer in preparing his certificate.

(2) Thereupon it shall be the duty of such clerk to furnish the Returning Officer, as soon as practicable, with a statement, certifying as requested by the Returning Officer, to the best of his information and belief, and the Returning Officer may, for the purpose of any certificate required of him by the principal Act, assume that the information contained in such statement is correct.

17. Notwithstanding anything to the contrary in the principal Act, the closing time on any day for the shop of a vendor of newspapers shall, for the purposes of sections 39, 40, and 46 of the principal Act, be one hour later than the closing time fixed by the principal Act for such day: Provided that this section shall not apply in respect of any such shop on any day when any goods other than printed books, magazines, or newspapers are sold or offered or exposed for sale in, about, or from such shop after the closing time fixed by the principal Act for such day.

Closing time for news-vendors shops.

18. (1) This section shall not apply within the Metropolitan Shopping District.

Special exemption for sale of newspapers except in Metropolitan District.

(2) Except as aforesaid, in any Shopping District, or in such part of any Shopping District as is defined by notice under this section, it shall, notwithstanding anything in the principal Act or this Act, be lawful for a shopkeeper to offer and expose for sale, and to sell, newspapers during such (if any) times after the closing times as are fixed in that behalf by the Minister, with regard to such District or part of a District, by notice published in the *Gazette*, and, for that purpose, to keep his shop open during the said times: Provided that the newspapers are offered and exposed and sold, and the shop is open, only in accordance with such conditions as

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are imposed by the Minister by the said notice, or by subsequent notice published as aforesaid, and that any other conditions imposed in manner aforesaid by the Minister are fully complied with.

(3) Any notice under this section may fix different times, and impose different conditions, with regard to different parts of the Shopping District, or part of a Shopping District, to which it applies, and may impose different conditions with regard to different classes of shops.

(4) Nothing in this section, or in any notice under this section, shall be deemed to affect the operation of section 41, 42, or 44 of the principal Act, or to excuse any contravention of any of those sections, nor shall it affect the operation of any other provision of the principal Act or of this Act except so far as expressly permitted by a notice under and pursuant to this section which is for the time being in force.

(5) The Minister may from time to time, by notice published in the *Gazette*, revoke or vary any previous notice under this section.

Amendment of section 40—Goods not to be delivered after closing time.

19. Section 40 of the principal Act is amended—

i. By inserting “or, except as permitted by subsection (3) hereof or section 42, deliver any goods, or cause or permit any goods to be delivered” after the word “sale” in the third line thereof; and

ii. By adding thereto the following subsection, namely:—

(3) Notwithstanding anything in this section, any shopkeeper may, within one hour after the closing time on any day, deliver to customers, elsewhere than at his shop, goods bought by such customers before such closing time.

Amendment of section 42—When assistants allowed on the premises after closing time.

20. Section 42 of the principal Act is amended—

i. By striking out of subdivision (b) thereof the words “when the closing time is one o’clock, or after twenty minutes after the closing time on any other day”; and

ii. By inserting the following proviso so as to apply to both subdivision (a) and subdivision (b) of the section, namely:—“Provided that any shopkeeper may, on any day, permit or suffer any shop assistant who is engaged in delivering goods carried from his shop, and who has left such shop with such goods not later than one hour before the closing time for such day, to be engaged, within one hour after such closing time, in the delivery to customers, elsewhere than at such shop, of goods bought by such customers before such closing time, and in returning to the shop and stabling or putting away any animal, vehicle, or thing used by him for the purposes of such delivery.”

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21. The first five lines of section 43 of the principal Act are amended so as to read as follows:—

Amendment of section 43—

43. Notwithstanding anything in this Act, it shall be lawful for a shopkeeper or shop assistant to be engaged, on any day, for fifteen minutes after the closing time in—

Quarter-hour's grace on any day.

- I. Serving customers actually inside the shop at such closing time ; or

22. Subdivision (b) of section 44 of the principal Act is amended by striking out the words "when the closing time is one o'clock, or after twenty minutes after the closing time on any other day."

Amendment of section 44—
Restrictions on assistants.

23. Section 45 of the principal Act is amended so as to read as follows:—

Amendment of section 45—

45. (1) The Minister, or any officer authorised by the Minister to grant suspensions under this section, may, on being satisfied of the necessity therefor, by notice signed by him, suspend the operation of sections 42 and 44—

Power to suspend operation of sections 42 and 44.

