

FIRST PRINT

CAPITAL PUNISHMENT REFERENDUM BILL 1994

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to require the holding of a referendum to determine whether the people of New South Wales approve in principle of capital punishment for certain exceptional cases of murder.

Clause 1 sets out the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on the date of assent.

Clause 3 requires a referendum to be held on the question of capital punishment.

Clause 4 sets out the question to be asked in the referendum.

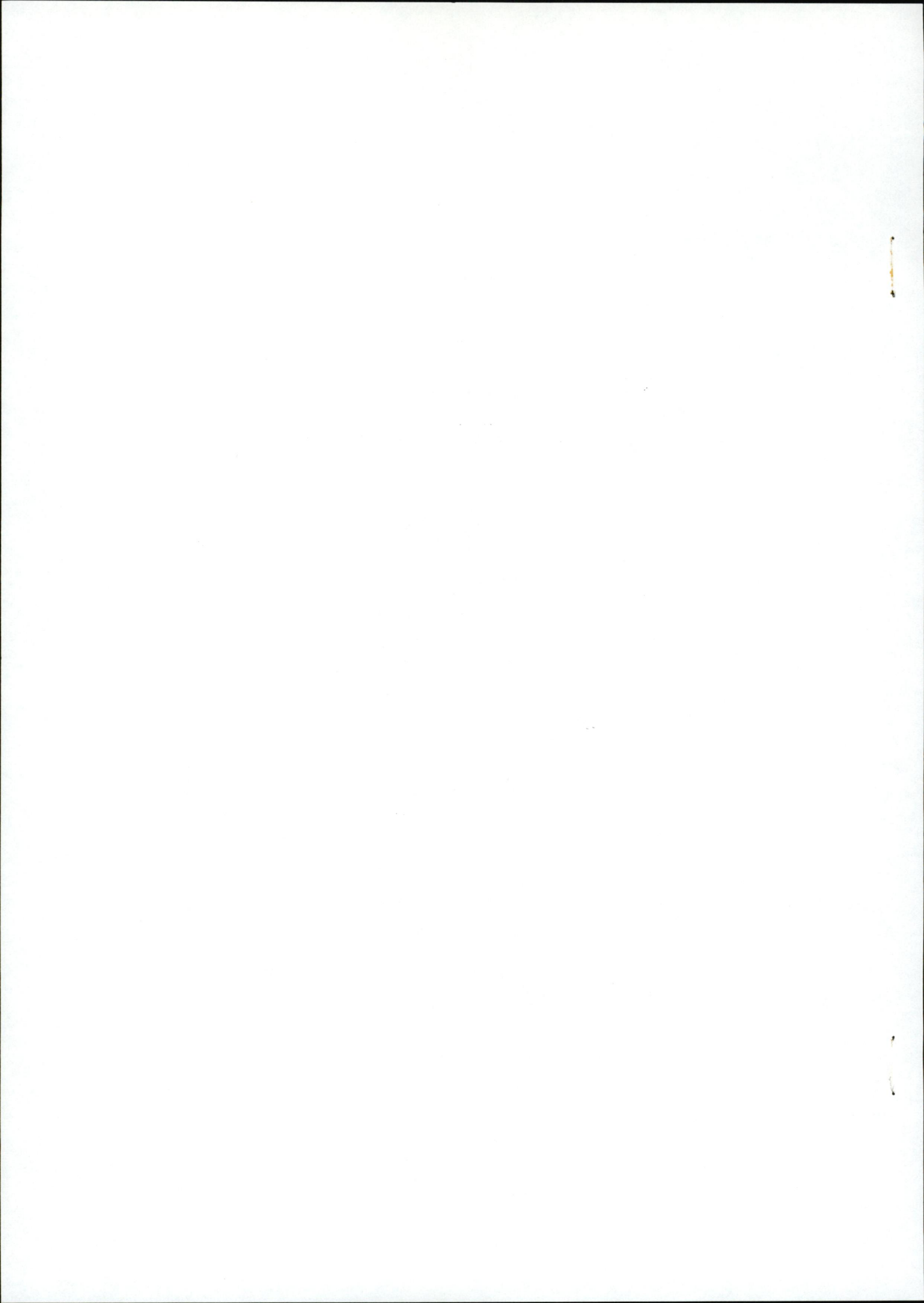
Clause 5 requires the vote for the referendum to be taken in conjunction with the next general election of lower house members of Parliament.

