

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 8 March, 1978.*

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. , 1978.

An Act to provide for the election of Members of the
Legislative Council directly by the people.

*I have examined this Bill, and find it to correspond in all respects
with the Bill as finally passed by both Houses.*

T. J. CAHILL,
Chairman of Committees of the Legislative Assembly.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

BE it 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, with the approval of the electors as required by the Constitution Act, 1902, and by the authority of the same, as follows :—

1. This Act may be cited as the "Constitution and Parliamentary Electorates and Elections (Amendment) Act, 1978". Short title.

2. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO THE CONSTITUTION ACT, 1902.

SCHEDULE 2.—AMENDMENTS TO THE PARLIAMENTARY ELECTORATES AND ELECTIONS ACT, 1912.

SCHEDULE 3.—REPEALS.

SCHEDULE 4.—SAVINGS AND TRANSITIONAL PROVISIONS.

3. (1) The Constitution Act, 1902, is amended in the manner set forth in Schedule 1. Amendment of Act No. 32, 1902.

(2) If before the date of assent to this Act the proviso to section 7 of the Constitution Act, 1902, has been repealed, the amendment made by Schedule 1 (4) (b) has no force or effect.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

4. The Parliamentary Electorates and Elections Act, 1912, is amended in the manner set forth in Schedule 2. Amendment
of Act No.
41, 1912.

5. Each Act specified in Schedule 3 is repealed. Repeals.

6. Schedule 4 has effect. Savings and
transitional
provisions.

SCHEDULE 1.

Sec. 3.

AMENDMENTS TO THE CONSTITUTION ACT, 1902.

(1) (a) Section 1—

From the matter relating to Division 2 of Part III, omit “22”, insert instead “22J”.

(b) Section 1—

From the matter relating to Division 3 of Part III, omit “34”, insert instead “33”.

(2) (a) Section 3, definition of “Periodic Council election”—

Before the definition of “The Legislature”, insert :—

“Periodic Council election” means an election held after the date of assent to the 1978 reconstitution Act for the return of 15 Members of the Legislative Council.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

(b) Section 3, definition of “The 1978 reconstitution Act”—

After the definition of “The Legislature”, insert :—

“The 1978 reconstitution Act” means the Constitution and Parliamentary Electorates and Elections (Amendment) Act, 1978.

(3) (a) Section 5B (2)—

Omit “as may be provided by law, and if, at any time no such law exists,”, insert instead “, if the Constitution Further Amendment (Referendum) Act, 1930, or any other Act relating to the manner in which the referendum shall be held and conducted is in force, in accordance with that Act or with any other such Act, but if that Act is not in force and no such other Act is in force”.

(b) Section 5B (5) (b)—

Omit “in such manner as may be provided by law”.

(4) (a) Section 7—

Omit “, and may provide for the nomination or election of another Legislative Council to consist of such Members to be appointed or elected by such persons and in such manner as by any such Act is determined :”.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

(b) Section 7—

Omit “Provided that every Bill passed for any such purpose shall be reserved for the signification of His Majesty’s pleasure thereon, and a copy of such Bill shall be laid before both Houses of the Imperial Parliament thirty days at least before His Majesty’s pleasure thereon is signified”.

(5) (a) Section 7A (1)—

Omit the subsection, insert instead :—

(1) The Legislative Council shall not be abolished or dissolved, nor shall—

(a) its powers be altered;

(b) section 11A, Division 2 of Part III (sections 22G, 22H, 22I and 22J excepted), the Fifth or Sixth Schedule or this section be expressly or impliedly repealed or amended; or

(c) any provision with respect to the persons capable of being elected or of sitting and voting as Members of either House of Parliament be enacted unless it applies in the same way to the persons capable of being elected or of sitting and voting as Members of the other House of Parliament,

except in the manner provided by this section.

(b) Section 7A (2)—

Omit “one of this section”, insert instead “(1)”.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

(c) Section 7A (6)—

Omit the subsection, insert instead :—

(6) The provisions of this section do not apply to—

(a) a Bill for the repeal, the amendment from time to time or the re-enactment from time to time with or without modifications of—

(i) any of the provisions of section 13 (2), 14, 15 or 38A; or

(ii) any provision for the time being in force so far as it relates to the subject-matter dealt with in any of the provisions referred to in subparagraph (i);

(b) a provision of a Bill, being a provision which would, upon its coming into operation, be a law referred to in section 22A (5); or

(c) a provision of a Bill, being a provision with respect to the capacity of a person who holds or accepts an office of profit under the Crown specified in the Bill to be elected or to sit and vote as a Member of either House of Parliament.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

(d) Section 7A (7)—

Omit the subsection.

(e) Section 7A (8)—

After “reconstituted”, insert “from time to time”.

(6) Section 11A—

After section 11, insert :—

11A. Every general election of Members of the Legislative Assembly and every periodic Council election shall be held pursuant to writs issued by the Governor.

Elections to be held pursuant to writs.

(7) Sections 13A, 13B, 13C, 13D—

After section 13, insert :—

- 13A. If a Member of either House of Parliament—
- (a) fails for one whole Session of the Legislative Council and Assembly to give his attendance in the House of which he is a Member, unless excused in that behalf by the permission of that House entered upon its journals;
- (b) takes any oath or makes any declaration or acknowledgment of allegiance, obedience or adherence to any foreign prince or power or
- Further disqualifications. cf. previous ss. 19 and 34.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

does or concurs in or adopts any act where-
by he may become a subject or citizen of
any foreign state or power or become
entitled to the rights, privileges or immu-
nities of a subject of any foreign state or
power;

- (c) becomes bankrupt or takes the benefit of any
law for the relief of bankrupt or insolvent
debtors;
- (d) becomes a public defaulter; or
- (e) is attainted of treason or convicted of felony
or any infamous crime,

his seat as a Member of that House shall thereby
become vacant.

13B. (1) A person—

- (a) holding an office of profit under the Crown;
or
- (b) having a pension from the Crown during
pleasure or for a term of years,

Office of
profit or
pension
from
Crown.
cf. previous
ss. 17B (3),
26 and 27.

shall not be capable of being elected or of sitting or
voting as a Member of either House of Parliament.

(2) If a Member of either House of Parlia-
ment accepts any office of profit under the Crown or
pension from the Crown during pleasure or for a term
of years, his seat as a Member of that House shall
thereby become vacant.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

(3) Notwithstanding subsection (1) or
(2)—

(a) a person—

(i) in receipt only of pay, half-pay or a pension by virtue of service in any of Her Majesty's defence forces or who accepts any office of profit in any of Her Majesty's defence forces; or

(ii) who holds or accepts any of the offices enumerated in the Second Schedule or any office of profit under the Crown created by an Act as an office of the Executive Government,

shall be capable of being elected and of sitting and voting as a Member of either House of Parliament;

(b) a person who holds or accepts the office of Vice-President of the Executive Council shall be capable of being elected and of sitting and voting as a Member of the Legislative Council; and

(c) a person who holds or accepts the office of Parliamentary Secretary shall be capable of being elected and of sitting and voting as a Member of the Legislative Assembly.

13c. A Member of either House of Parliament shall not be capable of being elected or of sitting or voting as a Member of the other House.

Member of
one House
ineligible
for other.
cf. previous
ss. 17B (2)
and 25.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

13D. A Member of either House of Parliament in receipt of any allowance or pension granted under any Act authorising the grant of superannuation allowances or pensions to officers in the Public Service shall be entitled to the salary authorised by the Parliamentary Remuneration Tribunal Act, 1975, subject to its abatement by the amount he receives or is entitled to as that allowance or pension.

Abatement
of salary
of
Members
receiving
pension
or super-
annuation
as public
servants.
cf. previous
s. 29 (2).

(8) Section 14 (2)—

Omit “the last preceding section”, insert instead “section 13”.

(9) Part III, Division 2—

Omit the Division, insert instead :—

DIVISION 2.—*Special Provisions relating to the
Legislative Council.*

16. In this Division—

Interpre-
tation.

“continuing Member of the Legislative Council” means any person whose name is specified in the Fifth Schedule and who is a Member of the Legislative Council immediately before the first appointed day;

“elected Member of the Legislative Council” means a Member of the Legislative Council elected at a periodic Council election or a person elected under section 22c or 22d;

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

“first appointed day” means the day upon which the writ for the first periodic Council election is returnable;

“group” means a group constituted in accordance with clause 3 of the Sixth Schedule;

“second appointed day” means the day upon which the writ for the second periodic Council election is returnable;

“third appointed day” means the day upon which the writ for the third periodic Council election is returnable.

17. (1) On the first appointed day the Members of the Legislative Council (not being the continuing Members of the Legislative Council) shall cease to be Members of the Legislative Council. First reconstitution of the Legislative Council.

(2) On the first appointed day the Legislative Council shall be reconstituted and shall, on and from the first appointed day and until the second appointed day, consist of 43 Members.

18. The Members of the Legislative Council as reconstituted pursuant to section 17 (2) shall, subject to sections 22B, 22C and 22D and to clauses 4 and 5 of Schedule 4 to the 1978 reconstitution Act, consist of— Members of the Legislative Council as first reconstituted.

- (a) the continuing Members of the Legislative Council; and
- (b) 15 Members elected at the first periodic Council election.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

19. On the second appointed day the Legislative Council shall be reconstituted and shall, on and from the second appointed day and until the third appointed day, consist of 44 Members. Second re-constitution of the Legislative Council.

20. The Members of the Legislative Council as reconstituted pursuant to section 19 shall, subject to sections 22B, 22C and 22D and to clauses 4 and 5 of Schedule 4 to the 1978 reconstitution Act, consist of— Members of the Legislative Council as secondly reconstituted.

- (a) the continuing Members of the Legislative Council whose names are specified in Part 1 of the Fifth Schedule;
- (b) the 15 Members elected at the first periodic Council election; and
- (c) 15 Members elected at the second periodic Council election.

21. On the third appointed day the Legislative Council shall be reconstituted and on and from that day shall, subject to sections 22B, 22C and 22D, consist of 45 Members elected, whether on, before or after that day, at periodic Council elections. Final re-constitution of the Legislative Council.

22. The persons who would, if a periodic Council election were a general election of Members of the Legislative Assembly, be entitled to vote at that general election, and only those persons, shall be entitled to vote at that periodic Council election. Eligibility to vote at periodic Council elections.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

22A. (1) Periodic Council elections shall be conducted in accordance with the provisions of the Sixth Schedule. Conduct of
periodic
Council
elections.

(2) A writ for the first periodic Council election shall not be issued until after the issue of the writs for the general election of Members of the Legislative Assembly held next after the date of assent to the 1978 reconstitution Act and, when issued, shall name as the day for the taking of the poll the same day as the day for the taking of the poll at that general election.

(3) A writ for a periodic Council election, other than the first such election, shall not be issued until after the issue of the writs for the general election of Members of the Legislative Assembly held next after the immediately preceding periodic Council election and, when issued, shall name as the day for the taking of the poll the same day as the day for the taking of the poll at that general election.

(4) A reference in subsection (2) or (3) to a writ does not include a reference to a writ issued by reason of the failure of an election, including a failure of an election by reason of its being declared void in accordance with law.

(5) Subsection (1) does not limit the power of the Legislature to make laws (being laws that do not expressly or impliedly repeal or amend any of the provisions of the Sixth Schedule and are not inconsistent with any of those provisions) for or with respect to the conduct of periodic Council elections.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

22B. (1) A Member of the Legislative Council shall cease to be a Member of the Legislative Council—

Term of
service of
Member of
Legislative
Council.

- (a) on the day of his death;
- (b) on the day on which his seat as such a Member becomes vacant, otherwise than by reason of paragraph (c); or
- (c) on the day on which his term of service as a Member expires under subsection (2), (3) or (4),

whichever first occurs.

(2) Subject to subsection (4), the term of service of an elected Member of the Legislative Council shall expire on the day of the termination, either by dissolution or expiry, of the Legislative Assembly next preceding the third general election of Members of the Legislative Assembly to be held after his election as such a Member.

(3) The term of service of a continuing Member of the Legislative Council—

- (a) whose name is specified in Part 1 of the Fifth Schedule shall expire on the day of the termination, either by dissolution or expiry, of the Legislative Assembly next preceding the third appointed day; or
- (b) whose name is specified in Part 2 of the Fifth Schedule shall expire on the day of the termination, either by dissolution or expiry, of the Legislative Assembly next preceding the second appointed day.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

(4) The term of service of a Member of the Legislative Council elected to fill the seat of another Member which has become vacant otherwise than by reason of subsection (1) (c) shall expire on the day on which that other Member's seat would have become vacant by reason of subsection (1) (c).

22C. (1) Whenever a vacancy occurs in the seat of an elected Member of the Legislative Council otherwise than by reason of section 22B (1) (c) and there is any person—

Filling of casual vacancies in seats of elected Members of the Legislative Council from same group.

(a) who was included in a group in which—

(i) where that Member was elected at a periodic Council election, that Member was included for the purpose of that periodic Council election; or

(ii) where that Member was elected under this section or section 22D, the predecessor (whether immediate, intermediate or ultimate) of that Member was included for the purpose of the periodic Council election at which that predecessor was elected; and

(b) who is not a Member of the Legislative Council,

the Governor shall, in respect of each such vacancy, cause to be published in the Gazette a notification—

(c) notifying the occurrence of the vacancy;

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

- (d) inviting persons eligible under subsection (2) to apply in writing to the Governor to be declared to be elected to fill the vacant seat; and
- (e) specifying the time within which any such application must be lodged with the Governor.