(a) As regards any shop ; or

(b) As regards all shops of a particular class situated in any particular Shopping District ; or

(c) As regards any person or persons.

(2) No such suspension shall apply in respect of any period exceeding six consecutive week days.

(3) Every such suspension shall be subject to such conditions, if any, as the Minister or officer granting the same imposes, either by the notice of suspension or by subsequent notice signed by him.

(4) The Minister, or any officer authorised by the Minister to revoke suspensions granted under this section, may, upon being satisfied that a breach of any condition to which any such suspension is subject has taken place in or in connection with any shop, or with respect to any person, revoke such suspension as regards such shop or person by notice delivered or posted to the shopkeeper or person concerned.

(5) Any person who commits a breach of any condition to which any such suspension is subject, shall be guilty of an offence against this Act.

Penalty—In the case of a shopkeeper, Ten Pounds ; in the case of any other person, Two Pounds.

24. (1.) The Chief Inspector, upon being satisfied that a proper case exists for the exercise of the power hereby conferred upon him, may grant a licence—

Licences for trading after closing time for certain purposes.

- I. Permitting the exposing for sale and the sale and delivery of goods the proceeds whereof are to be devoted to any benevolent,

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benevolent, charitable, religious, or public purpose, or in aid of any friendly or benefit society ; or

11. Permitting a *bonâ fide* commercial traveller or agent representing a wholesale house to expose samples for purposes merely of securing wholesale orders for goods, but for no other purpose ; or

111. Permitting the sale and delivery of goods for provisioning any ship ;

after the closing times.

(2) Every licence so granted shall state the purpose for which it is granted, and shall be subject to such conditions as are set out therein, and may be for any term not exceeding one year.

(3) A fee of Two Shillings and Six Pence shall be paid for every such licence.

(4) Any such licence may provide that the provisions of Part IV. of the principal Act, as to the registration of shops, shall not apply in respect of the place in which goods are offered or exposed for sale pursuant to such licence.

(5) Any such licence shall render lawful anything done or omitted in accordance with the terms thereof: Provided that if anything is done or omitted in excess of such terms or in any way contrary to any condition thereof, such licence shall immediately become, and continue to be, of no effect.

(6) The holder of a licence granted under this section shall produce the same for examination whenever demanded by an Inspector or any member of the Police Force, and any person acting, or purporting to act, under the authority of a licence so granted, who fails to produce such licence when demanded as aforesaid shall be deemed to be unlicensed.

Amendment of section 52—Provision for counter-petition against adopting ordinary half-holiday.

25. Subdivision (b) of section 52 of the principal Act is repealed, and the following provision is hereby enacted and substituted in lieu thereof, namely:—

(b) A notice in the prescribed form fixing a time, being not less than one month from the date of the latest of such publications, within which a counter-petition, signed by shopkeepers of the class of shops specified in the petition which are situated in the Shopping District, and praying that the petition be not granted, may be presented to the Minister.

Repeal of sections 53 and 54—Other provisions substituted.

26. Sections 53 and 54 of the principal Act are repealed, and the following provisions are hereby enacted and substituted in lieu thereof, namely:—

Registrar to certify whether counter-petition signed by three-fifths of the shopkeepers.

53. (1) If within the time fixed by the notice under section 52 a counter-petition as mentioned in that section, and in the prescribed form, is presented to the Minister, he shall refer such counter-petition to the Registrar. (2) The

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(2) The Registrar shall thereupon examine the signatures to the counter-petition, and shall certify in writing to the Minister whether it has, or has not, been signed by at least three-fifths of the shopkeepers of shops of the class specified in the petition, which are situated within the Shopping District.

54. (1) If the Registrar certifies that the counter-petition has been signed as mentioned in subsection (2) of section 53, the petition shall not be granted.

Effect of counter-petition.

(2) If the Registrar certifies that the counter-petition has not been so signed, or if no counter-petition as mentioned in section 52, and in the prescribed form, is presented to the Minister within the time fixed by the notice under that section, the Minister shall, by a notice in the prescribed form published in the *Gazette* and in two newspapers circulating in the Shopping District, declare as provided by section 51.

(3) The date fixed by the last-mentioned notice shall be not earlier than fourteen days after the publication of the *Gazette* containing such notice.

27. Subdivision (b) of section 59 of the principal Act is repealed, and the following provision is hereby enacted and substituted in lieu thereof, namely:—

Amendment of section 59—
Provision for counter-petition.

