

[HIGH COURT OF AUSTRALIA.]

HEARN *v.* HILL.

H. C. OF A. *Commonwealth Electoral Act 1902-1909, sec. 109B (b)—Application for postal vote certificate—Witnessing signature—Application not signed by elector.*
1910.

SYDNEY,
Aug. 3.

Griffith C.J.,
Barton and
O'Connor JJ.

Sec. 109B (b) of the *Commonwealth Electoral Act 1902-1909* provides that a witness shall not witness the signature of an elector to an application for a postal vote certificate unless he has seen the applicant sign the application in the applicant's own handwriting.

The respondent signed an application form as witness, but the application was never signed by the elector, the space for the signature of the elector on the form being left blank.

Held, that as the application had never been signed, the respondent had not witnessed a signature, and was not liable to a penalty under this section.

APPLICATION for an order *nisi* to review the decision of a magistrate at Castlemaine, Victoria, dismissing an information.

The information alleged that the respondent, being an authorized witness under the *Electoral Act 1902-1909*, did witness the signature of a certain elector, namely, one Mary Lauder, to an application for a postal vote certificate and postal ballot-paper, without having seen the said Mary Lauder sign the application in her own handwriting.

Sec. 109B of this Act provides that "an authorized witness shall not witness the signature of any elector to an application for a postal vote certificate and postal ballot-paper unless (a) he has satisfied himself as to the identity of the applicant; (b) he has seen the applicant sign the application in his the applicant's own handwriting; and (c) he is personally acquainted with the facts, or has satisfied himself by inquiry from the applicant that the statements contained in the application are true."

At the hearing of the information the application for a postal vote certificate was put in evidence. It was signed by the

respondent as an authorized witness, but was not signed by the said Mary Lauder, the space in the form of application for the signature of the elector being left blank.

The magistrate held that as the application had not been signed by the elector, the offence alleged in the information had not been proved, and dismissed the information.

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Flannery, for the informant. The respondent has represented himself as witnessing a signature to an application which has not in fact been signed by the elector. He has attested that he has seen Mary Lauder sign the application form. If a person falsely represents that an elector has signed an application for a postal vote certificate, that is an offence against the section.

Per curiam.—The section is free from ambiguity, and the decision of the magistrate was clearly right. Order refused.

Order refused.

Solicitor, *Charles Powers*, Commonwealth Crown Solicitor.

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COCK (PLAINTIFF) AND HOWDEN (TRUSTEE)
OF COCK) } APPELLANTS ;

AND

SMITH AND OTHERS RESPONDENTS.
DEFENDANTS,

H. C. OF A.
1911.

*Practice—Appeal to Privy Council from High Court—Order of Privy Council
made an Order of High Court.*

MELBOURNE,
May 25.

An order of the Privy Council allowing an appeal from the High Court was made an order of the High Court.

Griffith C.J.
IN CHAMBERS.