

[CONFIDENTIAL.]

Suggestion M

No. , 1929.

A BILL

To alter the Constitution of the Legislative Council; to amend the Constitution Act, 1902, and certain other Acts; and for purposes connected therewith.

BE it enacted by the King'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 :—

1. (1) This Act may be cited as the "Constitution (Further Amendment) Act, 1929," and shall be read and construed with the Constitution Act, 1902, as amended by subsequent Acts. Short title.

Constitution (Further Amendment).

(2) The Constitution Act, 1902, as so amended is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the Constitution Act, 1902-1929.

2. The Principal Act is amended by inserting next after section seventeen the following new section:—

17A (1) The Legislative Council shall, as and from the first day of January, one thousand nine hundred and thirty-two, be reconstituted and shall thereafter consist of sixty-four elected Members who shall be elected as in this section provided.

Constitution
of Legislative
Council.

(2) The first election of Members of the Legislative Council shall be conducted as follows:—

(a) forty-eight Members shall be elected by the Members of the Legislative Assembly and the Members of the Legislative Council sitting and voting together.

Only those persons who are upon the date of the election Members of the Legislative Council shall be eligible for election under this paragraph.

The election of forty-eight Members under this paragraph shall be conducted upon a system of proportional representation, each voter having one transferable vote.

(b) sixteen Members shall be elected by the Members of the Legislative Assembly.

For the purposes of an election under this paragraph the Legislative Assembly shall be divided into two groups.

The Members of the Legislative Assembly who represent the forty-two electoral districts comprising the country area referred to in section 17A of the Parliamentary Electorates and Elections Act, 1912-1928, shall constitute one group, and the Members of the Legislative Assembly representing the remaining electoral districts comprising the Sydney area and the Newcastle area respectively, as referred to in the said section shall constitute the second group.

Each

Each group shall elect eight Members to the Legislative Council.

No person being a Member of the Legislative Assembly shall be capable of being elected under this paragraph or sitting or voting as a Member of the Legislative Council, but save as aforesaid every person, male or female, who is of or above the age of thirty-five years, and is eligible under the law for the time being in force to be elected as a Member of the Legislative Assembly and to sit and vote therein shall be capable of being elected a Member of the Legislative Council under this paragraph, and of sitting and voting therein.

The election of eight Members by each of the groups referred to in this paragraph shall be according to the principle of proportional representation, each voter having one transferable vote.

(3) Elections of Members of the Legislative Council shall be conducted in accordance with General Rules and Standing Orders adopted by the Legislative Council and the Legislative Assembly and approved by the Governor.

Such General Rules and Standing Orders shall prescribe the method of voting and of transferring and counting votes and the appointment and duties of Returning Officers in connection therewith and the method of filling casual vacancies caused by disqualification, death or resignation.

Provision shall also be made therein that at any election under paragraph (b) of subsection two of this section, or in pursuance of subsection four of section 17B, a candidate for election shall be nominated by at least ten members and that no Member shall nominate more than three candidates.

(4) No person who was immediately before the first day of January, one thousand nine hundred and thirty-two, a Member of the Legislative Council shall be disqualified from being elected thereto

Constitution (Further Amendment).

thereto under this section, or if elected, from sitting or voting therein merely on the ground that he holds an office of emolument under the Crown.

(5) If when the election of a member of the Legislative Council is held no person is, or no sufficient number of persons are nominated, the seat or seats to be filled shall be filled by appointment by the Governor.

3. (1) This section shall commence upon the first day of January, one thousand nine hundred and thirty-two. Amendment of Principal Act.

(2) The Principal Act is amended—

(a) by omitting sections sixteen and seventeen; Secs. 16 & 17.

(b) by inserting next after section 17A as inserted by section two of this Act, the following new section:— New s. 17B.

17B. (1) Subject to this Act every Member of the Legislative Council (except a Member elected to fill a casual vacancy) shall be entitled to hold his seat for a term of twelve years. Term of service.