(b) A notice in the prescribed form, fixing a time, being not less than one month from the date of the latest of such publications, within which a counter-petition, signed by shopkeepers of the class of shops specified in the petition, which are situated in the Shopping District, and praying that the petition be not granted, may be presented to the Minister.

28. Sections 60 and 61 of the principal Act are repealed, and the following provisions are hereby enacted and substituted in lieu thereof, namely:—

Repeal of sections 60 and 61—
Other provisions substituted.

60. (1) If within the time fixed by the notice under section 59 a counter-petition as mentioned in that section, and in the prescribed form, is presented to the Minister, he shall refer such counter-petition to the Registrar.

Registrar to certify whether counter-petition signed by three-fifths of the shopkeepers.

(2) The Registrar shall thereupon examine the signatures to the counter-petition, and shall certify in writing to the Minister whether it has, or has not, been signed by at least three-fifths of the shopkeepers of shops of the class specified in the petition, which are situated within the Shopping District.

61. (1) If the Registrar certifies that the counter-petition has been signed as mentioned in subsection (2) of section 60, the petition shall not be granted.

Effect of counter-petition.

(2) If the Registrar certifies that the counter-petition has not been so signed, or if no counter-petition as mentioned in section 59, and in the prescribed form, is presented

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to the Minister within the time fixed by the notice under that section, the Minister shall, by a notice in the prescribed form, published in the *Gazette* and in two newspapers circulating in the Shopping District, declare as provided by section 58.

(3) The date fixed by the last-mentioned notice shall be not earlier than fourteen days after the publication of the *Gazette* containing such notice.

Petition under section 56 may apply for re-opening and re-closing times, as well as for closing times.

29. (1) The times set out in any petition under section 56 of the principal Act may make provision for re-opening times and re-closing times, as well as for closing times; and in such case, if, under Division IV. of Part V. of the principal Act, shops of the class specified in the petition, which are situated in any Shopping District, cease to be exempted shops, sections 39, 40, 42, 44, and 46 of the principal Act shall cease to apply in respect of such shops at and from any such re-opening time for any day, but shall again apply at and from any such re-closing time for such day.

(2) Any such petition may also as regards chemists' and druggists' shops make provision for opening and closing and re-opening and re-closing times on Sundays; and in such case, if, under the said Division IV., shops of the class specified in the petition which are situated in any Shopping District, cease to be exempted shops, sections 39 and 47 of the principal Act shall cease to apply in respect of such shops at and from any such opening or re-opening time on Sundays, but shall again apply at and from any such closing or re-closing time on Sundays.

For purpose of certificate only registered shops to be regarded.

30. For the purpose of any certificate required by section 50, 53, 57, or 60 of the principal Act, the Registrar shall have regard only to the shopkeepers of such shops as are, at the time, registered under Part IV. of the principal Act, and to the shop assistants employed in or about or engaged in connection with the shops so registered.

Petition as to exempted shops only to be signed by person who has notified his class of shop.

31. (1) No shopkeeper shall be entitled to sign a petition or counter-petition under section 49, 52, 56, or 59 of the principal Act, unless he has, by notice signed by him and in the prescribed form, and delivered to the Registrar for the Shopping District in which his shop is situated, stated to which class of exempted shops his shop belongs.

(2) Notices delivered by a shopkeeper under subsection (1) of this section may state different classes of shops: Provided that—

(a) Not more than one class is stated in respect of one and the same shop; and

(b) The shops to which the notices relate are not situated in the same building nor in adjoining buildings.

(3) When a shopkeeper has by a notice under this section stated that any shop belongs to a class of exempted shops, no notice under this section whereby he states that such shop belongs to another class

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class of exempted shops shall be valid, if the last-mentioned notice is delivered within a period of three years—

- (a) From the date of the delivery of the notice first mentioned in this subsection ; or
- (b) From the presentation of a petition under section 49 or 56 of the principal Act with respect to shops of the class mentioned in the said first-mentioned notice, which are situated in the same Shopping District as such shop.

(4) No shop assistant shall be entitled to sign a petition under section 49 or 56 of the principal Act, unless he has by notice signed by him and in the prescribed form, and delivered to the Registrar for the Shopping District in which the shop in, or in connection with, which he is employed, is situated, stated in which, or in connection with which, of the classes of exempted shops he is employed.

