

Legislative Council.

59<sup>o</sup> VICTORIÆ, 1895.

## A BILL

To amend the Law relating to the Constitution and Powers of the Legislative Council, and to provide means of legislation in cases of disagreement between the Legislative Council and the Legislative Assembly, and in certain other cases.

[MR. WANT ;—28 August, 1895.]

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, and by the authority of the same, as follows :—

5     1. This Act may be cited as the "Constitution Act Amendment Short title.  
Act of 1895."

2. Section three of Schedule I to the Imperial Statute, passed Repeal.  
in the eighteenth and nineteenth years of Her Majesty's reign,  
intituled "*An Act to confer a Constitution on New South Wales and*  
10 *to grant a Civil List to Her Majesty*," which Schedule is herein  
referred to as the "Constitution Act," is hereby repealed.

3. In the construction of this Act the following expressions Interpretation.  
shall have the meanings hereby assigned to them respectively (that is  
to say)—

15     "Appropriation Bill" shall mean a Bill for the sole purpose of  
appropriating any part of the Consolidated Revenue Fund.

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"Electors"



“Electors” shall mean the persons entitled for the time being to vote at the Election of a Member to serve in the Legislative Assembly.

“Houses of the Legislature” shall mean the Legislative Council and Legislative Assembly of New South Wales. 5

“Retire” shall mean to cease to be a Member of the Legislative Council at a time prescribed by this Act in that behalf.

“Taxation Bill” shall mean a Bill for the sole purpose of doing one or more of the following things, that is to say—

Imposing any new rate, tax, or impost, or abolishing, 10  
increasing, reducing, varying, or in any way dealing  
with any rate, tax, or impost in existence for the time  
being, or regulating the collection of, or otherwise  
making any provision in respect of any rate, tax, or  
impost, or authorising the construction or comple- 15  
tion of any public work, or authorising the raising of  
money by loan upon the security of the Consolidated  
Revenue Fund or appropriating such money.

“Vacated,” as applied to a seat in the Legislative Council, shall mean rendered vacant by death or by any other cause 20  
specified in the Constitution Act or any Act amending the  
same, or in any way whatsoever, other than retirement, which  
may be prescribed by law for the time being in that behalf.

Number of Members  
of Council and  
tenure of seats.

4. After the passing of this Act the Legislative Council shall consist of sixty Members, exclusive of the Representative of the 25  
Government appointed under section fourteen, and except as herein-  
after provided the time during which the Members thereof shall be  
entitled to hold their seats shall be five years.

Retirement of  
Members in excess  
of sixty.

5. If at the time of the passing of this Act there shall be more than sixty Members of the Legislative Council, the number of the 30  
said Members shall forthwith be reduced to sixty by the retirement  
of as many Members as there are in excess of sixty—

Who shall so retire.

(I) The Members so retiring shall be those who held seats in the said Council on the fifth day of July, one thousand eight hundred and ninety-five, and retained the same until the 35  
passing of this Act, and who of all such Members attended  
fewest meetings of the said Council during the Session of  
the Legislature which ended on the said first-mentioned day.

Case of Members  
absent on leave.

(II) If any such Member shall have been absent from any such meeting on permission duly obtained under the provisions 40  
of the Constitution Act, he shall, for the purposes of this Act,  
be credited with having attended the same average of the  
meetings from which he has been so absent as his average  
of attendances was at the other meetings of the said Council  
during the same and the last preceding Session. 45

Entries in journals to  
be evidence.

(III) Except as aforesaid the entries in the journals of the said Council shall, for the purposes of this Act, be conclusive evidence of the number of meetings attended by the Members of the said Council respectively.

Periodical retirement  
of Members in  
future.

6. All present and future Members of the Legislative Council 50  
other than those retiring under the provisions of section five, and other  
than the Representative of the Government appointed under section  
fourteen, shall retire as follows, that is to say:—Twelve Members  
holding seats at the time of the passing of this Act, or such smaller  
number as there may then be in excess of forty-eight, shall retire 55  
immediately upon the publication of the proclamation mentioned in  
section eight of this Act, and twelve of the Members thereafter holding  
seats



seats shall retire in each year on the thirty-first day in the month of December thereof, beginning with the year in which this Act is passed—

