



LEGISLATIVE COUNCIL FACT SHEETS

FACT SHEET 2: CHRONOLOGY OF THE LEGISLATIVE COUNCIL

- 1787 The *Imperial Act 27 Geo.III Cap.2* is passed by the English Parliament in London. Governors' Commissions and Instructions relating to establishment and governing of a colony in New South Wales are issued under this Act.
- 1788 Arrival of First Fleet and commencement of military control of the colony under Governor Phillip.
- 1823 The *New South Wales Act 1823, 4 Geo IV, c 96 (Imp)* is passed. This Act establishes a nominated Council of between five and seven members, which meets for the first time on 25 August 1824. Business of the Council was conducted in secret, and the Governor had the power to override Council decisions. The Chief Justice oversighted all legislation to ensure it was consistent with English law.
- 1825 On his arrival in Sydney in December 1825, Governor Darling proclaims the constitution of an Executive Council consisting of the Lieutenant-Governor, the Chief Justice, the Archdeacon and the Colonial Secretary, and the reconstruction of the Legislative Council to consist of seven members, including these four officials plus three others not holding any official positions in the administration.
- 1828 The *Australian Courts Act 1828, 9 Geo IV, c 83 (Imp)* is passed. A newly appointed Council of 15 members, including the Governor, meets for the first time on 21 August 1829 in the Rum Hospital building. Bills were published prior to discussion in the Council and all judges considered their validity. Although this Act marks the beginnings of the move towards responsible government, the Governor still retained complete control over matters brought before the Council for consideration. While the membership of the Council - seven official and seven non official members - was comparatively evenly balanced, the Governor was allowed both a deliberative and a casting vote.
- 1842 The *Australian Constitutions Act (No 1) 1842, 5 & 6 Vic, c 76 (1842) (Imp)* is passed. The Council is increased to 36 members – 12 appointed and 24 elected by Colony's inhabitants on a property-based franchise. The new Council meets for the first time on 1 August 1843.
- 1850 The *Australian Constitutions Act (No 2) 1850, 13 & 14 Vic, c 59 (1850)* gives the colonies of New South Wales, Victoria, Van Diemen's Land, South Australia and Western Australia the power to amend their Constitutions, including the power to introduce a bicameral legislature, subject to reservation of such bills for the Queen's assent.
- 1851 The *New South Wales Electoral Act 1851, 14 Vic. No. 48* is passed. The Council is increased to 54 members of whom 18 are nominated by the Crown.

- 1855 The *Constitution Act 1855 18 & 19 Vic, c 54 (Imp)* is passed, providing for the adoption of responsible government in New South Wales. A new bicameral parliament is established with a nominated Legislative Council and a Legislative Assembly elected by male voters, subject to property qualifications. The Council is not to be popularly elected again until 1978. Council members are nominated by the Government and appointed by the Governor for life. There is no limit on the number of members who could be appointed to the Council.
- 1858 The *Electoral Act 1858* is passed after strong resistance in the Council. The Act introduces almost full manhood suffrage to New South Wales. New South Wales was in the forefront in the growth of political democracy.
- 1859-61 The Council rejects various bills to make it an elected body.
- 1861 The reconstituted Council of 23 members meets for the first time on 3 September 1861.
- 1893 Plural voting is abolished and elections henceforth held at the same time across the State.
- 1902 The *New South Wales Constitution Act 1902* is passed. This Act consolidates previous acts relating to the Constitution. Women in New South Wales gain the right to vote.
- 1926 Premier Lang (Labor) introduces the Constitution (Amendment) Bill, which provides for the Council's abolition. The second reading debate on the bill is adjourned on 22 January 1926 by a narrow 44 votes to 43 and the session concludes three days later. In the next session, an attempt to restore the bill to the Notice Paper on 23 February 1926 is defeated by 47 votes to 41. Seven Labor appointed members of the Council do not support the restoration of the bill. All seven are subsequently expelled from the Labor Party.
- 1929 Section 7A is inserted into the *Constitution Act 1902* to provide that no bill to abolish the Council shall receive royal assent unless it has passed both Houses and received approved at a referendum.
- The Constitution (Further Amendment) Bill further provides for an indirectly elected House of 60 members and also proposes to make changes to the mechanisms for resolving deadlocks between the Houses. Premier Bavin undertakes to submit the bill to the people at a referendum before it is presented for assent. The referendum is postponed in the context of the Great Depression, and the bill never presented for assent.
- 1930 Premier Lang secures the passage of a bill to abolish the Council through both Houses. However, he fails to submit the bill to the people at a referendum in accordance with the provisions of the new Section 7A of the *Constitution Act 1902*. The Full Bench of the New South Wales Supreme Court, the High Court of Australia and ultimately the Privy Council in London in subsequently hold section 7A to be valid and a referendum necessary for its repeal. Accordingly, Lang's bill is invalid because it did not adhere to the requirements of Section 7A of the *Constitution Act 1902*.
- 1932 Lang continues to push for more appointments to the Council in order to secure passage of legislation for its abolition. However, in perhaps the most dramatic constitutional event in the State's history, Governor Sir Philip Game exercises his reserve powers to dismiss Lang from office on 13 May 1932 after Lang seeks to prevent the Commonwealth