(2) A person is eligible to make an application referred to in subsection (1) (d) if—

- (a) he was included in the group referred to in subsection (1) (a);
- (b) when he makes the application he is not a Member of the Legislative Council;
- (c) were he a Member of the Legislative Council, he would not be disqualified from sitting or voting as such a Member; and
- (d) he lodges that application with the Governor before the time specified pursuant to subsection (1) (e) in the notification under subsection (1),

but is not eligible to make such an application if he was included in the group referred to in subsection (1) (a) and he has, since he was so included, been a Member of the Legislative Council.

(3) The time to be specified, pursuant to subsection (1) (e), in a notification under subsection (1) shall be a time that is not less than 2 days after the date of publication of the notification in the Gazette.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

(4) As soon as practicable after the time specified pursuant to subsection (1) (e) in a notification under subsection (1), the Governor shall, from among the applicants, if any, eligible, as referred to in subsection (2), to make applications, declare to be elected to fill the vacant seat the applicant, if any, who was highest in the order, referred to in clause 3 of the Sixth Schedule, in which those applicants were included in the group referred to in subsection (1) (a).

(5) This section does not apply to or in respect of a vacancy that occurs by reason that a periodic Council election is declared void in accordance with law.

22D. (1) Whenever—

- (a) a vacancy occurs in the seat of an elected Member of the Legislative Council otherwise than by reason of section 22B (1) (c) and that vacancy is not filled under section 22C; or
- (b) a vacancy occurs in the seat of an elected Member of the Legislative Council by reason of section 22B (1) (c) and that vacancy is not filled by reason that insufficient Members of the Legislative Council are elected at the periodic Council election next following the occurrence of the vacancy,

Filling of casual vacancies in seats of elected Members of Legislative Council by joint sitting of both Houses.

the Governor, by message to both Houses of Parliament, shall convene a joint sitting of the Members of the Legislative Assembly and the Members of the

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

Legislative Council to be held at a place and time specified in the message for the purpose of the election of a person to fill the vacant seat.

(2) A person may not be nominated at any such joint sitting for election to fill a vacant seat of an elected Member of the Legislative Council if he is not eligible to be so nominated under subsection (3) or, if applicable, subsection (4).

(3) A person is not eligible to be so nominated if, were he a Member of the Legislative Council, he would be disqualified from sitting or voting as such a Member.

(4) Where—

- (a) a Member of the Legislative Council was elected at a periodic Council election and was, at the time of his election, publicly recognised by a particular political party as being an endorsed candidate of that party and publicly represented himself to be such a candidate; and
- (b) the vacancy (not being a vacancy referred to in subsection (1) (b)) to be filled is in the seat of that Member or of the successor (whether immediate, intermediate or ultimate) elected under this section or section 22c of that Member,

a person is not eligible to be so nominated unless he is a member of that party, except where there is no member of that party available to be so nominated.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

(5) This section does not apply to or in respect of a vacancy that occurs by reason that a periodic Council election is declared void in accordance with law.

22E. (1) The oath or affirmation required to be taken and subscribed or made by a Member of the Legislative Council under section 12 shall not be taken or made by a person elected at a joint sitting to fill a vacancy referred to in section 22D (1) (a) until the expiration of 2 days after his election.

Members
elected
at joint
sittings
of both
Houses of
Parliament.

(2) If, before a person elected at a joint sitting to fill a vacancy referred to in section 22D (1) (a) takes and subscribes the oath or makes the affirmation required to be taken and subscribed or made under section 12, he ceases to be a member of the political party membership of which was necessary under section 22D (4) for him to be eligible to be nominated for that election, he shall be deemed not to have been elected at that joint sitting and the vacant seat of the Member which he was elected to fill shall, when he so ceases to be a member of that party, again be vacant.

(3) More than one vacancy may be filled at the one joint sitting.

22F. The Legislative Council shall not be competent to dispatch any business during the period commencing on the day of the termination, either by dissolution or expiry, of any Legislative Assembly and ending on the day fixed for the return of the writ for the periodic Council election held next after that termination.

Suspension
of
Legislative
Council
business for
general
election of
the
Legislative
Assembly.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

22G. (1) A person shall be chosen to be the President.
President of the Legislative Council— cf. previous
s. 21 and
s. 31A (1).

- (a) before the Legislative Council proceeds to the dispatch of any other business after the first appointed day; and
- (b) whenever the office of President of the Legislative Council becomes vacant.

(2) The person so chosen shall cease to hold office as President of the Legislative Council—

- (a) if he ceases to be a Member of the Legislative Council;
- (b) if he is removed from that office by a vote of the Legislative Council; or
- (c) if he resigns his office by writing under his hand addressed to the Governor.

(3) The President shall preside at all meetings of the Legislative Council except as may be provided by the Standing Rules and Orders of the Legislative Council.

(4) The President or other Member presiding may take part in any debate or discussion which may arise in the Legislative Council.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

(5) Subject to subsection (3), during the absence from New South Wales of the President, the Chairman of Committees of the Legislative Council shall act in his place and shall, for all purposes, whether of this Act or otherwise, have and may exercise and perform all the powers, authorities, duties and functions of the President.

(6) Whenever a vacancy occurs in the seat of a Member of the Legislative Council otherwise than by reason of section 22B (1) (c), the President may notify the Governor of the vacancy.

22H. The presence of at least 12 Members of the Legislative Council, in addition to the President or other Member presiding, shall be necessary to constitute a quorum for the dispatch of business. Quorum.
cf. previous
s. 22 (1).

22I. All questions arising in the Legislative Council shall be decided by a majority of the votes of the Members present other than the President or other Member presiding and when the votes are equal the President or other Member presiding shall have a casting vote. Determina-
tion of
questions.
cf. previous
s. 22 (2).

22J. Any Member of the Legislative Council may, by writing under his hand, addressed to the Governor, resign his seat therein, and upon the receipt of the resignation by the Governor, the seat of that Member shall become vacant. Resignation
of seats in
the Legisla-
tive Council.
cf. previous
s. 18.

(10) Section 25—
Omit the section.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

- (11) Section 26—
Omit the section.
- (12) Section 27—
Omit the section.
- (13) Section 29—
Omit the section.
- (14) Section 31 (2)—
Omit “hereinafter”, insert instead “herein”.
- (15) Section 34—
Omit the section.
- (16) Fifth and Sixth Schedules—
At the end of the Act, insert :—

FIFTH SCHEDULE.

CONTINUING MEMBERS OF THE LEGISLATIVE
COUNCIL.

PART 1.

LONG TERM MEMBERS

BALDWIN, Peter Jeremy.
BURTON, Donald Ross.
DARLING, Fergus John.
DUCKER, John Patrick.

Sections 16,
20 (a),
22B.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

DUNCAN, Frederick Norman.
HOLT, Walter John.
JOHNSON, John Richard.
KENNEDY, James William.
KITE, Delcia Ivy.
MORRIS, John Joseph.
ORR, Nathaniel Montgomery.
SANDWICH, William John.
SOLOMONS, Louis Adrian.
TURNER, Roy Frederick.

PART 2.

SHORT TERM MEMBERS.

ANDERSON, Kathleen Harris.
BRYON-FAES, Roger August Alfred Faes, de.
CONNELLAN, Leo Paul.
FREEMAN, Derek David.
FRENCH, Henry Bernard.
FULLER, John Bryan Munro.
HALLAM, Jack Rowland.
LANDA, David Paul.
LLOYD, Florence Violet.
McMAHON, Peter.
McPHERSON, Herbert John.
MELVILLE, Robert Gavin.
PICKERING, Edward Phillip.
WILLIS, Max Frederick.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

SIXTH SCHEDULE.

Sections 16,
22A.

CONDUCT OF LEGISLATIVE COUNCIL ELECTIONS.

PART 1.

SYSTEM OF ELECTION.

1. At a periodic Council election, the whole of the State of New South Wales shall be a single electoral district for the return of 15 Members of the Legislative Council.

2. (1) At a poll for a periodic Council election, a voter shall be required to record his vote for 10 candidates and no more but shall be permitted to record his vote for as many more candidates as he pleases, so as to indicate in such manner as may be provided by law the candidates for whom he votes and the order of his preferences for them.

(2) Notwithstanding subclause (1) of this clause, a ballot-paper on which the voter has recorded not less than 10 votes is not informal by reason only that—

- (a) the same preference (other than his first preference) has been recorded on the ballot-paper for more than 1 candidate, but the ballot-paper shall be treated as if those preferences and any subsequent preferences had not been recorded on the ballot-paper; or

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

(b) there is a break in the order of his preferences, but the ballot-paper shall be treated as if any subsequent preference had not been recorded on the ballot-paper.

3. For the purpose of a periodic Council election, 2 or more candidates may, in the manner provided by law, be included in a group in such order as may be determined by them.

PART 2.

COUNTING OF VOTES AT ELECTIONS.

4. (1) In this Part of this Schedule—

“continuing candidate” means a candidate not already elected or not excluded from the count;

“Council returning officer” means the person for the time being appointed by law to conduct periodic Council elections.

(2) In relation to any stage of the scrutiny, a reference in this Part of this Schedule to the surplus votes of an elected candidate is a reference to the number at that stage by which the elected candidate’s votes exceed the quota, reduced by the excess, if any, of the number at that stage of the elected candidate’s votes on which a next available preference for a continuing candidate is not indicated over the quota.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

5. The method of counting the votes to ascertain the result of a periodic Council election shall be as provided in this Part of this Schedule.

6. At the close of the poll the Council returning officer shall ascertain the total number of first preference votes recorded for each candidate on all ballot-papers not rejected by him as informal and the total of all such votes.

7. The Council returning officer shall then determine a quota by dividing the total number of first preference votes for all candidates by 16 and by increasing the quotient so obtained (disregarding any remainder) by 1.

8. Any candidate who has received a number of first preference votes equal to or greater than the quota so determined shall be elected.

9. Where the number of first preference votes received by a candidate is equal to the quota, the whole of the ballot-papers containing those votes shall be set aside as finally dealt with.

10. Unless all vacancies have been filled, the surplus votes of each elected candidate shall be transferred to the continuing candidates, in proportion to the voters' preferences, as follows :—

- (a) The Council returning officer shall divide the number of the elected candidate's surplus votes by the number of first preference votes (excluding any first preference votes indicated on ballot-papers which do not bear a next available preference for a con-

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

tinuing candidate) received by him and the resulting fraction shall, for the purposes of this clause, be the transfer value of that candidate's surplus votes.

- (b) The Council returning officer shall take all of the ballot-papers of the elected candidate on which a next available preference is indicated for a continuing candidate and arrange them in separate parcels for the continuing candidates according to the next available preference indicated on them.
- (c) The Council returning officer shall ascertain, from the parcel referred to in paragraph (b) in respect of each continuing candidate, the total number of ballot-papers of the elected candidate which bear the next available preference for that continuing candidate and shall, by multiplying that total by the transfer value of the elected candidate's surplus votes, determine the number of votes to be transferred from the elected candidate to each continuing candidate.
- (d) If, as a result of the multiplication, any fraction results, so many of those fractions, taken in the order of their magnitude, beginning with the largest, as are necessary to ensure that the number of votes transferred equals the number of the elected candidate's surplus votes shall be reckoned as of the value of unity and the remaining fractions shall be ignored.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

- (e) The Council returning officer shall then determine the number of ballot-papers to be transferred from the elected candidate to each continuing candidate.
- (f) The Council returning officer shall then, in respect of each continuing candidate, forthwith take at random, from the parcel referred to in paragraph (b) containing the ballot-papers of the elected candidate which bear the next available preference for that continuing candidate, the number of ballot-papers determined under paragraph (e) and transfer those ballot-papers to the continuing candidate.
- (g) The ballot-papers containing the first preference votes of the elected candidate which have not been transferred (that is, the ballot-papers containing the number of votes equal to the quota) shall be set aside as finally dealt with.

11. (1) When the surplus votes of all elected candidates have been transferred to the continuing candidates as provided by clause 10, any continuing candidate who has received a number of votes equal to or greater than the quota shall be elected.

(2) Unless all the vacancies have been filled, the surplus votes of the elected candidate shall be transferred to the continuing candidates in accordance with the provisions of clause 10, but, in the application of those provisions, only those ballot-papers which have been transferred to the elected candidate from a candidate previously elected shall be taken into consideration.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

12. (1) If, as a result of the transfer of the surplus votes of a candidate elected in pursuance of clause 11 or elected at a later stage of the scrutiny, a continuing candidate has received a number of votes equal to or greater than the quota, he shall be elected.

(2) Unless all the vacancies have been filled, the surplus votes of the elected candidate shall be transferred to the continuing candidates in accordance with the provisions of clause 10, but, in the application of those provisions, only those ballot-papers which have been transferred to the elected candidate from the candidate or candidates elected at the last preceding count shall be taken into consideration.

13. The ballot-papers containing the first preference votes of a candidate who has been elected in pursuance of the provisions of clause 11 or 12, together with the ballot-papers transferred to him from a candidate previously elected or excluded which have not been further transferred, shall be set aside as finally dealt with.