(2) A Member of the Legislative Council elected to fill the place of any Member whose seat becomes vacant otherwise than by the expiry of his term of service shall, subject to this Act, be entitled to hold the seat during the unexpired portion of the term for which his predecessor was elected.

(3) Before the expiration of three years from the commencement of the term of service of the Members first elected under paragraph (a) of subsection two of section 17A of this Act, the Legislative Council and Legislative Assembly, sitting together and voting in accordance with the principle of proportional representation, each voter having one transferable vote, shall decide which sixteen of such Members shall at the end of such three years cease to be Legislative Councillors, and the sixteen Members so decided upon shall cease accordingly.

Before

Before the expiration of six years from the commencement of the term of service of the Members first elected under paragraph (a) of subsection two of section 17A of this Act, the Legislative Council and the Legislative Assembly, sitting together and voting as aforesaid, shall decide which further sixteen of such Members shall at the end of such six years cease to be Legislative Councillors, and the sixteen so decided upon shall cease accordingly.

At the expiration of nine years from the commencement of the term of service of the Members first elected under paragraph (a) of section 17A the remaining Members elected under that paragraph shall cease to be Members of the Legislative Council.

(4) Before the ceasing of any sixteen Members to be Legislative Councillors in pursuance of subsection three of this section, and before the expiry of the term of service of Legislative Councillors elected under paragraph (b) of subsection two of section 17A, sixteen Members shall be elected by the Members of the Legislative Assembly to fill the vacancies.

Such election shall be conducted in the manner prescribed by and subject to the provisions of paragraph (b) of subsection two of section 17A.

(5) Where by death, resignation, or otherwise a casual vacancy occurs in the seat of a Member of the Legislative Council who was elected in pursuance of paragraph (a) of subsection two of section 17A, the Governor may appoint some person who was eligible to be elected at the first election under the said paragraph to fill the vacancy, or if there is no such person, or no such person willing to be appointed,

appointed, may convene a joint sitting of the Legislative Council and the Legislative Assembly to elect some person to fill the vacancy.

Where by death, resignation, or otherwise a casual vacancy occurs in the seat of a Member of the Legislative Council who was elected in pursuance of paragraph (b) of subsection two of section 17A, either originally under subsection four of this section, or to fill a casual vacancy, the vacancy shall be filled by election by the Members of the Legislative Assembly then constituting the group by which the councillor whose seat is to be filled was elected.

(6) Any joint sitting of the Legislative Assembly and the Legislative Council required under the provisions of this Act may be convened by the Governor by message to both Houses.

Joint sittings.
cf. 9 Edw. VII, c. 9. s. 58.

At such joint sitting the President of the Legislative Council, or in his absence the Speaker of the Legislative Assembly, shall preside, and until Standing Rules and Orders governing the procedure at joint sittings have been passed by both Houses and approved by the Governor the Standing Rules and Orders of the Legislative Council shall so far as practicable apply.

(7) For the purposes of this section the term of service of a legislative councillor shall be taken to commence on the first day of January following the day of his election, except—

(a) in the case of the first election under subsection two of section 17A of this Act when the term shall be taken to commence on the date mentioned in subsection one of section 17A; or

(b)

(b) in the case of an election to fill a casual vacancy when the term shall be taken to commence on the date on which the term of service of the Member, a vacancy in whose place is filled, commenced.

(8) Where a casual vacancy in the Legislative Council to be filled by election occurs while the Legislative Assembly is in session the Speaker shall on being notified of the vacancy by message from the President of the Legislative Council forthwith appoint a day not later than the tenth sitting day thereafter upon which the election of a Member to fill the vacancy shall be made and if the House is not in session the Speaker shall at the beginning of the next session if the vacancy still exists appoint a day not later than the tenth sitting day thereafter upon which the election to fill the vacancy shall be held.