Government from seizing New South Wales revenues for interest owed by the New South Wales Government to foreign bondholders.

Stevens Government introduces the Constitution Amendment (Legislative Council) Bill 1932 to reform the Council. The bill revives the 1929 proposals for the reconstitution of the Council with 60 members indirectly elected by members of the Council and Assembly voting simultaneously in their own Houses as one electoral body, using a system of proportional representation.

- 1933 The *Constitution Amendment (Legislative Council) Act 1932* is assented to after a referendum. Henceforth the Council of 60 members is elected by a combined vote of both Houses. The new Council meets for the first time on 24 April 1934. Sections 5A and 5B are also inserted into the *Constitution Act 1902* to provide for the resolution of deadlocks between the Houses.
- 1943 The Constitution (Legislative Council Reform) Bill 1943, which seeks to repeal section 7A (potentially the first step towards abolition of the Council), is defeated at the second reading stage.
- 1946 The Legislative Council Abolition Bill is defeated at the second reading when, with numbers equal at 29 ayes and 29 noes, the President exercises his casting vote with the noes “in order to preserve the status quo of the Legislative Council.”
- 1959 The Constitution Amendment (Legislative Council Abolition) Bill 1959 is introduced and after considerable conflict between the Houses is submitted to a referendum in 1961 in accordance with the provisions of section 5B of the *Constitution Act 1902*. The conservative parties lead a spirited campaign opposing abolition of the Council. The bill is defeated at the referendum with 802,512 votes in favour of abolition and 1,089,193 against.
- 1978 The *Constitution and Parliamentary Electorates and Elections (Amendment) Act 1978* is assented to after approval at a referendum. The Act provides for a popularly elected Council of 45 members with 15 retiring at each election. The reconstituted Council meets for the first time on 7 November 1978. The transitional arrangements provide for the pre-existing House of 60 members to be replaced by a popularly elected House of 45 members over the course of three elections (in 1978, 1981 and 1984).
- 1981 The maximum term of Parliament is increased to four years, increasing the maximum term for members of the Council to 12 years.
- 1984 The Legislative Council is fully elected for the first time in its history.
- 1988 No government has had majority control of the Council since 1988.
- 1991 The *Constitution (Legislative Council) Amendment Act 1991* is assented to after approval at a referendum. The Act provides for a reduction in the membership of the Council from 45 to 42. It also reduces the maximum term of office of members of the Legislative Council to two terms of the Legislative Assembly (eight years).
- 1995 Fixed four year terms is introduced.

- 1998 The High Court of Australia upholds the power of the Council to order the production of state papers: *Egan v Willis* (1998) 195 CLR 424.
- 1999 The NSW Court of Appeal upholds the power of the Council to order the production of state papers (other than cabinet documents) despite a claim of privilege by the executive: *Egan v Chadwick* (1997) 40 NSWLR 650.