14. (1) If, after the transfer of the surplus votes of the elected candidates, no candidate has, or less than the number of candidates required to be elected have, received a number of votes equal to the quota, the candidate who has the fewest votes shall be excluded and the whole of his ballot-papers shall be transferred to the continuing candidates next in order of the voters' available preferences.

(2) If thereupon, or as the result of the exclusion of a candidate at any subsequent stage of the scrutiny, a continuing candidate has received a number of votes equal to or greater than the quota, he shall be elected.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

(3) Unless all the vacancies have then been filled, the surplus votes of the elected candidate shall be transferred to the continuing candidates in accordance with the provisions of clause 10, but, in the application of those provisions, only those ballot-papers which have been transferred to the elected candidate from the candidate last excluded shall be taken into consideration.

(4) The ballot-papers containing the first preference votes of the elected candidate, together with the ballot-papers transferred to him from a candidate previously elected or excluded which have not been further transferred, shall be set aside as finally dealt with.

(5) If no continuing candidate has then received a number of votes equal to the quota, the process of excluding the candidate with the fewest votes and the transferring of ballot-papers containing those votes to the continuing candidates shall be repeated until a continuing candidate has received a number of votes equal to the quota or, in respect of the last vacancy, a majority of the votes remaining in the count, but the process of excluding candidates shall not be repeated after the number of continuing candidates is equal to the number of unfilled vacancies.

(6) A ballot-paper that under this clause is, pursuant to the exclusion of a candidate, required to be transferred to a continuing candidate shall be set aside as finally dealt with if it does not indicate a next available preference for a continuing candidate.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

15. After all the candidates who have received a number of votes equal to the quota are elected—

- (a) where there is 1 remaining unfilled vacancy—the candidate who has received a majority of the votes remaining in the count; or
- (b) where the number of continuing candidates is equal to the number of remaining unfilled vacancies—those candidates,

shall be elected.

16. Where, on the count of the first preference votes, or at the same time at any subsequent stage of the scrutiny, 2 or more candidates are elected by reason of their having received a number of votes equal to or greater than the quota, any transfer of the surplus votes of those candidates shall be carried out in the order, first of the candidate with the largest surplus, second of the candidate with the next largest surplus and so on.

17. (1) Notwithstanding anything contained in this Part of this Schedule, a transfer of the surplus votes of an elected candidate shall be deferred (but without affecting the order of that transfer) so long as the total number of those surplus votes and any other surplus votes not transferred is less than the difference between the total votes of the 2 continuing candidates with the fewest votes.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—
continued.

(2) In any such case, unless all vacancies have been filled, the candidate with the fewest votes shall be first excluded and the ballot-papers containing his votes shall be transferred to the continuing candidates as provided in clause 14 (1).

18. (1) If, on any count, 2 or more candidates have an equal number of votes, and 1 of them has to be excluded, the candidate whose name is on the slip drawn in accordance with subclause (4) of this clause shall be excluded.

(2) If, at the time of their election, 2 or more candidates have an equal number of votes that is more than the quota, the candidate whose name is on the slip drawn in accordance with subclause (4) of this clause shall, for the purposes of clause 16, be deemed to have had the larger or largest surplus.

(3) If, on the final count for filling the last vacancy, 2 candidates have an equal number of votes, 1 candidate shall be excluded in accordance with subclause (1) of this clause and the other shall be elected.

(4) For the purposes of subclauses (1) and (2) of this clause, the names of the candidates who have an equal number of votes having been written on similar slips of paper by the Council returning officer and the slips having been folded by him so as to prevent the description being seen and having been mixed, 1 of those slips shall be drawn at random by him.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2.

Sec. 4.

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES AND
ELECTIONS ACT, 1912.

(1) (a) Section 1—

In the matter relating to Part II, after
“MEMBERS”, insert “OF ASSEMBLY”.

(b) Section 1, matter relating to Parts V and VI—

Omit the matter, insert instead :—

PART V.—CONDUCT OF ELECTIONS—ss.
67A–154.

DIVISION 1.—*Application of Part—s. 67A.*

DIVISION 1A.—*Writs for Assembly elections*
—ss. 68–74.

DIVISION 1B.—*Writs for periodic Council*
elections—ss. 74A–74D.

DIVISION 2.—*Returning officers for districts*
—ss. 75–77.

DIVISION 2A.—*Returning officer for*
periodic Council elections—s. 78AA.

DIVISION 3.—*Postal voting officers—ss.*
78A–78E.

DIVISION 4.—*Nominations for the Assem-*
bly—ss. 79–81A.

DIVISION 5.—*Nominations for the Council*
—ss. 81B–81I.

DIVISION 6.—*Ballot-papers for Assembly*
elections—ss. 82–83.

DIVISION 6A.—*Ballot-papers for periodic*
Council elections—ss. 83A, 83B.

Constitution and Parliamentary Electorates and Elections
(Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

DIVISION 7.—*Polling-places, poll clerks, etc.*
—ss. 84–91.

DIVISION 8.—*General provisions for the
regulation of voting*—ss. 92–114.

DIVISION 9.—*Voting by post (returning
officers)*—ss. 114A–114NA.

DIVISION 10.—*Pre-poll voting*—ss. 114P–
114Z.

DIVISION 11.—*Voting by post (postal
voting officers)*—ss. 114ZA–114ZL.

DIVISION 12.—*Absent voters*—ss. 115–119.

DIVISION 13.—*Compulsory voting*—ss.
120A–120H.

DIVISION 13A.—*Concurrent Assembly and
periodic Council elections*—ss. 120I,
120J.

DIVISION 14.—*Proceedings after close of
poll at Assembly elections*—ss. 120K–
129.

DIVISION 14A.—*Proceedings after close of
poll at periodic Council elections*—ss.
129A–129J.

DIVISION 15.—*Adjournment of poll*—ss.
130–132.

DIVISION 16.—*General provisions*—ss.
133–136.

DIVISION 17.—*Bribery, treating, intima-
dation, etc.*—ss. 147–154.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.***

**PART VI.—COURT OF DISPUTED RETURNS—
ss. 154A–175J.**

DIVISION 1.—*Disputed elections and returns*
—ss. 154A–175AA.

DIVISION 2.—*Qualifications and vacancies*
—ss. 175B–175G.

DIVISION 3.—*Application of Division 2 to
Council*—s. 175H.

DIVISION 4.—*Casual vacancies in Council*—
ss. 175I, 175J.

(c) Section 1, matter relating to Part VIII—

Omit the matter.

(2) (a) Section 3, definition of “Assembly general election”—

After the definition of “Assembly”, insert :—

“Assembly general election” means an election held for the return of members of the Assembly pursuant to writs issued by the Governor upon the dissolution or expiry of the Assembly.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—continued.

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—continued.**

- (b) Section 3, definitions of “By-election”, “Council”,
“Elector”—

Omit the definition of “By-election”, insert
instead :—

“By-election” means an election held for the
return of a member of the Assembly
pursuant to a writ other than a writ
issued in respect of an Assembly general
election.

“Council” means the Legislative Council of
New South Wales.

“Elector” means any person whose name
appears on a roll.

- (c) Section 3, definition of “Election”—

After “Assembly”, insert “or a periodic Council
election”.

- (d) Section 3, definitions of “General election” and
“Group”—

Omit the definition of “General election”, insert
instead :—

“Group” means a group constituted in accord-
ance with clause 3 of the Sixth Schedule
to the Constitution Act, 1902.

- (e) Section 3, definition of “Member”—

After “Assembly”, insert “or member of the
Council”.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—continued.

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—continued.**

- (f) Section 3, definition of “Periodic Council election”—

Before the definition of “Postal voting officer”, insert :—

“Periodic Council election” has the meaning ascribed thereto by section 3 of the Constitution Act, 1902.

- (g) Section 3, definition of “President”—

After the definition of “Prescribed”, insert :—

“President” means the President of the Council.

- (h) Section 3 (2)—

At the end of section 3, insert :—

(2) A reference in this Act to a poll for a district or an election for a district is a reference to a poll or an election for the return of a member of the Assembly.

- (3) Part II, heading—

After “MEMBERS”, insert “OF ASSEMBLY”.

- (4) Section 21—

Omit “of electors for the Assembly”.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—continued.

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—continued.**

- (5) (a) Section 21A (2)—
Omit “for the Legislative Assembly”.
- (b) Section 21A (11) (a)—
After “regulations”, insert “or by the Constitution
Act, 1902”.
- (6) (a) Section 22, definition of “Elector”—
Omit the definition.
- (b) Section 22, definition of “Roll”—
Omit the definition.
- (7) Section 24—
Omit “for the Assembly”.
- (8) Section 29 (2) (a)—
Omit the paragraph, insert instead :—
(a) immediately previous to an election; and
- (9) Section 39A—
Omit “for that district” where thirdly occurring.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

- (10) (a) Section 50 (1)—
Omit “for the Assembly for any district”, insert instead “at which the electors enrolled for any district”.
- (b) Section 50 (1)—
After “officer” where secondly occurring, insert “are required to vote”.
- (c) Section 50 (1) (b)—
Omit “for any election for the Assembly”.
- (d) Section 50 (3)—
Omit “for the Assembly”.
- (11) Part V, Division 1, heading—
Omit the heading, insert instead :—

DIVISION 1.—*Application of Part.*
- (12) Section 67A and heading to Division 1A of Part V—

Before section 68, insert :—

67A. Except where otherwise expressly provided, Divisions 2, 3, 7, 8, 9, 10, 11, 12, 13, 15, 16 and 17 apply to and in respect of all elections. Application of Part.
- DIVISION 1A.—*Writs for Assembly elections.*

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.***

(13) (a) Section 68—

Omit “For the purpose of every general election—and also in the case of any seat in the Assembly becoming vacant after any such general election, and before the meeting of Parliament—the writs for the election of members shall be issued by the Governor : All writs for”, insert instead “All writs for Assembly”.

(b) Section 68—

Omit “Parliament” where secondly occurring, insert instead “the Assembly”.

(14) Section 69—

Omit the section, insert instead :—

69. The day to be fixed for the meeting of the Assembly after the return of writs for an Assembly general election shall not be later than the seventh clear day after the date for the return of the writs for that election or the date for the return of the writ for the periodic Council election the day for the taking of the poll for which was the same day as the day for the taking of the poll for that Assembly general election, whichever date is the later.

Meeting of
Assembly
after
return
of writs.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—continued.

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—continued.**

(15) Section 69A—

After section 69, insert :—

69A. Where a seat in the Assembly becomes vacant after an Assembly general election and before the first meeting of the Assembly after that general election, the writ for the election to fill the vacancy shall be issued by the Governor.

Governor
to issue
writ for
vacancy
occurring
before
Assembly
meets
after
general
election.
cf. previous
s. 68.

(16) Section 70—

After “member”, insert “of the Assembly”.

(17) Section 72 (2)—

At the end of section 72, insert :—

(2) Subsection (1) has effect subject to section 22A (2) and (3) of the Constitution Act, 1902, and to section 120i.

(18) Section 73—

Before “general”, insert “Assembly”.

(19) Section 74 (4), (5)—

After section 74 (3), insert :—

(4) The returning officer shall attend at all reasonable hours in the daytime, in the interval between the receipt by him of a writ and noon on the day of nomination, at the place appointed by him for receiving nomination papers.

cf. previous
s. 77.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(5) The returning officer shall, upon each day between the receipt by him of a writ and noon on the day of nomination for the election mentioned in the writ, exhibit and keep exhibited, outside the place appointed by him for receiving nomination papers, in some public and conspicuous position, the names and places of residence of all persons who have duly become candidates for the election. cf. previous s. 78.

(20) Part V, Division 1B—

Before Division 2 of Part V, insert :—

DIVISION 1B.—*Writs for periodic Council elections.*

74A. A writ for a periodic Council election shall be issued within four clear days after the publication in the Gazette of the proclamation dissolving an Assembly, or after an Assembly has been allowed to expire by effluxion of time, and the writ shall be made returnable on a day not later than the sixtieth clear day after the date of the issue thereof or on such later day as the Governor may by proclamation in the Gazette direct. Writs for periodic Council elections. cf. s. 68.

74B. The day to be fixed for the meeting of the Council after the return of a writ for a periodic Council election shall not be later than the seventh clear day after the date for the return of the writ or the date for the return of the writs for the Assembly general election the day for the taking of the poll for which was the same day as the day for the taking of the poll for that periodic Council election, whichever date is the later. Meeting of Council after return of writs. cf. s. 69.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

74c. (1) Every writ for a periodic Council election shall be directed to the Electoral Commissioner. Writ directed to Electoral Commissioner.

(2) In every such writ shall be named the day on which all nominations of candidates at and for any such election must be made (hereinafter called the day of nomination), the day for taking the poll at the several polling-places in the event of the election being contested, and the day on which the writ shall be returnable to the Governor. cf. s. 72.

(3) Subsection (2) has effect subject to section 22A (2) and (3) of the Constitution Act, 1902, and to section 120I.

74d. (1) The Electoral Commissioner shall, upon the receipt by him of any writ directed to him under section 74c (1), indorse thereon the day of the receipt of the writ, and shall forthwith give public notice of the purport of the writ, of the day of nomination, the day of polling, and the return day mentioned respectively in the writ, and also of some place within the State (to be appointed by the Electoral Commissioner) at which he will receive the nomination papers for the election to which the writ applies. Duties of Electoral Commissioner on receipt of writ, &c. cf. s. 74.

