

No. XXIV.

AUSTRALASIAN
FEDERATION
ENABLING.

An Act to enable New South Wales to take part in the framing, acceptance, and enactment of a Federal Constitution for Australasia. [23rd December, 1895.]

Preamble.

WHEREAS it is proposed that Legislative provision shall be made by the Colonies for the framing, acceptance, and enactment of a Federal Constitution for Australasia: And whereas it is desirable that New South Wales should be represented at the Convention, which it is proposed shall frame the said Constitution: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Australasian Federation Enabling Act, 1895."

Interpretation.

2. In this Act the following terms bear the meanings set opposite to them respectively:—

"Colonies"—The Colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, and Western Australia, and the Province of South Australia, including the Northern Territory.

"Constitution"—The Federal Constitution framed or accepted pursuant to this Act.

"Convention"—The Convention provided for by this Act.

"Governor"—The Governor, with the advice of the Executive Council.

"Prescribed"—Prescribed by Regulation made under this Act.

"Proclamation"—Proclamation by the Governor published in the *Gazette*.

"Representatives of New South Wales"—The Representatives of New South Wales in the Convention.

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3. The chief objects of this Act are to provide as follows :— Chief objects.
- (I) For the representation of New South Wales at a Convention consisting of the Representatives of each Colony represented, charged with the duty of framing a Federal Constitution for Australasia.
- (II) For submitting the Constitution so framed to the electors for the Legislative Assembly for acceptance or rejection by direct vote.
- (III) For transmitting the Constitution for enactment by the Imperial Parliament.

4. This Act shall come into operation on a day to be fixed by proclamation, when two Colonies, in addition to New South Wales, have adopted legislation providing, in respect of those Colonies, for the election of the representatives of those Colonies at the Convention. Commencement.

5. This Act is divided into four Parts, as follows :— Parts.

PART I.—*The Convention.*

PART II.—*The submission to the Electors.*

PART III.—*The transmission for Legislative Enactment.*

PART IV.—*Supplemental.*

PART I.

The Convention.

6. The Convention shall consist of ten Representatives of each Colony represented. Constitution of Convention.

7. The Convention shall be charged with the duty of framing for Australasia a Federal Constitution under the Crown in the form of a Bill for enactment by the Imperial Parliament. Convention to frame Constitution.

8. Every Member and every person eligible for membership of either House of Parliament shall be eligible for membership of the Convention as a Representative of New South Wales. And any one hundred or more electors duly qualified to vote for the election of a Member of the Legislative Assembly shall be entitled in the prescribed manner to nominate any eligible person, whose consent in writing shall accompany such nomination for such membership, and after such nomination has closed, the list of persons so nominated, with their residence and occupation, shall be advertised in the alphabetical order of their surnames at least three times in every newspaper published in the Colony. Members.

9. The seat of a Representative of New South Wales shall be vacated— Vacancies.

- (I) By resignation under his hand addressed to the Governor.
- (II) By absence, without the leave of the Convention, from any five sittings thereof.
- (III) By any other circumstance, except absence from the Assembly, which in the case of a Member of the Legislative Assembly would vacate his seat in the Assembly.

10. The first vacancy occurring pursuant to the preceding section shall forthwith be filled by the appointment by the Governor of the candidate who, not being, nor having been, a Member of the Convention was highest on the Poll. Every subsequent appointment to be made in like manner. Fresh election.

11. Every person being the holder of an Elector's Right shall be qualified and entitled to vote for the election of Representatives of New South Wales. Electors.

12. The first election of Representatives of New South Wales shall take place on a day to be fixed by Proclamation, which day, as nearly as may be conveniently practicable, shall be the same as the day of first election of Representatives of other Colonies. First election.

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- Electoral District.** 13. The voting shall be taken throughout New South Wales as one Electoral District, and every voter shall vote for the full number of Representatives required, otherwise the vote shall be rejected as informal.
- One vote only.** 14. No person shall vote more than once at the same election of Representatives of New South Wales.
- Disputed election.** 15. If any question arises respecting the validity of an election or return the same shall be heard and determined by a Committee appointed by the Convention as prescribed. And Part V of the Parliamentary Electorates and Elections Act of 1893 shall, *mutatis mutandis*, apply in respect of the powers, duties, and proceedings of the said Committee acting under the authority of this section.
- Certificate of results.** 16. The result of every election for Representatives of New South Wales shall be reported to and certified by the Chief Secretary in manner prescribed, whose certificate shall be conclusive, except in proceedings for contesting the validity of the election.
- Meeting of Convention.** 17. When the first elections have been held in three or more Colonies, a meeting of the Convention shall be convened for such time and place as a majority of the Governors of such Colonies may decide, or, in case of an equal division, as the Governor of the senior of such Colonies may fix.
- Procedure.** 18. The Convention may adopt Standing Orders, and may provide for keeping and publishing records and journals of its proceedings, and for the conduct of its business, in such manner as may be thought fit; and in cases not otherwise provided for, the proceedings of the Convention shall be regulated by the Standing Orders and practice of the House of Commons so far as applicable.
- President.** 19. The Convention shall at its first meeting, before proceeding to the despatch of any other business, elect a Member of the Convention to be the President thereof.
- Resignation or removal of President.** 20. The President may resign his office, or he may be removed from office by a vote of the Convention; and upon his ceasing to be a member of the Convention his office shall become vacant.
- Absence of President.** 21. In the case of the absence of the President the Convention may choose some other Member of the Convention to perform his duties during his absence.
- Supply of vacancy** 22. Whenever a vacancy occurs in the office of President, such vacancy shall forthwith be filled by a fresh election.
- Quorum.** 23. The presence, exclusive of the President, of at least one-half of the total number of the Members of the Convention shall be necessary to constitute a meeting of the Convention for the exercise of its powers.
- Committees.** 24. The Convention may appoint Committees of its Members which shall report to the Convention.
- Voting.** 25. Questions arising in the Convention shall be decided by a majority of the votes of the Members present, other than the President; and when on any division the votes are equal, but not otherwise, the President shall have a vote, and his vote shall decide the question.
- Adjournment of Convention.** 26. When the Constitution has been framed by the Convention, copies thereof shall be supplied to the Members of the Convention, and the President shall declare the sitting of the Convention adjourned to a time and place to be fixed by the Convention, not being less than sixty nor more than one hundred and twenty days thereafter. And as soon as convenient the draft Constitution shall be submitted for consideration to each House of Parliament sitting in Committee of the Whole, and such amendments as may be desired by the Legislature, together with the draft Constitution, shall be remitted to the Convention through the Senior Representative.