(5) When a shop assistant has by a notice under this section declared that he is employed in, or in connection with, a shop of any class, no notice under this section whereby he states that he is employed in, or in connection with, a class of exempted shops other than that mentioned in the first-mentioned notice shall be valid, if the last-mentioned notice is delivered within a period of three years—

- (a) From the date of the delivery of the notice first mentioned in this subsection, or
- (b) From the presentation of a petition under section 49 or 56 of the principal Act with respect to shops of the class mentioned in the said first-mentioned notice which are situated in the same Shopping District as the shop in or in connection with which he was employed at the time of the delivery of the said first-mentioned notice.

(6) The Registrar for each Shopping District shall note in the register kept by him all statements made by valid notices under this section, and for the purposes of any certificate required by section 50, 53, 57, or 60 of the principal Act the Registrar shall not have regard to any shopkeeper or shop assistant who, under the provisions of this section, is not entitled to sign the petition or counter-petition to which such certificate relates.

(7) For the purposes of this section, each division of the First Schedule to the principal Act, numbered 1 to 14 respectively, shall be deemed to refer to one class of exempted shops.

(8) No person shall sign any petition or counter-petition which by reason of the provisions of this section he is not entitled to sign, nor shall any person sign any petition or counter-petition unless he is under the provisions of section 49, 52, 56, or 59 of the principal Act (according to the circumstances of the case), qualified to sign such petition or counter-petition.

Penalty—Twenty Pounds.

32. Whenever, under Division IV. of Part V. of the principal Act, any shop ceases to be an exempted shop, and the closing times for such shop do not provide for the closing thereof

Preservation of half-holiday when shop ceases to be exempt pursuant to petition.

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thereof at or before one o'clock on some week-day in every week and for keeping such shop closed for the remainder of such day, the provisions of section 48 of the principal Act shall, notwithstanding anything in that Act or this Act, apply to such shop in the same manner as if such shop were still an exempted shop.

Half-holiday for assistants in restaurants, &c., may commence at 2 o'clock.

33. Notwithstanding anything in the principal Act or this Act, it shall be lawful for shop assistants, whose ordinary employment, or part of whose ordinary employment, is the preparation or serving of meals or refreshments, to be so employed until two o'clock on any day, and as regards any such case, sections 48 of the principal Act and 32 of this Act shall be read as if "two o'clock" were substituted for "one o'clock" wherever "one o'clock" is mentioned.

Amendment of section 66—
Onus of proof.

34. Subsection (1) of section 66 of the principal Act is amended by adding thereto the following subdivision:—

vi. That any place alleged to be, or to have been, a shop is not, or was not, a shop within the meaning of this Act.

Amendment of section 79—
Electoral rolls declared correct for petitions, &c., under this Act.

35. Section 79 of the principal Act is amended so as to read as follows:—

79. For the purpose of any petition, certificate, or statement under this Act the electoral rolls in force at the time of the presentation of such petition, or of the signing of such certificate or statement, as the case may be, shall be accepted as correct, and their correctness shall not be inquired into by any Court, tribunal, or person whatsoever.

Signatures to petitions to be verified by declarations of witnesses.

36. (1) Every signature to a petition or counter-petition presented under the principal Act shall be verified by the declaration of some person who witnessed such signature; and any signature not so verified shall be regarded as null and void.

(2) Any such declaration shall be in the prescribed form, and shall be made before a Justice.

(3) Any such declaration may, for all purposes except in proceedings for offences under this section, be accepted as conclusive evidence that all signatures purporting to be thereby verified are the signatures of the persons whose signatures they are thereby declared to be.

(4) No person shall wilfully make any false statement in any declaration under this section.

Penalty—One Hundred Pounds, or imprisonment for one year.

Amendments of section 80—
Evidence of signatures to petition.

37. Section 80 of the principal Act is amended—

I. By inserting the words "or counter-petition" after the word "petition" in the third line thereof; and

II. By adding the following words at the end thereof, namely:—
—"and, if the number is stated, of the number of persons, being entitled so to do, who signed the petition or counter-petition."

38. The

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38. The provisions enacted by sections 6, 11, 25, 26, 27, and 28 of this Act shall have the same effect as if they had been contained in the principal Act on the passing thereof, instead of the provisions for which they are respectively substituted by those sections.

Certain provisions to be retrospective.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

DAY H. BOSANQUET, Governor.