

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1932.

A BILL

To reform the constitution and alter the powers of the Legislative Council; to reduce and limit the number of Members of the Council; to reconstitute the Council in accordance with the reformed constitution; 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, with the approval of the electors as required by the Constitution Act, 1902, as amended by subsequent Acts, and by the authority of the same, as follows:—

1. This Act may be cited as the "Constitution Amendment (Legislative Council) Act, 1932," and shall be read and construed with the Constitution Act, 1902, as amended by subsequent Acts.

Short title.

2.

2. The Legislative Council shall be reconstituted, and shall consist of forty-five elected and fifteen summoned members.

Reconstitu-
tion.

3. (1) The elected Members shall be elected by the electors of fifteen electorates.

Elected
members.

(2) Each electorate shall be represented in the Legislative Council by three Members whose terms of service shall expire in rotation, so that the seats of the Members representing an electorate shall successively become vacant at regular triennial intervals.

(3) The first election of Members of the Legislative Council shall be held as soon as practicable after the commencement of this Act.

At the first election three Members shall be elected for each electorate.

The three Members shall be elected according to the principle of proportional representation, each voter having one transferable vote; and the voter shall be required to indicate the order of his preferences for all the candidates.

(4) At each election of Members of the Legislative Council after the first election one Member shall be elected for each electorate upon a system of preferential voting under which each voter shall be required to indicate the order of his preference for all the candidates.

4. (1) Until the Parliament otherwise provides the electorates for the purpose of any election under this Act shall be constituted in accordance with this section.

Electorates.

(2) The forty-three electoral districts into which the Sydney Area is for the time being divided pursuant to the Parliamentary Electorates and Elections Act, 1912-1929, shall be distributed into seven electorates.

One of these electorates shall consist of seven of the forty-three electoral districts; and each of the other six electorates shall consist of six of the remaining thirty-six electoral districts.

(3) The five electoral districts into which the Newcastle area is for the time being divided pursuant to the Parliamentary

Parliamentary Electorates and Elections Act, 1912-1929, shall together constitute one electorate.

(4) The forty-two electoral districts into which the Country area is for the time being divided pursuant to the Parliamentary Electorates and Elections Act, 1912-1929, shall be distributed into seven electorates each of which shall consist of six of those electoral districts.

(5) A distribution of electorates under this section shall be carried out by the Electoral Districts Commissioners who shall be appointed for this purpose in accordance with the law for the time being in force relating to a distribution of electoral districts for the election of Members of the Legislative Assembly.

In making any such distribution due consideration shall be given to community or diversity of interest lines of communication, physical features, and contiguity of electoral districts.

5. The electors qualified to vote for the election of Members of the Legislative Council for an electorate shall be the electors qualified to vote for the election of a Member of the Legislative Assembly for any electoral district comprised in that electorate, provided that such electors are at least thirty years of age. Electorats.

6. (1) The voting at elections of Members of the Legislative Council shall be by secret ballot and such elections shall be held and conducted as Parliament may provide. Elections.

(2) In the case of any election of Members of the Legislative Council after the first election the date on which the poll for the election may be taken shall not be earlier than the fortieth day before the expiration of the term of service of the Members whose seats are to be filled at the election :

Provided that the Parliament may provide for the king of any such poll on the polling-day for a general election of Members of the Legislative Assembly, where that polling-day is within six months before the expiration of such term of service.

7. (1) The term of service of the three members elected to represent an electorate at the first election of Members of the Legislative Council shall commence on the date upon which the Legislative Council is reconstituted, and shall expire as follows:—

Tenure of elected members.

- (a) in the case of the one who upon the count of the votes at the election is firstly declared elected— at the end of nine years from the commencement of such term;
- (b) in the case of the one who upon the count of the votes at the election is secondly declared elected —at the end of six years from the commencement of such term;
- (c) in the case of the one who upon the count of the votes at the election is thirdly declared elected— at the end of three years from the commencement of such term.