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27. On the reassembling of the Convention, the Constitution as framed prior to the adjournment shall be reconsidered, together with such suggested amendments as shall have been forwarded by the various Legislatures, and the Constitution so framed shall be finally adopted with any amendments that may be agreed to.

Reassembling of
Convention.

28. So soon as the Convention has finally adopted a Federal Constitution as required by the preceding section, and has disposed of all incidental business, copies certified by the President shall be supplied in duplicate to the Members of the Convention, and the President shall declare the proceedings of the Convention closed.

Final adoption.

29. The Representatives of New South Wales shall cease to hold office at the expiration of a period to be proclaimed by the Governor in the *Gazette*.

Expiration of
term of office.

30. New South Wales shall contribute to the payment of the expenses of the meeting and proceedings of the Convention in the proportion which the population of New South Wales bears to the total population of the Colonies represented at the Convention, and the Colonial Treasurer shall make such payment accordingly out of the Consolidated Revenue Fund.

Payment of
expenses of
Convention.

PART II.

The Submission to the Electors.

31. Within fourteen days after the close of the proceedings of the Convention, the certified copies of the Constitution shall be forwarded by the President of the Convention and by the Representatives of New South Wales or one of them to the Governor.

Constitution to be
certified to
Governor.

32. So soon as practicable after the close of the proceedings of the Convention, the question of the acceptance or rejection of the Constitution shall be referred and submitted to the vote of all persons in New South Wales qualified and entitled to vote for the election of Members of the Legislative Assembly.

Submission to
electors.

The voting shall be taken throughout New South Wales as one Electoral District.

33. Each voter shall vote by ballot "Yes" or "No" on the question, in accordance with the direction on the Ballot-paper in the Schedule hereto, and all votes shall be taken on the same day.

Voting.

34. No person shall vote more than once on the question.

One vote only.

35. The majority of votes shall decide the question, and if the Constitution be thereby rejected, no further action shall be taken pursuant to this Act: Provided that any number of votes in the affirmative less than fifty thousand shall be equivalent to the rejection of the Bill.

Decision of question.

PART III.

The Transmission for Legislative Enactment.

36. If two Colonies, in addition to New South Wales, accept the Constitution, both Houses of Parliament may adopt Addresses to the Queen, praying that the Constitution may be passed into law by the Imperial Parliament upon receipt of similar addresses from the Parliaments of two such Colonies.

Addresses to the
Queen.

37. When Addresses have been agreed to pursuant to the preceding section, the same shall be transmitted to the Queen with a certified copy of the Constitution.

Transmission.

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PART IV.

Supplemental.

- Penalties.** 38. If any person votes or attempts to vote more than once contrary to sections fourteen or thirty-five he shall be liable to a penalty not exceeding fifty pounds, or, at the option of the Court, to imprisonment not exceeding six calendar months.
- Writs.** 39. For the purpose of holding elections of Representatives of New South Wales, and of submitting the acceptance or rejection of the Constitution to the electors, the Governor may cause writs to be issued in such form and addressed as he thinks fit.
- Application of general law.** 40. Unless and until otherwise prescribed, the laws relating to the conduct of elections for the Legislative Assembly, the proceedings before and at and subsequent to such elections, the trial of disputed elections, electoral offences, and all incidental matters, shall apply, *mutatis mutandis*, to the election of Representatives of New South Wales, and to the proceedings for submitting the acceptance or rejection of the Constitution to the electors.
- Regulations.** 41. The Governor may make regulations prescribing the mode of nominating candidates, of holding elections of Representatives of New South Wales, and submitting the acceptance or rejection of the Constitution to the electors, and generally for the purposes of carrying into effect such provisions of this Act as relate to New South Wales.
- Publication of regulations.** 42. All such regulations shall be published in the *Gazette*, and on such publication shall have the force of law; and all such regulations shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be then sitting, or if Parliament be not then sitting, within fourteen days after the next meeting of Parliament.
- Enforcement of regulations.** 43. Any such regulation may provide for the enforcement thereof by a penalty not exceeding fifty pounds, or, at the option of the Court, by imprisonment not exceeding six calendar months.
- Recovery of penalties.** 44. Penalties imposed by, and offences against, the provisions of this Act, or any regulations made thereunder, may be recovered, heard, and determined by a Police or Stipendiary Magistrate, or any two Justices of the Peace in Petty Sessions.

THE SCHEDULE.

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Ballot Paper.

Are you in favour of the proposed Federal Constitution Bill ?

“YES.”

“NO.”

If you are in favour of the Bill strike out the above word “No.”

If you are against the Bill strike out the above word “Yes.”