(2) Public notice for the purpose of this section shall mean notice in any newspaper circulating in the State, or failing that, then by the exhibition of printed or written placards in such places as the Electoral Commissioner may think most likely to attract notice.

(3) The Electoral Commissioner shall attend at all reasonable hours in the daytime, in the interval between the receipt by him of a writ and noon on the day of nomination, at the place appointed by him for receiving nomination papers.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(4) The Electoral Commissioner shall, upon each day between the receipt by him of a writ and noon on the day of nomination for the election mentioned in the writ, exhibit and keep exhibited, outside the place appointed by him for receiving nomination papers, in some public and conspicuous position, the names and places of residence of all persons who have duly become candidates for the election.

(5) Where two or more candidates are included in a group, the names and places of residence required by subsection (4) to be exhibited in respect of them shall be exhibited in the order referred to in section 81C (2) in which they are included in that group.

(21) Part V, Division 2, heading—

After “*officers*”, insert “*for districts*”.

(22) Section 75—

After “each district” where firstly occurring, insert “for the purposes of all elections”.

(23) Section 76—

Omit the section.

(24) Section 77—

Omit the section, insert instead :—

77. (1) The returning officer shall forthwith, on the receipt by him of a writ, appoint, by writing under his hand, some fit person to be his substitute. Returning
officer to
appoint
substitute.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.***

(2) In the event of the death or during the absence or incapacity of a returning officer, his substitute shall have and may exercise or perform all the powers, authorities, duties and functions of the returning officer.

(25) Section 78—

Omit the section.

(26) Part V, Division 2A—

Before Division 3 of Part V, insert :—

DIVISION 2A.—*Returning officer for periodic Council elections.*

78AA. (1) The Electoral Commissioner shall conduct periodic Council elections.

**Electoral
Commissioner to
conduct
periodic
Council
elections.**

(2) In the event of the death or during the absence or incapacity of the Electoral Commissioner, the Principal Returning Officer shall have and may exercise or perform all the powers, authorities, duties and functions of the Electoral Commissioner, and shall be deemed to be the Electoral Commissioner, in relation to the conduct of periodic Council elections.

(3) The Electoral Commissioner may, where necessary, appoint one or more persons who are electors to act as his assistants in the performance of his duties in relation to the conduct of periodic Council elections.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

- (4) Section 88 applies to and in respect of an assistant appointed under subsection (3) and a declaration made by him in the same way as it applies respectively to a poll clerk and a declaration made by a poll clerk under that section.
- (27) Section 78C—
Omit the section.
- (28) (a) Section 78E (1)—
Omit “the election of a Member or Members of the Legislative Assembly”, insert instead “any election under that Act”.
- (b) Section 78E (1)—
Omit “the said election” wherever occurring, insert instead “any such election”.
- (c) Section 78E (1)—
Omit “or or”, insert instead “or”.
- (29) Part V, Division 4, heading—
After “*Nominations*”, insert “*for the Assembly*”.
- (30) (a) Section 79 (4)—
Omit “pursuant to this Act”, insert instead “as a member of the Assembly”.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(b) Section 79 (5A)—

Omit the subsection, insert instead :—

(5A) A nomination of a person for an election for a district is void if at the close of nominations he is nominated for an election for another district or for a periodic Council election.

(c) Section 79 (7)—

Omit “summoned or being nominated or elected as a member of the Legislative Council or Legislative”, insert instead “nominated as a candidate for, or elected as a member of, the”.

(d) Section 79 (7A) (c)—

Omit “section 81”, insert instead “section 79A”.

(31) Section 79A—

After section 79, insert :—

79A. Any candidate for an election for an electoral district may withdraw his name from nomination by delivering a notice under his hand to the returning officer before noon on the day of nomination for that election.

Withdrawal
of
nomination
for
Assembly
election.
cf. previous
s. 81.

(32) Part V, Division 5, heading—

Omit the heading.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.***

(33) (a) Section 80—

Omit “only one candidate is so nominated, the returning officer shall at noon on the day of nomination”, insert instead “at noon on the day of nomination there is only one candidate for election for a district, the returning officer shall at that time and”.

(b) Section 80—

Omit “the candidate nominated”, insert instead “that candidate”.

(34) (a) Section 81—

Omit “If there are more candidates nominated than one, it shall be open to any candidate to withdraw his name from nomination by delivering a notice under his hand to the returning officer or the person acting as his substitute before noon on the nomination day, and if after such withdrawal there are two or more candidates”, insert instead “If at noon on the day of nomination there are two or more candidates for election for a district”.

(b) Section 81—

Omit “nomination day” where secondly occurring, insert instead “day of nomination”.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continuea.*

(35) Section 81A—

Omit “in” wherever occurring, insert instead “for”.

(36) Part V, Division 5—

Before Division 6 of Part V, insert :—

DIVISION 5.—*Nominations for the Council.*

81B. (1) Every person qualified to vote at a periodic Council election shall be qualified to be nominated as a candidate at that election, unless disqualified under the Constitution Act, 1902, or this Act.

Nomination
of Council
candidates.

(2) Before, and in order that, any person shall be a candidate at any periodic Council election, he shall be nominated by not fewer than six persons each of whose names is on a roll.

(3) Every such nomination shall be made by delivering to the Electoral Commissioner a nomination-paper at some time after the issue of the writ and before noon on the day of nomination and the Electoral Commissioner shall, if required to do so, give a receipt for it.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—continued.

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—continued.**

(4) The nomination-paper shall be in the following form, namely :—

We, the persons whose names appear on this form as nominators, being persons each of whose names is on a roll, do hereby nominate for election to the Legislative Council the following person :—

*Name in full of person nominated.	Occupation.	Place of residence as enrolled.	**Signature of person nominated.

* *Underline surname.*

** *The signature of the person nominated must appear opposite his name to signify his consent to his nomination.*

Dated this _____ day of _____ 19 .

Name in full of each nominator (Not fewer than 6).	Place of residence as enrolled.	Occupation.	Sub-division.	Electoral district.	Signature of each nominator.

(5) No elector shall nominate more than one candidate.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(6) No person, unless nominated in accordance with the requirements of this section, shall be deemed to be a candidate at a periodic Council election.

81c. (1) Two or more candidates nominated for a periodic Council election may, in the prescribed form and before noon on the day of nomination for that election, claim—

Grouping
of candi-
dates.

- (a) to have their names included in a group in the ballot-papers to be used in that election; and
- (b) to have their names included in that group in the order specified in that claim.

(2) Subject to subsections (3), (4) and (5), candidates nominated for a periodic Council election who have under subsection (1) made a claim referred to in that subsection shall, for the purposes of that election, be included in a group in the order specified in the claim.

(3) Two or more candidates who have made a claim under subsection (1) may, in the prescribed form and before noon on the day of nomination referred to in that subsection, withdraw that claim.

(4) A claim under subsection (1) is of no force or effect if—

- (a) the name of any candidate included in the claim is included in any other claim under that subsection; or
- (b) the nomination of any candidate whose name is included in the claim is withdrawn under section 81G.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(5) Where a claim is made under subsection (1) in respect of a periodic Council election and any of the persons who made the claim—

- (a) dies before the making of the declaration of the persons elected at that election;
- (b) is, before the making of that declaration, declared by any court to be incapable of being elected at that election; or
- (c) is a person whose nomination is void under section 81D,

then—

- (d) where there are 2 or more other persons who made that claim, the group shall thereafter consist of the remainder of those persons only; or
- (e) where there is only 1 other person who made that claim, the claim shall thereafter be of no force or effect.

81D. A nomination of a person for a periodic Council election is void if at the close of nominations he is nominated for that election more than once or for an election for a district.

Dual
nomina-
tions.

81E. A member of the Parliament of the Commonwealth shall be incapable of being nominated as a candidate for, or elected as a member of, the Council.

Member of
Common-
wealth
Parliament
ineligible
for Council.
cf. s. 79
(7).

81F. (1) A nomination shall not be valid unless at the time of the delivery of the nomination-paper the person nominated or some person on his behalf deposits with the Electoral Commissioner the sum of \$200 in money or in a banker's cheque.

Deposit.
cf. s. 79
(7A).

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.***

(2) The deposit shall be retained pending the election.

(3) After the election the deposit shall be returned to the candidate (or to some person authorised by him in writing to receive it) if the candidate is elected, or if the total number of votes polled as first preference votes in his favour or in favour of the members of the group in which he is included is not less than one-half of the quota referred to in clause 7 of the Sixth Schedule to the Constitution Act, 1902.

(4) In the case of the death of the candidate before the date of the election, the deposit shall be returned to his personal representatives.

(5) Where a candidate withdraws his name from nomination in pursuance of section 81G, the deposit shall be returned to him (or to some person authorised by him in writing to receive it).

(6) In any other case the deposit shall be forfeited to Her Majesty.

81G. (1) Subject to subsection (2), any candidate for a periodic Council election may withdraw his name from nomination by delivering a notice under his hand to the Electoral Commissioner before noon on the day of nomination for that election.

**Withdrawal
of nomination
for a
periodic
Council
election.
cf. s. 79A.**

(2) Where two or more candidates are included in a group, any of those candidates may not, under subsection (1), withdraw his name from nomination except with the consent of the others.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

81H. (1) If at noon on the day of nomination there are not more than 15 candidates for election at a periodic Council election the Electoral Commissioner shall at that time and at the place appointed for the receipt by him of the nomination-papers publicly declare those candidates to be duly elected and shall publish the declaration in some newspaper circulating in the State and return the writ indorsed according to that declaration. Proceedings after close of nominations.

(2) If after noon on the day of nomination and before the day for the taking of the poll for a periodic Council election any candidate dies and there are not more than 15 candidates remaining, the Electoral Commissioner shall forthwith publicly declare the remaining candidates to be duly elected and shall publish the declaration in some newspaper circulating in the State and return the writ indorsed according to that declaration.

(3) Subject to subsection (2), if at noon on the day of nomination there are more than 15 candidates for election at a periodic Council election a poll shall take place on the day named in the writ for that election and the Electoral Commissioner shall, at noon on the day of nomination and at the place appointed for the receipt by him of the nomination-papers, publicly announce that a poll will be so taken and the names of the persons who have become candidates, that announcement specifying the names of any candidates who are included in a group, and shall also forthwith publish in some newspaper circulating in the State a like announcement, including a statement specifying the date of the poll.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(4) As soon as practicable after making an announcement referred to in subsection (3), the Electoral Commissioner shall notify the returning officer for each electoral district—

- (a) that a poll for a periodic Council election shall take place on the day named in the writ for that election; and
- (b) of the particulars required by section 83B to be printed on the ballot-papers and of the manner in which those particulars are to be so printed.

81i. (1) The Electoral Commissioner shall retain every claim referred to in section 81c (1) delivered to him for the purpose of a periodic Council election until the day of the third termination, by dissolution or expiry, of the Assembly occurring after the claim was so delivered. Retention of claims for grouping.

(2) A document purporting to be a copy of such a claim, certified by the Electoral Commissioner to be a true copy of the original, shall be deemed to be a true copy of the original unless the contrary is proved.

(3) Where a casual vacancy occurs in the seat of a member of the Council, the Governor may require the Electoral Commissioner to furnish to him a copy of any such claim.

(37) Part V, Division 6, heading—

After "*Ballot-papers*", insert "*for Assembly elections*".

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(38) Section 82 (1)—

After “election”, insert “for a district”.

(39) Section 82A (1)—

After “more candidates”, insert “for election for a district”.

(40) Part V, Division 6A—

After Division 6 of Part V, insert :—

DIVISION 6A.—*Ballot-papers for periodic Council elections.*

83A. (1) Ballot-papers to be used for a periodic Council election shall be provided by the Electoral Commissioner after a poll has been appointed. Ballot-papers to be provided. cf. s. 82.

(2) The ballot-papers shall be in or to the effect of the form prescribed in Schedule 4A.

(3) The Electoral Commissioner shall deliver or arrange to be delivered to the returning officer for each district such number of ballot-papers as is sufficient for the use of electors entitled to vote in the district.

83B. (1) If after noon on the day of nomination for a periodic Council election there are— Printing ballot-papers.

- (a) two or more groups of candidates for that election, the Electoral Commissioner shall forthwith hold a ballot to determine the order in which those groups are to be entered on the ballot-papers; or cf. ss. 82A, 83.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.***

- (b) two or more candidates, not included in a group, for that election, the Electoral Commissioner shall forthwith hold a ballot to determine the order in which those candidates' names are to be entered on the ballot-papers.

(2) Every such ballot shall be held in accordance with the procedure prescribed by regulations made under this Act.

(3) In printing the ballot-papers for a periodic Council election—

- (a) for which there is only one group, the names of candidates included in that group shall be printed in a group before the names of candidates, if any, not included in that group;
- (b) for which there are two or more groups, the names of candidates included in the groups shall be printed in groups across the ballot-papers in the order determined under subsection (1) (a), before the names of candidates, if any, not included in any such group;
- (c) the order, within a group, in which the names of candidates in that group shall be printed in the ballot-papers shall be the order specified in the claim made by them in accordance with section 81c (1); and

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

- (d) the names of candidates, if any, not included in any group shall be printed as a group, without any identification referred to in subsection (5) (a), in the ballot-papers in the order determined under subsection (1) (b).