(2) The term of service of a Member of the Legislative Council elected to represent an electorate at any election after the date of the reconstitution of the Legislative Council shall—

- (a) commence upon the expiration of the term of service of the Member whose seat is to be filled at such election; and
- (b) expire at the end of nine years from its commencement.

8. (1) Where the seat of an elected Member of the Legislative Council becomes vacant before the expiration of his term of service, the Members of the Legislative Council and the Members of the Legislative Assembly voting as one electoral body and recording their votes at sittings of the respective Houses of the Parliament shall choose a person to hold the seat until the expiration of the term.

Elected members. Casual vacancy.

(2) In choosing a person under this section the voting shall be by secret ballot, and shall be in accordance with a system of preferential voting under which each voter shall be required to indicate the order of his preferences for all the candidates.

(3) The choosing of a person under this section shall be carried out and conducted as Parliament may provide.

(4) A person chosen under this section shall be deemed to be an elected Member of the Legislative Council.

9. (1) Any person who under the law for the time being in force is capable of being elected as a Member of the Legislative Assembly shall be capable of being elected as a Member of the Legislative Council or of being chosen under section eight of this Act as a Member of the Legislative Council.

Qualifications and disqualifications.

(2) A person who, if elected as a Member of the Legislative Assembly would, under the law for the time being in force, be incapable of sitting and voting as a Member of the Legislative Assembly, shall, if elected as a Member of the Legislative Council or chosen under section eight of this Act as a Member of the Legislative Council, be incapable of sitting and voting as a Member of the Legislative Council.

10. (1) For the purposes of the reconstitution of the Legislative Council, fifteen persons shall, before the date of such reconstitution, be summoned to serve as Members of the Legislative Council under and in accordance with the provisions of section sixteen of the Constitution Act, 1902.

Summoned members.

(2) The term of service as Members of the Legislative Council of the persons so summoned shall commence upon the date upon which the Legislative Council is reconstituted.

(3) The fifteen Members summoned in pursuance of this section shall be divided into three groups, each group comprising five members.

The group within which a Member so summoned is comprised shall be specified in the instrument by which he is summoned.

The term of service of the Members comprised in the first group shall expire at the end of three years from the commencement of such term.

The term of service of the Members comprised in the second group shall expire at the end of six years from the commencement of such term.

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The term of service of the Members comprised in the third group shall expire at the end of nine years from the commencement of such term.

11. Within three months before the expiration of the term of service of any five Members of the Legislative Council summoned in pursuance of section ten of this Act five persons shall, under and in accordance with the provisions of section sixteen of the Constitution Act, 1902, be summoned to fill the seats of such Members. Persons subsequently summoned.

The term of service of the Members summoned under this section shall—

- (a) commence upon the expiration of the term of service of the Members whose seats are to be filled; and
- (b) expire at the end of nine years from its commencement.

12. Where the seat of any Member summoned in pursuance of this Act to the Legislative Council becomes vacant before the expiration of his term of service, a person shall under and in accordance with section sixteen of the Constitution Act, 1902, be summoned to hold the seat until the expiration of the term. Summoned members—casual vacancy.

13. If at any time after the reconstitution of the Legislative Council 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 after an interval of months the Legislative Assembly in the same session or in the next session 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 convene a joint sitting of the Members of the Legislative Council and the Members of the Legislative Assembly. Disagreements—referendum.

The Members present at the joint sitting may deliberate upon the Bill as last proposed by the Legislative Assembly and upon any amendments made by the Legislative Council

Council with which the Legislative Assembly does not agree.

No vote shall be taken at the joint sitting.

After the joint sitting the Legislative Assembly may by resolution direct that the Bill as last proposed by the Legislative Assembly and either with or without any amendment subsequently agreed to by the Legislative Council and the Legislative Assembly, shall, at any time during the life of the Parliament or at the next general election of Members of the Legislative Assembly, be submitted by way of referendum to the electors qualified to vote for the election of Members of the Legislative Assembly.