- (c) by omitting from subsection one of section Sec. 13 (1). thirteen the words "summoned or";
- (d) by omitting from subsection one of section Sec. 14 (1). fourteen the words "summoned to the said Council, or elected or returned as a Member to serve in the said Assembly for any electoral district, such summons or" and by inserting in lieu thereof the words "elected and returned as a Member to serve in the said Council or the said Assembly such";
- (e) by omitting section twenty and by inserting in New s. 20. lieu thereof the following new section :—

20. Any question which arises respecting the qualification, election, or return of a Member of the Legislative Council, or respecting a vacancy in the Legislative Council, shall be decided by the Court of Disputed Returns constituted under the Parliamentary Electorates and Elections (Amendment) Act, 1912-1928, and the provisions of Part VI of that Act shall, mutatis mutandis, apply in relation

Court of Disputed Returns to decide all questions of elections, vacancies, &c.

relation to the determination of all such questions. In applying that part a reference in such part to the Legislative Assembly shall be construed as a reference to the Legislative Council, and a reference to the Speaker as a reference to the President of the Legislative Council.

- (f) by omitting section twenty-one and by inserting ^{New s. 21.} in lieu thereof the following new section :—

21. (1) The Legislative Council shall before ^{President.} proceeding to the despatch of any other business choose one of their number to be President of the Legislative Council, and as often as the office of President becomes vacant the Legislative Council shall again choose one of their number to be the President.

The President shall cease to hold office if he ceases to be a Member of the Legislative Council. He may be removed from office by a vote of the Legislative Council, or he may resign his office by writing under his hand addressed to the Governor.

(2) Prior to or during the absence of the President the Legislative Council may choose one of their number to perform the duties of the President during his absence.

(3) The President or presiding Councilor may take part in any debate or discussion which may arise in the Legislative Council.

- (g) by inserting in subsection two of section twenty- ^{Sec. 22.} two after the word "President" wherever occurring the words "or the presiding councillor";

- (h) by inserting at the end of the proviso to section ^{Sec 5.} five the words "and may be rejected but not altered by the Legislative Council, but a Bill shall not be taken to be a Bill for appropriating any part of the public revenue or for imposing any new rate, tax, or impost by reason that it contains

contains provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licenses or fees for services”;

- (i) by inserting next after section nine the following new section :—

9A. (1) If the Legislative Assembly passes any Bill and the Legislative Council rejects or fails to pass it, or passes it with any amendment to which the Legislative Assembly does not agree, and if the Legislative Assembly in the next session (such next session commencing not less than six months after the close of the previous one) again passes the Bill with or without any amendment which has been made or agreed to by the Legislative Council, and the Legislative Council rejects or fails to pass it, or passes it with any amendment to which the Legislative Assembly, after a free conference between managers, does not agree, the Governor may during that session convene a joint sitting of the Members of the Legislative Council and of the Legislative Assembly. **Deadlocks.**

(2) The Members present at any such joint sitting may deliberate and shall vote together upon the Bill as last proposed by the Legislative Assembly and upon amendments if any, which have been made therein by one House and not agreed to by the other; and any such amendments which are affirmed by a majority of the total number of Members of the Legislative Council and the Legislative Assembly present at such sitting shall be taken to have been carried, and if the Bill with amendments if any, is affirmed by a majority of the Members of the Legislative Council and the Legislative Assembly present at such sitting it shall be taken to have been finally passed by both Houses.

(3) If the Bill is not so affirmed it shall be lawful for the Legislative Assembly by resolution passed by a majority consisting of not

not less than one-half of the total number of the Members on the roll of the said Assembly for the time being to cause such Bill as finally agreed to by the said Assembly to be referred to a referendum.

If a majority of the electors voting at the referendum approve of the Bill such Bill shall be taken to have passed both Houses and shall be presented to the Governor for the signification of His Majesty's pleasure thereon; or

(4) The Legislative Council shall be taken to have failed to pass a Bill if the Bill is not returned to the Legislative Assembly within two months after its transmission to the Legislative Council and the session continues during such period.

(2) The Constitution (Amendment) Act, 1925, is ^{Repeal of Act} _{No. 1, 1926.} hereby repealed.