(4) In printing the ballot-papers for a periodic Council election for which there are no groups, the names of the candidates shall be printed in the order determined under subsection (1) (b).

(5) In printing the ballot-papers—

- (a) each group shall be identified by the word "Group" followed by a successive letter of the English alphabet, starting with the letter "A", and if there are more than 26 groups each group after the twenty-sixth shall be identified by such symbol as may be determined by the Electoral Commissioner;
- (b) the surname of each candidate shall be in conspicuous type;
- (c) each candidate shall also be identified, as may be determined by the Electoral Commissioner, by his given name or names, by the initial letter of his given name or names or by a combination of his given name or one or more of his given names and the initial letter of his other given name or names, if any;

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

- (d) the given name or names or the initial letter or letters of the given name or names of each candidate shall be in less conspicuous type than the type in which his surname is printed;
- (e) any given name or the initial of any given name of the candidate may be printed on a line after the line on which his surname is printed;
- (f) where similarity in the names of two or more candidates is likely to cause confusion, the Electoral Commissioner may arrange the names with such description or addition as will distinguish them from one another; and
- (g) a square shall be printed opposite the name of each candidate.

(6) Where, before the day for the taking of the poll at any periodic Council election—

- (a) any candidate has died; or
- (b) any candidate is declared by any court to be incapable of being elected at that election,

the Electoral Commissioner shall take such action with respect to the printing of the ballot-papers (including, if he thinks fit, causing the ballot-papers to be reprinted, causing notations or marks to be made on them or causing further ballots of the kind referred to in subsection (1) to be held) as in his opinion is necessary as a consequence of the circumstances referred to in paragraph (a) or (b).

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(41) (a) Section 88 (1)—

Omit “the election of a member for the electoral district of , and”, insert instead “any election under that Act, and”.

(b) Section 88 (1)—

Omit “the said election” wherever occurring, insert instead “any such election”.

(42) (a) Section 89 (1) (a)—

Omit “and for”.

(b) Section 89 (1B)—

After section 89 (1A), insert :—

(1B) The ballot-papers for a periodic Council election to be delivered or retained pursuant to subsection (1) or (1A) shall be taken from the ballot-papers delivered to the returning officer for the district pursuant to section 83A (3).

(43) Section 90 (5)—

After section 90 (4), insert :—

(5) A reference in subsection (1) or (3) to a candidate shall, in relation to a candidate who is included in a group for the purpose of a periodic Council election, be construed as a reference only to the candidate first in the order, referred to in section 81c (2), in that group.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(44) Section 91 (1)—

Omit “election for the electoral district of)”,
insert instead “election”.

(45) Section 93 (1) (a)—

Omit “returning officer or”, insert instead “Electoral
Commissioner or the returning officer or his”.

(46) (a) Section 98 (2)—

Omit “the last subsection”, insert instead
“subsection (1)”.

(b) Section 98 (2)—

After “123”, insert “or 129c, as the case may
require”.

(47) (a) Section 103 (1)—

Omit “the ballot-paper” where firstly occurring,
insert instead “a ballot-paper”.

(b) Section 103 (2)—

Omit “The voter”, insert instead “In the case of
an election for the Assembly, the voter”.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(c) Section 103 (3)—

After section 103 (2), insert :—

(3) In the case of a periodic Council election, a voter shall record his vote for at least 10 candidates by placing the numbers "1", "2", "3", "4", "5", "6", "7", "8", "9" and "10" in the squares opposite the names of 10 candidates in the order of his preferences for them and may, if he wishes, vote for additional candidates by placing consecutive numbers beginning with the number "11" in the squares opposite the names of those additional candidates in the order of his preferences for them.

(48) Section 106 (3) (f), (g)—

Omit the paragraphs, insert instead :—

(f) The returning officer or the officer assisting him shall then proceed with the scrutiny of the ballot-papers which have been accepted for further scrutiny by removing them from the ballot-box in which they were placed in accordance with paragraph (e) and—

(i) by opening any of those ballot-papers relating to an election for the Assembly and allowing and counting those which are formal and disallowing and rejecting those which, by virtue of section 122, are informal; and

(ii) by opening any of those ballot-papers relating to a periodic Council election and counting the votes recorded for each candidate.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(49) Section 108A—

After “vote” where secondly occurring, insert “or the candidates for whom the elector desires to vote and the order of his preferences for them”.

(50) Section 112 (2)—

At the end of section 112, insert :—

(2) A person does not commit an offence arising under subsection (1) (e) by reason only of his depositing in the ballot-box, used for elections referred to in section 120J, the ballot-papers used by him for voting in each of those elections.

(51) Section 114B (2) (b)—

After “is the”, insert “Electoral Commissioner, a person appointed under section 78AA (3) to assist him, the”.

(52) (a) Section 114D (1) (a)—

After “15”, insert “or postal ballot-papers one of which is in or to the effect of the form prescribed in Schedule 15 and the other of which is in or to the effect of the form prescribed in Schedule 15A, as the case may require”.

(b) Section 114D (2)—

After “ballot-paper” where firstly occurring, insert “for an election for the Assembly”.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(c) Section 114D (3)—

After section 114D (2), insert :—

(3) The returning officer shall not, under subsection (1), deliver or post a ballot-paper for a periodic Council election on which particulars relating to the candidates are not already printed, until he has been notified of those particulars in accordance with section 81H (4) (b) and has entered those particulars on the ballot-paper in the manner specified in that notification.

(53) Section 114E (1)—

After “relate to” wherever occurring, insert “applicants claiming to be enrolled for”.

(54) (a) Section 114F (1) (a)—

Omit “to which they relate”, insert instead “in which the applicants to which they relate claim to be enrolled”.

(b) Section 114F (1) (b)—

Omit “to which it relates”, insert instead “in which the applicant to which it relates claims to be enrolled”.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.***

(55) Section 114G (1)—

Omit “in respect of which postal vote certificates and postal ballot-papers have been issued”, insert instead “in which the applicants for postal vote certificates and postal ballot-papers claim to be enrolled”.

(56) Section 114H (2)—

Omit “to vote”, insert instead “to be enrolled”.

(57) Section 114J (2)—

Omit “in respect of which a postal ballot-paper has been issued”, insert instead “in which an applicant, to whom a postal ballot-paper has been issued, claimed to be enrolled”.

(58) (a) Section 114L (b) (iv)—

After “district”, insert “for which he claimed to be enrolled”.

(b) Section 114L (c)—

After “themselves for further scrutiny;”, insert “and”.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(c) Section 114L (d), (e)—

Omit the paragraphs, insert instead :—

(d) proceed with the scrutiny of the postal ballot-papers which have been accepted for further scrutiny by removing them from the ballot-box in which they were placed in accordance with paragraph (c) and—

(i) by opening any of those ballot-papers relating to an election for the Assembly and allowing and counting those which are formal and disallowing and rejecting those which, by virtue of section 122, are informal; and

(ii) by opening any of those ballot-papers relating to a periodic Council election and counting the votes recorded for each candidate.

(59) (a) Section 114Q (3)—

Omit “, and on receiving that ballot-paper”, insert instead “or ballot-papers one of which is in or to the effect of the form prescribed in Schedule 4 and the other of which is in or to the effect of the form prescribed in Schedule 4A, as the case may require, and on receiving any such ballot-paper”.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(b) Section 114Q (4)—

Omit “the ballot-paper” where firstly occurring, insert instead “a ballot-paper for an election for the Assembly”.

(c) Section 114Q (4A)—

After section 114Q (4), insert :—

(4A) The returning officer shall not, for the purposes of subsection (3), hand an elector a ballot-paper for a periodic Council election on which particulars relating to the candidates are not already printed until the returning officer has been notified of those particulars in accordance with section 81H (4) (b) and has entered those particulars on the ballot-paper in the manner specified in that notification.

(d) Section 114Q (5)—

Omit “On the”, insert instead “On any such”.

(60) Section 114x (3)—

Omit the subsection, insert instead :—

(3) After dealing with all envelopes, ballot-papers and applications in the manner prescribed by subsection (2), the returning officer shall proceed with the scrutiny of the ballot-papers which have been accepted

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.***

for further scrutiny by removing them from the ballot-box in which they were placed in accordance with subsection (2) and—

(a) by opening any of those ballot-papers relating to an election for the Assembly and allowing and counting those which are formal and disallowing and rejecting those which, by virtue of section 122, are informal; and

(b) by opening any of those ballot-papers relating to a periodic Council election and counting the votes recorded for each candidate.

(61) (a) Section 114ZB (1) (a)—

After “15”, insert “or postal ballot-papers one of which is in or to the effect of the form prescribed in Schedule 15 and the other of which is in or to the effect of the form prescribed in Schedule 15A, as the case may require”.

(b) Section 114ZB (2)—

After “ballot-paper” where firstly occurring, insert “for an election for the Assembly”.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.***

(c) Section 114ZB (2A)—

After section 114ZB (2), insert :—

(2A) The returning officer shall not, under subsection (1), deliver or post a ballot-paper for a periodic Council election on which particulars relating to the candidates are not already printed, until he has been notified of those particulars in accordance with section 81H (4) (b) and has entered those particulars on the ballot-paper in the manner specified in that notification.

(62) Section 114ZF (1)—

Omit “in respect of which postal ballot-papers and postal vote certificates have been issued”, insert instead “in which the applicants for postal vote certificates and postal ballot-papers claim to be enrolled”.

(63) (a) Section 114ZG (1) (b) (iv)—

After “district”, insert “for which he claimed to be enrolled”.

(b) Section 114ZG (1) (c)—

Omit “themselves for further scrutiny;”, insert instead “themselves for further scrutiny; and”.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.***

(c) Section 114zG (1) (d), (e)—

Omit the paragraphs, insert instead :—

(d) proceed with the scrutiny of the postal ballot-papers which have been accepted for further scrutiny by removing them from the ballot-box in which they were placed in accordance with paragraph (c) and—

(i) by opening any of those ballot-papers relating to an election for the Assembly and allowing and counting those which are formal and disallowing and rejecting those which, by virtue of section 122, are informal; and

(ii) by opening any of those ballot-papers relating to a periodic Council election and counting the votes recorded for each candidate.

(64) (a) Section 115 (1) (a)—

Omit “for which he is qualified to vote”, insert instead “in which he claims to be enrolled”.

(b) Section 115 (1) (e)—

Omit “ballot-paper. The ballot-paper shall be in or to the effect of the form prescribed in Schedule 4.”, insert instead “ballot-paper which shall be in or to the effect of the form prescribed in Schedule 4 or ballot-papers one of which is in or

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—continued.

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—continued.**

to the effect of the form prescribed in Schedule 4 and the other of which is in or to the effect of the form prescribed in Schedule 4A, as the case may require.”.

(c) Section 115 (1) (e)—

After “ballot-paper” where fourthly occurring, insert “, if it relates to an election for the Assembly,”.

(d) Section 115 (1) (e)—

After “82A”, insert “or, if it relates to a periodic Council election, the particulars relating to the candidates for that election in the manner prescribed by section 83B”.

(e) Section 115 (1) (g)—

Omit “the ballot-paper” where firstly occurring, insert instead “a ballot-paper”.

(f) Section 115 (2)—

Omit “written—

- (a) the name of the electoral district;
- (b) the names of the candidates in the order in which those names were drawn by ballot held pursuant to section 82A; and

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—continued.

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—continued.**

(c) the directions as to the method of voting set out in Schedule 4.”, insert instead :—

written—

- (a) where the paper is supplied for the purpose of an election for the Assembly, the words “Legislative Assembly Election” and—
 - (i) the name of the electoral district;
 - (ii) the names of the candidates in the order in which those names were drawn by ballot held pursuant to section 82A; and
 - (iii) the directions as to the method of voting set out in Schedule 4; and
- (b) where the paper is supplied for the purpose of a periodic Council election, the words “Legislative Council Election” and—
 - (i) the name of the electoral district;
 - (ii) particulars relating to the candidates for that election in the manner prescribed by section 83B; and
 - (iii) the directions as to the method of voting set out in Schedule 4A.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.***

(g) Section 115 (2A)—

Omit “receiving the”, insert instead “receiving any such”.

(h) Section 115 (2B)—

Omit the subsection, insert instead :—

(2B) Any such paper shall, on being supplied to an elector, be deemed to be a ballot-paper.

(65) (a) Section 118 (1)—

Omit “further scrutiny.”, insert instead :—

further scrutiny by removing them from the ballot-box in which they were placed in accordance with section 117 and—

(a) by opening any of those ballot-papers relating to an election for the Assembly and allowing and counting those which are formal and disallowing and rejecting those which, by virtue of section 122, are informal; and

(b) by opening any of those ballot-papers relating to a periodic Council election and counting the votes recorded for each candidate.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

- (b) Section 118 (2), (3)—
Omit the subsections.
- (66) Section 119—
Omit “The decision”, insert instead “In relation to an election for the Assembly, the decision”.
- (67) Section 120—
Omit the section.
- (68) Section 120B (a)—
Omit “who appear to have failed to record their votes at the election for which he is returning officer”, insert instead “enrolled for that district who appear to have failed to record their votes at that election”.
- (69) Section 120G (b)—
After “127”, insert “or 129H, as the case may require”.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(70) Part V, Division 13A—

After Division 13 of Part V, insert :—

DIVISION 13A.—*Concurrent Assembly and periodic
Council elections.*

120I. Writs for elections that, by section 22A (2) or (3) of the Constitution Act, 1902, are required to name the same day as the day for the taking of the poll at those elections shall be issued on the same day and shall name the same day as the day of nomination for each of those elections.