If at the referendum a majority of the electors voting approve the Bill it shall be presented to the Governor for the signification of His Majesty's pleasure thereon and become an Act of the Legislature upon the Royal Assent being signified thereto, notwithstanding that the Legislative Council has not consented to the Bill.

For the purposes of this section the Legislative Council shall be taken to have failed to pass a Bill if the Bill is not returned to the Legislative Assembly within three months after its transmission to the Legislative Council and the Session continues during such period.

This section shall extend to any Bill whether it is a Bill to which section 7A of the Constitution Act, 1902 (as inserted by the Constitution (Legislative Council) Amendment Act, 1929), applies or not.

A joint sitting of the Members of the Legislative Council and the Members of the Legislative Assembly for the purposes of this section may be convened by the Governor by message to both Houses of the Parliament.

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.

14. If after the reconstitution of the Legislative Council the Legislative Assembly passes any Bill appropriating revenue or moneys for the ordinary annual services of the Government and the Legislative Council rejects or fails to pass it or returns the Bill to the Legislative Assembly with a message suggesting any amendment to which the Legislative Assembly does not agree, the Legislative Assembly may direct that the Bill with or without any amendment suggested by the Legislative Council be presented to the Governor for the signification of His Majesty's pleasure thereon, and shall become an Act of the Legislature upon the Royal Assent being signified thereto, notwithstanding that the Legislative Council has not consented to the Bill.

Appropriation for annual services.

The Legislative Council shall be taken to have failed to pass any such Bill, if the Bill is not returned to the Legislative Assembly within one month after its transmission to the Legislative Council and the Session continues during such period.

If a Bill which appropriates revenue or moneys for the ordinary annual services of the Government becomes an Act under the provisions of this section, any provision in such Act dealing with any matter other than such appropriation shall be of no effect.

15. (1) Where a Bill is presented to the Governor for the signification of His Majesty's pleasure under section thirteen of this Act, the words of enactment shall be as follows:—

Words of enactment.

BE it enacted by the King's Most Excellent Majesty, by and with the advice of the Legislative Assembly of New South Wales in Parliament assembled, with the approval of the electors, in accordance with the provisions of section thirteen of the Constitution Amendment (Legislative Council) Act, 1932, and by the authority of the same, as follows:—

Any alteration of a Bill necessary to give effect to this subsection shall not be deemed to be an amendment of the Bill.

(2)

(2) Where a Bill is presented to the Governor for the signification of His Majesty's pleasure under section fourteen of this Act, the words of enactment shall be as follows:—

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of New South Wales in Parliament assembled, in accordance with the provisions of section fourteen of the Constitution Amendment (Legislative Council) Act, 1932, and by the authority of the same, as follows:—

Any alteration of a Bill necessary to give effect to this subsection shall not be deemed to be an amendment of the Bill.

16. Section 7A of the Constitution Act, 1902, as inserted by the Constitution (Legislative Council) Amendment Act, 1929, shall apply in relation to the constitution and powers of the Legislative Council as altered under this Act. Section 7A of the Constitution Act, 1902, not affected.

17. Every person who immediately before the date upon which the Legislative Council is reconstituted in pursuance of this Act holds office as a member of the Legislative Council shall, upon the date of such reconstitution, cease to be a Member of the Legislative Council. Existing members of the Legislative Council.

18. The date upon which the Legislative Council shall be reconstituted pursuant to this Act shall be the sixtieth day after the date upon which the poll for the first election of Members of the Legislative Council under this Act is taken, or such earlier day after the date of such poll as the Governor may by proclamation published in the Gazette appoint. Date of re-constitution.

19. Upon the first or any other election of Members of the Legislative Council, the Legislative Council shall on and after the date of the reconstitution, be competent to proceed to the despatch of business at the time appointed by the Governor for that purpose notwithstanding that any of the writs of election (not exceeding three) have not been returned, or that in any of the electorates the electors have failed to elect a Member or Members to serve in the Legislative Council. Legislative Council may proceed to despatch of business notwithstanding non-return of three writs.