Clause 6 provides that the voters in the referendum are to be the electors in that election.

Clause 7 requires the referendum to be held in accordance with the existing legislation concerning referendums on Bills, i.e. the Constitution Further Amendment (Referendum) Act 1930. Regulations may be made to adapt that legislation to the referendum.

Clause 8 requires the Electoral Commissioner to publish a case for and against the referendum proposal (approved by certain members of Parliament) in 2 or more newspapers circulating in New South Wales.

Clause 9 provides a general regulation-making power.



FIRST PRINT

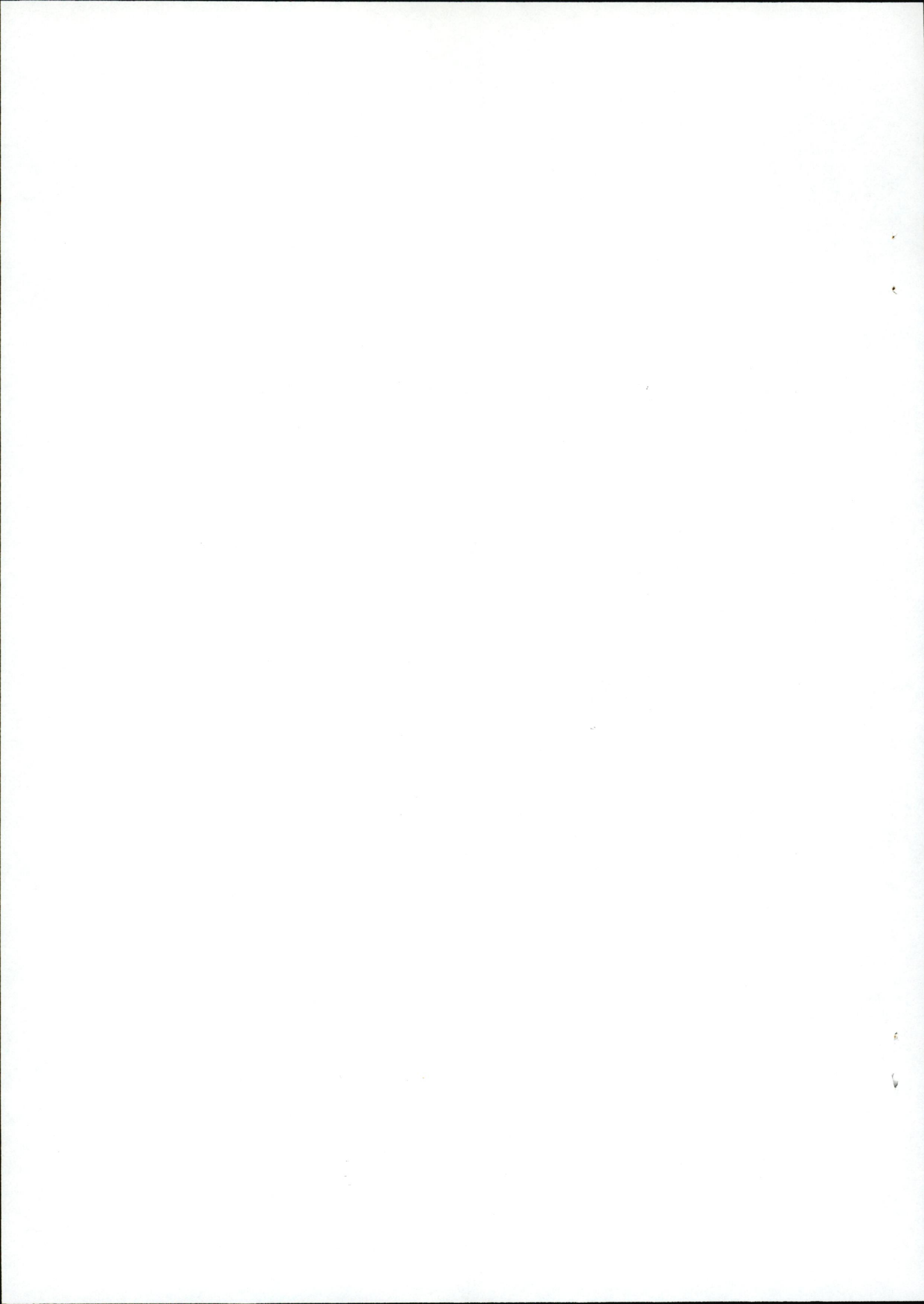
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CAPITAL PUNISHMENT REFERENDUM BILL 1994