Issue of writs and nomination day for concurrent Assembly and periodic Council elections.

120J. Where—

- (a) a poll for an election for a district and a poll for a periodic Council election are required by law to take place on the same day; or
- (b) the day for the taking of the adjourned poll at any place for an election for a district and the day for the taking of the adjourned poll at that place for a periodic Council election are required by section 130 (4) to be the same day,

Additional provisions applicable where polling day for Assembly and periodic Council elections is same day.

then—

- (c) an application for a postal vote certificate and postal ballot-paper or an application to vote before polling-day made in respect of one of the elections is a corresponding application in respect of the other election;

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.***

- (d) a declaration or certificate which enables an elector to vote under any provision of this Act at one of the elections enables him to vote under the corresponding provision at the other election;
- (e) the answers by a person claiming to vote at either election, put to him pursuant to this Act, may be accepted as sufficient to enable him to vote at the other election if they are satisfactory as regards the election in respect of which they were put;
- (f) the ballot-papers used for one of the elections shall be of a different colour from those used for the other election;
- (g) where the name of any candidate for one of the elections is similar to the name of any candidate for the other election, the Electoral Commissioner may include on the ballot-papers for each of the elections such description or addition as will distinguish them from one another;
- (h) a ballot-paper shall not be issued to a person for one of the elections unless a ballot-paper is issued to that person for the other election;
- (i) where a ballot-paper used at one of the elections is required to be placed in an envelope by a voter, the ballot-paper used at the other election shall be placed in the same envelope;

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

- (j) the copy of the printed roll and the certified copies of rolls in force provided for the purposes of the election for the district shall be used for the purposes of the periodic Council election;
- (k) the same polling-booths and ballot-boxes shall be used for the purposes of both elections;
- (l) a reference in this Act to a scrutineer shall be construed as a reference to a scrutineer appointed by a candidate for either election;
- (m) a person who is precluded by this or any other Act from voting at the periodic Council election shall not be entitled to vote at the election for the district; and
- (n) a reference in Division 13 of Part V or Schedule 20 to an election shall be construed as a reference to those elections and the Electoral Commissioner shall not under section 120c send more than one notice to the same elector.

(71) Part V, Division 14, heading—

After “poll”, insert “*at Assembly elections*”.

(72) Section 120k—

Before section 121, insert :—

120k. This Division applies only in relation to a Application
poll for a district. of
Division.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(73) Section 125A—

After section 125, insert :—

125A. (1) The returning officer for each electoral district shall, as soon as practicable after the close of the poll, make up and seal separate parcels, each of which contains only—

Parcels of
postal,
pre-poll or
absent
ballot-
papers,
etc.

- (a) envelopes from which any ballot-papers of a single class have been taken;
- (b) unopened envelopes containing ballot-papers of that single class;
- (c) ballot-papers, referred to in paragraph (a), of a single class allowed as formal; and
- (d) ballot-papers, referred to in paragraph (a), of a single class disallowed or rejected as informal,

received by him in connection with the election conducted in the electoral district for which he is the returning officer.

(2) A reference in subsection (1) to ballot-papers of a single class is, in relation to a poll for a district, a reference to ballot-papers used by electors voting in that district by virtue of section 106 or of Division 9, 10, 11 or 12.

(3) The provisions of sections 127, 128 and 129 apply to parcels referred to in subsection (1) as if they were parcels of used ballot-papers referred to in those provisions.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(74) Section 129—

After “unless” where firstly occurring, insert “for the purposes of this Act or”.

(75) Part V, Division 14A—

After Division 14 of Part V, insert :—

DIVISION 14A.—*Proceedings after close of poll at
periodic Council elections.*

129A. This Division applies only in relation to a poll for a periodic Council election. Applica-
tion of
Division.

129B. As soon as practicable after the close of the poll the returning officer for each district and every deputy at the polling-place at which each presides shall, in the presence and subject to the inspection of such of the scrutineers as choose to be present, and the poll clerks (if any), but of no other persons, having opened the ballot-box, proceed to count the number of votes recorded for each candidate. Counting
of votes.
cf. s. 121.

129C. (1) Immediately after ascertaining the total number of votes recorded for each candidate, the returning officer for each district and every deputy at the polling-place at which each presides shall make up— Sealing
and trans-
mission of
separate
parcels
of ballot-
papers,
&c.

(a) in one parcel the ballot-papers which have been used in voting at the polling-booth at which he presided during the polling; cf. ss. 123,
124, 125.

(b) in a second separate parcel, the ballot-papers which have remained unused thereat;
and

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

- (c) in a third separate parcel, the certified copies of rolls used by him, signed by him, and all books, rolls, and papers kept or used by him, during the polling,

and shall—

- (d) seal up those parcels;
- (e) permit any of the scrutineers who may desire to do so to affix his or their seals to those parcels;
- (f) indorse each of those parcels with a description of its contents, with the name of the district and polling-booth and the date of the polling;
- (g) sign with his name that indorsement; and
- (h) in the case of the deputy, transmit those parcels to the returning officer.

(2) Subsection (1) (c) does not apply where the election is an election referred to in section 120J.

(3) Each deputy shall, together with the parcels transmitted by him pursuant to subsection (1), transmit to the returning officer, and each returning officer making up parcels in accordance with subsection (1) shall make out, a list of the total number of votes recorded for each candidate and also an account in which he shall charge himself with the number of ballot-papers originally delivered to him, and the number (if any) written out by him, specifying therein the number delivered to and used by voters, and the

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

number not so delivered or left unused; and every such list and account shall be respectively verified as well by the signatures of the returning officer or the deputy and any poll clerk as also by the signatures of such of the scrutineers as are present and consent to sign them.

129D. (1) The returning officer shall, as soon as practicable after the close of the poll—

District
returning
officers'
parcels.

(a) make up and seal separate parcels, each of which contains only—

(i) envelopes from which any ballot-papers of a single class have been taken;

(ii) unopened envelopes containing ballot-papers of that single class; and

(iii) ballot-papers, referred to in subparagraph (i), of that single class,

received by him in connection with the election conducted in the electoral district for which he is the returning officer;

(b) make up and seal in a separate parcel all of the separate parcels transmitted to him or sealed by himself under section 129C;

(c) make up and seal in a separate parcel all other ballot-papers which have been printed or written for the election conducted in the electoral district for which he is the returning officer; and

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

- (d) make out a list of the total number of votes recorded for each candidate on the ballot-papers contained in each such parcel and identify in that list the parcel to which it relates,

and shall—

- (e) permit any of the scrutineers who may desire to do so to affix his or their seals to the parcels made up and sealed by the returning officer under this section;
- (f) indorse each parcel so made up and sealed with a description of its contents, with the name of the electoral district for which he is the returning officer and the date of the polling;
- (g) sign with his name that indorsement; and
- (h) transmit the parcels so made up, sealed and indorsed and the lists so made out to the Electoral Commissioner.

(2) A reference in subsection (1) to ballot-papers of a single class is, in relation to a periodic Council election in an electoral district, a reference to ballot-papers used by electors voting in that electoral district by virtue of section 106 or of Division 9, 10, 11 or 12.

(3) Subsection (1) (a) (i) and (ii) do not apply where the election is an election referred to in section 120J.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(4) Notwithstanding subsection (1), the returning officer may, for the purpose of ascertaining whether plural voting or personation has been practised, retain in his possession for a reasonable time, and, after notice to the candidates and intimation that a scrutineer for each candidate shall be entitled to be present, break the seal of parcels containing copies of rolls, books and other papers sealed up and transmitted to him in pursuance of section 129C (1), and shall, after that investigation, re-seal them and transmit them as provided by subsection (1), and shall report to the Electoral Commissioner the result of that investigation.

129E. (1) Each returning officer shall—

- (a) make out a final list of the total number of votes recorded for each candidate as ascertained by him from his scrutiny of the ballot-papers referred to in section 129D (1) (a) (iii), as shown in the notification given to him pursuant to section 114ZG (3) and in the lists transmitted to or made out by him pursuant to section 129C (3); and
- (b) make out an account in which he shall charge himself with the number of ballot-papers originally delivered to him or written out by him or his deputies, specifying therein the number thereof delivered by him or his deputies to and used by voters and the number not so delivered or left unused, the particulars in that account in respect of

Lists and
accounts of
ballot-
papers.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.***

ballot-papers delivered to his deputies being ascertained from the accounts transmitted to him pursuant to section 129c (3) and in respect of other ballot-papers being ascertained from his own records.

(2) Every list and account made out by a returning officer pursuant to subsection (1) shall be verified by his signature and by the signatures of such scrutineers as are present and consent to sign them and shall be transmitted by him to the Electoral Commissioner.

- 129F. (1) A ballot-paper shall be informal if—
- Informal
ballot-
papers.
cf. ss. 122,
122A.
- (a) it is not duly signed or initialled by the person required by this Act to sign or initial it or does not bear such mark as is prescribed for the purpose of section 122A (3) as an official mark;
 - (b) subject to clause 2 (2) of the Sixth Schedule to the Constitution Act, 1902, the voter has failed to record his vote in the manner directed on the ballot-paper; or
 - (c) it has upon it any mark or writing not authorised or required by this Act to be put upon it, which, in the opinion of the Electoral Commissioner, will enable any person to identify the voter.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.***

(2) Notwithstanding subsection (1), a ballot-paper shall not, by reason of any mark or writing thereon that is not authorised or required by this Act, be rejected as informal if, in the opinion of the Electoral Commissioner, the voter has, by some mark or writing, clearly indicated his intention on the ballot-paper.

(3) Notwithstanding subsection (1), the ballot-papers used for a periodic Council election shall not be informal by reason only that they contain the name of—

- (a) any candidate who has died, as referred to in section 83B (6) (a); or
- (b) any candidate who is the subject of a declaration referred to in section 83B (6) (b),

but a preference indicated on any such ballot-paper for any such candidate shall be disregarded and the numbers indicating any subsequent preference shall be reduced by the number of any such candidates.

(4) Informal ballot-papers shall be rejected by the Electoral Commissioner at the scrutiny.

129G. (1) The Electoral Commissioner shall, as soon as practicable after the close of the poll, in the presence of such scrutineers as choose to be present, and with such assistance as he may deem necessary, ascertain the result of the election in accordance with the Sixth Schedule to the Constitution Act, 1902. ^{Declaration of poll.}

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(2) If the Electoral Commissioner is satisfied, after inquiry, that any ballot-papers have been lost, destroyed or mislaid and that those ballot-papers, if counted, could not alter the result of the poll he may complete the count without counting those ballot-papers.

(3) As soon as practicable after the count has been completed, the Electoral Commissioner shall, by notice signed by him and inserted in some newspaper circulating in the State, announce the result of the election.

(4) The names of the candidates elected shall be indorsed on the writ by the Electoral Commissioner and the writ shall be by him returned to the Governor within the time specified therein.

(5) At any time before the declaration that candidates have been duly elected the Electoral Commissioner may, if he thinks fit, on the request of any candidate setting forth the reasons for the request, or of his own motion, re-count the ballot-papers contained in any parcel.

129H. (1) The Electoral Commissioner shall, as soon as practicable after the day of polling, enclose in a packet indorsed with the words "Legislative Council Election" and the date of the polling the parcels transmitted to him under section 129D (1) and forward that packet to the Clerk of the Council and at the same time seal up and transmit to that Clerk a parcel containing all ballot-papers which have been printed or written for the election and not used, other than

Parcels to
be for-
warded to
Clerk of
Council.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.***

any ballot-papers enclosed in any such parcels; and that Clerk shall forthwith give or send to the Electoral Commissioner a receipt under his hand for the packet and parcel.

(2) Where the Electoral Commissioner receives any parcel transmitted to him under section 129D (4), he shall indorse on it the words "Legislative Council Election", the name of the district to which the parcel relates and the date of the polling and forward it to the Clerk of the Council as provided by subsection (1).

(3) Packets and parcels forwarded under this section to the Clerk of the Council shall be by him safely kept until the period during which the validity of the election may be disputed under the provisions of this Act has expired or, where a petition has or petitions have been filed pursuant to section 155, the Court of Disputed Returns has determined the matters referred to in that petition or those petitions, whereupon those packets and parcels shall be transmitted to the Electoral Commissioner.

129I. (1) Any ballot-paper, and any copy of a roll, and any book purporting to be taken from any packet or parcel referred to in section 129H, and having written thereon respectively under the hand of the Clerk of the Council a certificate of the several particulars required by this Division to be indorsed upon the packet or parcel, and that it was taken from such a parcel, shall be evidence in any court or before the Court of Disputed Returns that it was so taken and

Ballot-papers, &c., copies of rolls and books to be evidence.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—continued.

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—continued.**

that it, if a ballot-paper, was deposited or transmitted pursuant to this Act, and, if a roll or book, was kept or used at the election and booth to which the indorsement and writing relate.

(2) Every such ballot-paper so certified shall be evidence of a vote given at the election.

129J. Any person who wilfully breaks the seal of, or opens, any packet or parcel referred to in section 129H, unless for the purposes of this Act or by direction of some competent court or other tribunal or person authorised in that behalf, or unless called upon to produce some portion of the contents of the packet or parcel to some such court or tribunal or person, shall be guilty of a misdemeanour, and be liable to a penalty not exceeding \$500, or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment.

Penalty for
breaking
seal of or
opening
packet or
parcel.

(76) Section 130 (4)—

After section 130 (3), insert :—

(4) Where but for this section—

- (a) a poll for an election for a district and a poll for a periodic Council election would be required to take place on the same day; and
- (b) the taking of either poll at any place is adjourned,

the other poll is adjourned at that place, and the day for the taking of both adjourned polls at that place shall be the same day.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.***

(77) (a) Section 131—

After “returning officer” where secondly and thirdly occurring, insert “or Electoral Commissioner as the case may be”.

(b) Section 131—

Omit “upon which candidate the election has fallen”, insert instead “the result of the election”.

(c) Section 131 (2)—

At the end of section 131, insert :—

(2) Whenever a poll has been adjourned at any place within an electoral district, the returning officer for that district shall forthwith give notice of the adjournment to the Electoral Commissioner.

(78) Section 132—

After “returning officer”, insert “or the Electoral Commissioner, as the case may require,”.

(79) (a) Section 134—

After “election” where firstly occurring, insert “for a district”.

(b) Section 134—

After “return of the writ;”, insert “and no periodic Council election shall be void in consequence only of there having been no Electoral Commissioner at the time of the issue of the writ, or of any delay in the return of the writ;”.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(80) Section 135—

Omit “to the Assembly”.

(81) Section 135A—

After section 135, insert :—

135A. (1) In this section, “electoral official” means the Principal Returning Officer, a returning officer, a substitute of a returning officer, an assistant returning officer, a deputy returning officer, a poll clerk, a clerical assistant appointed by a returning officer, a postal voting officer, a deputy postal voting officer, a clerical assistant appointed for the purposes of Division 11 or an assistant to the Electoral Commissioner.

Electoral
official
to vacate
office upon
becoming a
candidate.

(2) Upon any electoral official becoming a candidate for an election, he vacates his office as an electoral official.

(82) (a) Section 147 (c) —

Omit “of the Assembly”.

(b) Section 147 (d)—

Omit “of the Assembly”.

(83) Section 148—

After “returning officer”, insert “or the Electoral Commissioner, as the case may be,”.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(84) Section 151A (2)—

After “candidate”, insert “or candidates”.

(85) Section 154A—

Before section 155, insert :—

154A. This Division does not, except as provided ^{Application} in Division 4, apply to or in respect of an election ^{of Division.} referred to in section 22c or 22d of the Constitution Act, 1902, or in clause 4 or 5 of Schedule 4 to the Constitution and Parliamentary Electorates and Elections (Amendment) Act, 1978.

(86) (a) Section 170 —

Omit “the petition” where firstly occurring, insert instead “a petition disputing an election for or the return of a member of the Legislative Assembly”.

(b) Section 170 (2)—

At the end of section 170, insert :—

(2) The Prothonotary shall forthwith after the filing of a petition disputing a periodic Council election or the return of a member of the Legislative Council forward to the Clerk of the Legislative Council a copy of the petition and, after the trial of the petition, shall forthwith forward to that clerk a copy of the order of the court.

(87) (a) Section 175 (i)—

After “Assembly”, insert “or Legislative Council, as the case may be”.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

(b) Section 175—

Omit “as aforesaid”, insert instead “pursuant to paragraph (iii) to return a member of the Legislative Assembly”.

(c) Section 175—

At the end of section 175, insert :—

Whenever a new periodic Council election is to be held pursuant to paragraph (iii) the Governor may issue the writ for that election.

(88) Part VI, Division 2—

Omit “Part” wherever occurring, insert instead “Division”.

(89) Part VI, Divisions 3, 4—

After Division 2 of Part VI, insert :—

DIVISION 3.—*Application of Division 2
to Council.*

175H. (1) The provisions of Division 2 apply to the reference of any question (other than a matter referred to in section 175I) respecting—

Application
of Division
2 to
Legislative
Council.

- (a) the qualification of a member of the Legislative Council or respecting a vacancy in the Legislative Council; or

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.***

- (b) the eligibility of a person, as referred to in section 22c (2) of the Constitution Act, 1902, or in clause 4 (5) of Schedule 4 to the Constitution and Parliamentary Electorates and Elections (Amendment) Act, 1978,

to the Court of Disputed Returns in the same way as they apply to the reference of any question respecting the qualification of a member of the Legislative Assembly or respecting a vacancy in the Legislative Assembly to the Court of Disputed Returns.

- (2) For the purposes of subsection (1)—
- (a) a reference in Division 2 to the Speaker shall—
- (i) in relation to a question referred to in subsection (1) (a), be construed as a reference to the President; and
 - (ii) in relation to a question referred to in subsection (1) (b), be construed as a reference to the Minister;
- (b) a reference in Division 2 to the Legislative Assembly shall be construed as a reference to the Legislative Council;
- (c) a reference in Division 2 to the Clerk of the Legislative Assembly shall be construed as a reference to the Clerk of the Legislative Council;
- (d) a reference in Division 2 to Division 2 shall be construed as a reference to Division 2 as applied by subsection (1); and

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

- (e) section 161 (1) (vi) and (vii) shall be deemed to be omitted.

DIVISION 4.—*Casual vacancies in Council.*

175I. This Division applies only to and in respect of an election referred to in section 22C or 22D of the Constitution Act, 1902, or in clause 4 or 5 of Schedule 4 to the Constitution and Parliamentary Electorates and Elections (Amendment) Act, 1978. Application of Division.

175J. The provisions of sections 155, 156, 157, 158, 159, 161, 166, 167, 169, 171, 172, 173, 174, 175, 175A and 175AA apply to and in respect of an election to which this Division applies in the same way as they apply to and in respect of an election to which Division 1 applies but subject to the following modifications :— Application of certain sections.

- (a) section 157 (c) shall be deemed to be amended by inserting after the word “thereat” the words “or by any person whose name is on a roll”;
- (b) section 161 (1) (vi) and (vii) shall be deemed to be omitted;
- (c) section 167 shall be deemed to be omitted and the following section inserted in its stead :—

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—*continued.*

167. No election shall be voided on account of any failure to comply with any provision of any Act relating to the conduct of the election if the failure did not affect the result of the election.

- (d) section 175 shall be deemed to be omitted and the following section inserted in its stead :—

175. If any person returned is declared not to be duly elected, he shall cease to be a member of the Legislative Council.

- (90) Section 176B (2)—

Omit “of members of the Parliament”.

- (91) Section 178—

After “candidate”, insert “or candidates”.

- (92) Part VIII—

Omit the Part.

- (93) Schedule 4A—

After Schedule 4, insert :—

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES AND
ELECTIONS ACT, 1912—*continued.*

SCHEDULE 4A.

Secs. 83A,
115.

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT, 1912.

Ballot-paper.

You *must* vote for at least **10** candidates by placing the numbers “1”, “2”, “3”, “4”, “5”, “6”, “7”, “8”, “9” and “10” in the squares opposite the names of **10** candidates in the order of your preferences for them.

You *may*, if you wish, vote for additional candidates by placing consecutive numbers beginning with the number “11” in the squares opposite the names of those additional candidates in the order of your preferences for them.

The candidates in a group designated by a letter are grouped by mutual consent.*

NEW SOUTH WALES.

Electoral District for which elector is enrolled:—

Election of 15 Members of the Legislative Council.

GROUP A.*	GROUP B.*	GROUP C.*	
<input type="checkbox"/> PARKER, Allan	<input type="checkbox"/> WILLIAMS, Gregory	<input type="checkbox"/> WRIGHT, Elizabeth	<input type="checkbox"/> SMITH, Byron
<input type="checkbox"/> MILLER, John Charles	<input type="checkbox"/> ROGERS, Ralph William Claude M.	<input type="checkbox"/> LEVY, Mark	<input type="checkbox"/> HANSON, D. Richard Ian
<input type="checkbox"/> MORGAN, Albert		<input type="checkbox"/> MCKENZIE, Donald	<input type="checkbox"/> LANHAM, Margaret
<input type="checkbox"/> LUMSDAINE, Elaine		<input type="checkbox"/> PAGANO, Vittore	<input type="checkbox"/> FREEMAN, Neil
<input type="checkbox"/> POULOS, Nicholas		<input type="checkbox"/> WOOD, Henry	<input type="checkbox"/> PEREZ, Juan
<input type="checkbox"/> JONES, Frederick		<input type="checkbox"/> YOUNG, David Ian	<input type="checkbox"/> KNIGHT, Colin Percival
<input type="checkbox"/> JOHNSON, Alice		<input type="checkbox"/> TAYLOR, George Ernest	<input type="checkbox"/> ASSAF, Joseph
<input type="checkbox"/> WATSON, Reginald J. R.		<input type="checkbox"/> BROWN, Mark	<input type="checkbox"/> WHITE, Veronica
<input type="checkbox"/> FONG, Phillip		<input type="checkbox"/> ILIC, Petar	<input type="checkbox"/> CRAWFORD, James
<input type="checkbox"/> BLACK, Robert Clive		<input type="checkbox"/> HAYES, Graham	<input type="checkbox"/> MARTIN, Michael Andrew
			<input type="checkbox"/> SCHMIDT, Karl Otto
			<input type="checkbox"/> RYAN, Terrence

*Delete if not applicable.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—continued.

AMENDMENTS TO THE PARLIAMENTARY ELECTORATES AND
ELECTIONS ACT, 1912—continued.

(94) Schedule 15A—

After Schedule 15, insert:—

SCHEDULE 15A.

Secs. 114D,
114ZB.

(Parliamentary Electorates and Elections Act, 1912.)

The elector must not mark his vote hereon until after he has first exhibited the ballot-paper (in blank) to the Authorised Witness.

POSTAL BALLOT-PAPER.

You *must* vote for at least 10 candidates by placing the numbers "1", "2", "3", "4", "5", "6", "7", "8", "9" and "10" in the squares opposite the names of 10 candidates in the order of your preferences for them.

You *may*, if you wish, vote for additional candidates by placing consecutive numbers beginning with the number "11" in the squares opposite the names of those additional candidates in the order of your preferences for them.

The candidates in a group designated by a letter are grouped by mutual consent.*

NEW SOUTH WALES.

Electoral District for which elector is enrolled:—

Election of 15 Members of the Legislative Council.

GROUP A.*		GROUP B.*		GROUP C.*	
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	

* Delete if not applicable.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 2—continued.

**AMENDMENTS TO THE PARLIAMENTARY ELECTORATES
AND ELECTIONS ACT, 1912—continued.**

(95) Schedule 18, heading—

After “VOTES”, insert “AT ASSEMBLY ELECTIONS”.

(96) Schedule 20, Form 6—

Omit “for the abovementioned Electoral District”,
insert instead “at the election held on the
day of 19 ”.

SCHEDULE 3.

Sec. 5.

REPEALS.

Year and number of Act.	Short title of Act.
1914, No. 33 ..	Constitution Amendment Act, 1914.
1933, No. 5 ..	Constitution Further Amendment (Legislative Council Elections) Act, 1932.
1933, No. 8 ..	Constitution Amendment (Legislative Council Elections) Act, 1933.
1937, No. 17 ..	Constitution (Legislative Council Elections) Amendment Act, 1937.
1961, No. 1 ..	Constitution (Legislative Council Elections) Amendment Act, 1961.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 4.

Sec. 6.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule—

“continuing Member of the Legislative Council” has the meaning ascribed thereto by section 16 of the Constitution Act, 1902;

“first appointed day” has the meaning ascribed thereto by section 16 of the Constitution Act, 1902;

“periodic Council election” has the meaning ascribed thereto by section 3 of the Constitution Act, 1902.

2. Notwithstanding any other provision of this Act, except another provision of this Schedule—

(a) the Constitution Act, 1902, as in force immediately before the date of assent to this Act, the Constitution Further Amendment (Legislative Council Elections) Act, 1932, as so in force, and any other Act, as so in force, relating to the Legislative Council and Members of the Legislative Council shall continue to apply to and in respect of the Legislative Council as constituted, and a person in his capacity as a Member of the Legislative Council as constituted, at any time before the first appointed day; and

(b) the Constitution Act, 1902, as amended by subsequent Acts and by this Act, and the Parliamentary Electorates and Elections Act, 1912, do not apply to or in respect of the Legislative Council as constituted, or a person in his capacity as a Member of the Legislative Council as constituted, at any time before the first appointed day.

3. (1) The seat of a continuing Member of the Legislative Council shall not become vacant by reason only of anything contained in section 13A or 13B of the Constitution Act, 1902, unless the seat of that Member would have become vacant had this Act not been enacted.

(2) Section 13D of the Constitution Act, 1902, does not apply to a continuing Member of the Legislative Council.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 4—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(3) The law in force immediately before the date of assent to this Act relating to the determination of any dispute or question respecting the election or return of any continuing Member of the Legislative Council shall continue in force in respect of any such Member.