NEW SOUTH WALES



No. , 1994

A BILL FOR

An Act to provide for a referendum in relation to capital punishment for exceptional cases of the crime of murder.

Capital Punishment Referendum 1994

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Capital Punishment Referendum Act 1994.

5 Commencement

2. This Act commences on the date of assent.

Referendum must be held

3. A referendum must be held to determine whether the people of New South Wales approve of capital punishment for murder in exceptional cases.

Referendum question

4. The following question is to be submitted to the persons entitled to vote at the referendum:

15 Are you in favour of murder being punished (with necessary safeguards) as follows:

- 20 (a) If a jury finds that a murder involved exceptional violence or cruelty to, or degradation of, the victim and that the guilt of the accused was established beyond any doubt, the accused should be guilty of first degree murder and the penalty for that murder should be death.
- 25 (b) If a jury finds that a murder involved exceptional violence or cruelty to, or degradation of, the victim and that the guilt of the accused was established only beyond reasonable doubt, the accused should be guilty of second degree murder and the penalty for that murder should be life in prison.
- (c) In all other cases of murder, the accused should be guilty of third degree murder and the penalty for that murder should be imprisonment for a term decided by the trial judge?

Date of referendum

30 5. (1) The referendum under this Act is to be held on the day appointed for the taking of the poll at the next general election of Members of the Legislative Assembly.

(2) The Governor is to issue a writ for the referendum accordingly.

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Persons entitled to vote at referendum

6. The persons entitled to vote at the referendum under this Act are the electors qualified to vote for the general election of Members of the Legislative Assembly.

How vote taken

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7. (1) The vote at the referendum under this Act is to be taken under and in accordance with the Referendum Act.

(2) For the purposes of the application of the Referendum Act to the referendum under this Act:

(a) a reference to the submission of a Bill to a referendum is to be construed as a reference to the submission of the question set out in section 4 to a referendum; and 10

(b) the Governor is not required to attach any material to the writ for the referendum; and

(c) the provisions of the Referendum Act apply with such modifications as are necessary to give effect to the object of this Act (including modifications to the Forms set out in the Second Schedule to the Referendum Act); and 15

(d) any other modifications prescribed by the regulations have effect.

(3) In this section, "Referendum Act" means the Constitution Further Amendment (Referendum) Act 1930. 20

"Yes" and "no" cases to be published

8. (1) In this section, "approved case" means:

(a) a document containing an argument in favour of an affirmative answer to the referendum question, consisting of not more than 2,000 words, which is authorised by a majority of those Members of Parliament who voted for the Bill for this Act and desire to forward such an argument; or 25

(b) a document containing an argument against an affirmative answer to the referendum question, consisting of not more than 2,000 words, which is authorised by a majority of those Members of Parliament who voted against the Bill for this Act and desire to forward such an argument. 30

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(2) If an approved case is forwarded to the Electoral Commissioner within 4 weeks after the commencement of this Act, the Electoral Commissioner is to ensure that a copy of that document is published in 2 or more newspapers circulating in New South Wales on each day of the 5 14 days (or such period as may be prescribed by the regulations) immediately before the date of the referendum unless the Minister informs the Electoral Commissioner that the referendum is not to be held on that date.

Regulations

10 9. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