4. (1) Where—

- (a) at any time before the first appointed day the seat of a Member of the Legislative Council became vacant; and
- (b) had that seat not become vacant that Member would have been a continuing Member of the Legislative Council,

there shall, on the first appointed day, be deemed to be a vacancy in that seat occurring otherwise than by reason of section 22B (1) (c) of the Constitution Act, 1902.

(2) This clause applies only to and in respect of—

- (a) any vacancy referred to in subclause (1) of this clause; and
- (b) any vacancy in the seat of a continuing Member of the Legislative Council or in the seat of a person who, pursuant to this clause or clause 5, is elected as a Member of the Legislative Council, that vacancy occurring on or after the first appointed day otherwise than by reason of section 22B (1) (c) of the Constitution Act, 1902.

(3) For the purpose of this clause, each person whose name is included in a Division of the Table to this clause shall be deemed to be a member of the political party specified in that Division and any person who is the successor (whether immediate, intermediate or ultimate) elected pursuant to this clause or clause 5 of any person whose name is so included shall be deemed to be a member of the same political party as that person.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 4—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(4) Whenever a vacancy to which this clause applies occurs in the seat of a Member of the Legislative Council and there is any person—

- (a) who was, for the purpose of the periodic Council election last held before the occurrence of the vacancy, included in a group all or some of whom were publicly recognised by a particular political party as being endorsed candidates of that party and publicly represented themselves to be candidates so endorsed, that political party being the same political party as the political party of which the Member whose seat has become vacant is by subclause (3) of this clause deemed to have been a member; and

- (b) who is not a Member of the Legislative Council,

the Governor shall cause to be published in the Gazette a notification—

- (c) notifying the occurrence of the vacancy;
- (d) inviting persons eligible under subclause (5) of this clause to apply in writing to the Governor to be declared to be elected to fill the vacant seat; and
- (e) specifying the time within which any such application must be lodged with the Governor.

(5) A person is eligible to make an application referred to in subclause (4) (d) of this clause if—

- (a) he was included in the group referred to in subclause (4) (a) of this clause;
- (b) when he makes the application he is not a Member of the Legislative Council;
- (c) were he a Member of the Legislative Council, he would not be disqualified from sitting or voting as such a Member; and
- (d) he lodges that application with the Governor before the time specified pursuant to subclause (4) (e) of this clause in the notification under subclause (4) of this clause,

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 4—continued.

SAVINGS AND TRANSITIONAL PROVISIONS—continued.

but is not eligible to make such an application if he was included in the group referred to in subclause (4) (a) of this clause and he has, since he was so included, been a Member of the Legislative Council.

(6) The time to be specified, pursuant to subclause (4) (e) of this clause, in a notification under subclause (4) of this clause shall be a time that is not less than 2 days after the date of publication of the notification in the Gazette.

(7) Where—

- (a) for the purpose of an election referred to in subclause (4) (a) of this clause, a particular political party recognised persons included in 2 or more groups as endorsed candidates of that party and those candidates publicly represented themselves to be candidates so endorsed; and
- (b) the Member whose seat has become vacant is deemed by subclause (3) of this clause to have been a member of that political party,

the vacancy shall not be filled under this clause.

(8) As soon as practicable after the time specified pursuant to subclause (4) (e) of this clause in a notification under subclause (4) of this clause, the Governor shall, from among the applicants, if any, eligible, as referred to in subclause (5) of this clause, to make applications, declare to be elected to fill the vacant seat the applicant, if any, who was highest in the order, referred to in clause 3 of the Sixth Schedule to the Constitution Act, 1902, in which those applicants were included in the group referred to in subclause (4) (a) of this clause.

(9) Where at any time there are vacancies in the seats of 2 or more Members of the Legislative Council whose names are included in any one Division of the Table to this clause, the notification under subclause (4) of this clause may be published with respect to all of those vacancies and the provisions of this clause shall apply with respect to the filling of all of the vacancies except that, after one person has, pursuant to subclause (8) of this clause, been declared elected to fill the first vacancy, the provisions of that subclause shall successively apply for the purpose of filling the second vacancy and any subsequent vacancy but disregarding any person already elected.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 4—continued.

SAVINGS AND TRANSITIONAL PROVISIONS—continued.

TABLE.

DIVISION 1.

Australian Labor Party (New South Wales Branch).

ANDERSON, Kathleen Harris.
BALDWIN, Peter Jeremy.
BURTON, Donald Ross.
DUCKER, John Patrick.
FRENCH, Henry Bernard.
HALLAM, Jack Rowland.
JOHNSON, John Richard.
KITE, Delcia Ivy.
LANDA, David Paul.
McMAHON, Peter.
McPHERSON, Herbert John.
MELVILLE, Robert Gavin.
MORRIS, John Joseph.
TURNER, Roy Frederick.

DIVISION 2.

Liberal Party of Australia (N.S.W. Division).

BRYON-FAES, Roger August Alfred Faes, de.
DARLING, Fergus John.
DUNCAN, Frederick Norman.
FREEMAN, Derek David.
HOLT, Walter John.
LLOYD, Florence Violet.
ORR, Nathaniel Montgomery.
PICKERING, Edward Phillip.
SANDWICH, William John.
WILLIS, Max Frederick.

DIVISION 3.

National Country Party of Australia (N.S.W.).

CONNELLAN, Leo Paul.
FULLER, John Bryan Munro.
KENNEDY, James William.
SOLOMONS, Louis Adrian.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 4—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

5. Whenever a vacancy to which clause 4 applies occurs and it is not filled under that clause, the provisions of sections 22D and 22E of the Constitution Act, 1902, shall apply to and in respect of the filling of the vacancy as if it were a vacancy referred to in those sections, but as if, for the purposes of section 22D (4) of the Constitution Act, 1902, as so applied, the Member of the Legislative Council in whose seat the vacancy has occurred had been elected at a periodic Council election and was, at the time of that election, publicly recognised, by the political party of which that Member is by clause 4 (3) deemed to have been a member, as being the endorsed candidate of that party and publicly represented himself to be such a candidate.

6. The provisions of section 7A of the Constitution Act, 1902, shall, until the third appointed day, as defined in section 16 of that Act, extend to a Bill for the repeal or amendment, expressly or impliedly, of clause 4 or 5 or this clause.

7. If—

- (a) immediately before the date of assent to this Act, the seat of any Member of the Legislative Council was vacant and either—
 - (i) a writ had before that date been issued for the purpose of filling that vacant seat, that writ shall, on that date, cease to have any force or effect; or
 - (ii) a writ had not before that date been issued for that purpose, a writ shall not be issued for that purpose; or
- (b) at any time during the period commencing on the date of assent to this Act and ending on the first appointed day, the seat of any Member of the Legislative Council becomes vacant, no writ shall be issued for the purpose of filling that vacant seat.

8. Where a Member of the Legislative Council—

- (a) being a person whose name is specified in the Fifth Schedule to the Constitution Act, 1902, is, at the close of nominations for the first periodic Council election, nominated for that election; or

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 4—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(b) being a continuing Member of the Legislative Council or a person elected under clause 4 or 5 is, at the close of nominations for the second or third periodic Council election, nominated for either of those elections, his seat as a Member of the Legislative Council becomes vacant at the close of nominations for the election for which he was nominated.

9. The Standing Rules and Orders of the Legislative Council in force immediately before any reconstitution of the Legislative Council effected under the Constitution Act, 1902, shall, to the extent that they are not inconsistent with the operation of the provisions of that Act, continue in force, subject to their being amended or repealed in accordance with section 15 of that Act.

10. (1) On the first day of the meeting of the Legislative Council for the dispatch of business held after the day upon which the writ for a periodic Council election is returned, the Clerk of the Legislative Council shall announce the list of the Members of the Legislative Council elected at that election. cf. Act
No. 5,
1933, s. 40.

(2) The Clerk of the Legislative Council shall also announce the name or names of the Commissioner or Commissioners appointed by the Governor for swearing Members of the Legislative Council and shall read the Commission.

(3) Members shall then be sworn or make affirmation in accordance with section 12 of the Constitution Act, 1902, and shall sign the roll.

(4) This clause shall have effect only until the Standing Rules and Orders of the Legislative Council otherwise provide.

11. (1) For the purpose of the choosing of a President of the Legislative Council, the Clerk of the Legislative Council shall act as Chairman of the Legislative Council and in any debate at the choosing shall decide which Member is entitled to address the House. cf. Act
No. 5, 1933,
s. 42.

(2) After the Members present have been sworn, a Member addressing himself to the Clerk of the Legislative Council, shall propose some other Member, then present, to the House for their President, and move "That (*the Member proposed*) do take the Chair of this House as President", which motion must be seconded.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 4—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(3) If only 1 Member is proposed and seconded as President of the Legislative Council, he shall be called to the Chair of the House without a question being put.

(4) On his being called to the Chair, the Member shall stand up in his place, and express his sense of the honour proposed to be conferred upon him, and submit himself to the House.

(5) On his being again called to the Chair, the Member shall be conducted from his seat to the Chair by the Members who proposed and seconded his election.

(6) If 2 or more Members are proposed as President of the Legislative Council, a motion shall be made and seconded regarding each such Member, "That (*the Member proposed*) do take the Chair of this House as President", and each Member so proposed shall address himself to the House.

(7) The Clerk of the Legislative Council shall then, in the order in which the Members have been proposed, put the question, "That (*the Member proposed*) do take the Chair of this House as President"; and if resolved in the affirmative the Member shall be conducted to the Chair as provided in subclause (5) of this clause, but if in the negative, or in the event of the numbers being equal, the question shall then be put by the Clerk of the Legislative Council, "That (*the Member next proposed*) do take the Chair of this House as President", and so on until a majority has been recorded in favour of 1 of the candidates.

(8) Having been conducted to the Chair, the Member chosen in accordance with this clause, standing on the step, shall return his acknowledgments to the House for the honour conferred upon him and take the Chair.

(9) This clause shall have effect only until the Standing Rules and Orders of the Legislative Council otherwise provide.

12. (1) A reference in this clause to an eligible person is a reference to a person who is eligible to be nominated for election under section 22D of the Constitution Act, 1902, or under that section as applied by clause 5.

(2) This clause applies only to and in respect of a joint sitting of the Members of the Legislative Assembly and the Members of the Legislative Council held pursuant to section 22D of the Constitution Act, 1902, or under that section as applied by clause 5.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 4—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(3) At a joint sitting, the President of the Legislative Council or, if there is no such President or he is absent from the sitting, the Speaker of the Legislative Assembly shall preside.

(4) Where a joint sitting is convened for the purpose of filling more than 1 vacant seat, each vacant seat shall be filled separately, by the votes of the Members present, in accordance with this clause.

(5) A Member, addressing himself to the person presiding, shall propose some eligible person to fill the vacant seat of a specified person for the purpose of filling which the joint sitting was convened and move "That (*the person proposed*) be elected as a Member of the Legislative Council to fill the seat in the Legislative Council vacated by (*the person whose seat has become vacant*)", which motion must be seconded.

(6) A Member, at the time he proposes or seconds an eligible person to fill a vacant seat, may speak on the proposal for 10 minutes and no longer and no other Member may speak at that time.

(7) If only 1 eligible person is proposed and seconded to fill the vacant seat, that eligible person is, without a question being put, thereupon elected as a Member of the Legislative Council to fill the vacant seat.

(8) If 2 or more eligible persons are proposed and seconded to fill the vacant seat—

- (a) the motion shall be put in respect of each of those persons in the order in which they have been proposed and seconded and any Member may speak to any such motion; and
- (b) the motion in respect of any of them having been resolved in the affirmative, the eligible person to whom that motion relates is thereupon elected as a Member of the Legislative Council to fill the vacant seat and the remaining motions shall lapse.

(9) A motion at a joint sitting shall be decided by the majority of the votes of the Members present other than the person presiding and when the votes on any motion are equal the person presiding shall have a casting vote.

(10) Any motion at a joint sitting shall be decided by open voting.

*Constitution and Parliamentary Electorates and Elections
(Amendment).*

SCHEDULE 4—continued.

SAVINGS AND TRANSITIONAL PROVISIONS—continued.

(11) A Member may speak to any motion for 10 minutes and no longer.

(12) At any time during the proceedings of the joint sitting any Member may move without notice or debate "That the Question be now put" and thereupon that motion shall be put without debate and, if it is decided in the affirmative, the person presiding thereupon shall, without debate, put the question which was, immediately before that motion, before the joint sitting, but allowing the Member who moved the motion which is the question to speak in reply for 10 minutes and no longer before that motion is put.

(13) Except where this clause otherwise provides, the Standing Rules and Orders of the Legislative Council shall apply to and in respect of proceedings at a joint sitting.

(14) Until a person is elected under this clause to fill each vacant seat for the purpose of filling which the joint sitting was convened, the person presiding shall not declare the joint sitting closed but after every such person has been elected the person presiding shall declare the joint sitting closed.

(15) Forthwith after the joint sitting is closed, the person presiding shall in writing inform the Governor of the name of each person elected and the name of the person whose seat he was elected to fill.

(16) The records of the proceedings of a joint sitting shall be made and retained by the Clerk of the Legislative Council.

(17) This clause shall have effect only until Standing Rules and Orders governing the proceedings at joint sittings held under section 22D of the Constitution Act, 1902, or under that section as applied by clause 5, have been adopted by both Houses of Parliament and approved by the Governor.

BY AUTHORITY

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