- (I) The Members retiring at each of the several dates aforesaid shall be those who, on the given date, shall have held seats in the said Council for a longer time than the other Members thereof for the time being : Order of retirement.
  - (II) Provided always that any Member summoned to the said Council after the passing of this Act, in the place of a Member whose seat shall have become vacated, shall retire on the day on which such last-named Member would himself have been liable to retire if no cause had arisen whereby his seat became vacated, and shall be one of the twelve Members retiring on that day :
  - (III) Provided, also, that in any case in which two or more Members now holding seats in the Legislative Council may have held such seats for an equal time, and one or more, but not all of them, would be liable to retire on a given day under the provisions of this section, the Member or Members who attended a less number of meetings of the said Council during the Session ending on the fifth day of July, one thousand eight hundred and ninety-five, shall retire in priority to the Member or Members who attended a greater number of such meetings during the said Session.
7. If any question shall arise under either of the two sections last preceding as to which of two or more Members now holding seats in the Legislative Council shall retire on a given day, by reason of any equality in the number of their attendances at the meetings of the said Council, every such question shall be publicly decided by lot by two persons appointed for that purpose by the Governor with the advice of the Executive Council. Decision by lot in certain cases.
8. Within seven days after the passing of this Act the Governor, with the advice of the Executive Council, shall notify, by proclamation in the *Gazette*, the date prescribed by this Act for the retirement of each Member holding a seat in the Legislative Council at the passing of this Act. Order of retirement of existing Members to be published.
9. Within one month after the passing of this Act, the Governor, with the advice of the Executive Council, shall summon twelve persons to be Members of the Legislative Council, and such persons shall become Members thereof and hold their seats therein, unless vacated, from the day of their being so summoned till the thirty-first day of December next after the expiration of four years from their being so summoned, inclusive of both the days aforesaid. Appointment of new Members on passing of Act.
10. In the month of December in each and every year, the Governor, with the advice of the Executive Council, shall summon twelve persons to be Members of the Legislative Council, and such persons shall become Members thereof and hold their seats therein, unless vacated, from the first day of January then next ensuing till the thirty-first day of December at the end of the fifth year from their being so summoned, inclusive of both the days aforesaid. Periodical appointment of new Members in future.
11. If, after the passing of this Act, the seat of any Member of the Legislative Council other than the Representative of the Government appointed under section fourteen shall become vacated before the period herein prescribed for his retirement, the Governor, with the advice of the Executive Council shall, within one month of the occurring of such vacancy, summon in his place some other person to be a Member of the Legislative Council, and such person shall become a Member thereof forthwith, and shall hold his seat therein, unless vacated for the remainder of the term during which the Member in whose place he was summoned would have been entitled to hold his seat if no cause had arisen whereby the same became vacated. Appointment in case of extraordinary vacancy.



Restrictions in  
Constitution Act  
preserved.

Retiring Members  
eligible for  
reappointment.

Representative of  
the Government in  
the Legislative  
Council.

Alteration of powers  
of Council and  
Assembly.

Council not to have  
power to amend or reject  
Appropriation Bill.

Council not to have  
power to reject  
Taxation Bill.

Bills not returned  
by Council to  
Assembly.

Bills returned by  
Council to Assembly  
with amendments.

12. In all cases in which provision is made in this Act for the summoning or appointment of persons to be Members of the Legislative Council, such provision shall, as to the qualification of persons to be so summoned or appointed, be taken subject to the restrictions expressed in section two of the Constitution Act.

13. Every person who shall have retired from membership of the Legislative Council under the provisions of this Act, or whose seat therein shall have become vacated, shall, unless prevented by the restrictions aforesaid, be eligible to be again summoned to be a Member thereof.

14. The Governor, with the advice of the Executive Council, may at any time appoint one Member of the Executive Council for the time being, not being a Member of the Legislative Council or of the Legislative Assembly to be Representative of the Government in the Legislative Council, in addition to the sixty Members hereinbefore referred to.

Before such Representative shall take his seat in the Legislative Council the Governor shall by message in writing signify the appointment of such Representative to the President of the said Council, and thereupon such Representative shall become a Member of the said Council, and shall hold a seat therein unless vacated until he ceases to be a Member of the Executive Council, or the Governor by message in writing signifies the revocation of such appointment to the President of the Legislative Council.

15. Notwithstanding anything contained in the Constitution Act, or prescribed by any Statute, Act, law, or custom whatsoever, or by any Standing Rule or Order, or Sessional Order of either House of the Legislature, the powers now vested in the said Houses respectively in regard to the passing of Bills shall hereafter be altered to the extent provided in this Act.

16. It shall not hereafter be lawful for the Legislative Council to amend or reject an Appropriation Bill.

17. It shall hereafter be lawful for the Legislative Council to amend but not to reject a Taxation Bill.

18. If after the passing of this Act any Appropriation or Taxation Bill shall have been passed by the Legislative Assembly and presented to the Legislative Council for its concurrence, and such Bill shall not have been passed by the said Council and returned by it to the said Assembly within one month from its being so presented to the said Council (the Session not having closed and the said Assembly not having adjourned for more than a week in the meantime), it shall be lawful for the said Assembly, upon resolution, for the passing of which not less than two-thirds of the total number of Members on the Roll of the said Assembly for the time being shall have voted, to cause the said Bill, or a copy thereof, as originally passed by the said Assembly, to be presented by the Speaker of the said Assembly to the Governor for Her Majesty's assent. And for the purposes of this section an Appropriation Bill shall, if returned with any amendment by the said Council, be deemed not to have been returned by the said Council to the said Assembly.

19. If after the passing of this Act any Taxation Bill shall have been passed by the Legislative Assembly, and presented to the Legislative Council for its concurrence, and the same shall have been returned by the said Council to the said Assembly with any amendment, it shall be lawful for the said Assembly either to agree to, or to amend, or to reject any such amendment, and forthwith upon resolution for the passing of which not less than two-thirds of the total number of members on the roll of the said Assembly for the time being shall have voted to cause the said Bill, as amended to the extent



extent, if any, determined upon as aforesaid by the said Assembly, to be presented by the Speaker of the said Assembly to the Governor for Her Majesty's assent.

20. If after the passing of this Act any Bill other than an Appropriation or Taxation Bill shall have been passed by the Legislative Assembly in each of two consecutive Sessions, and shall in each of such Sessions have been presented to the Legislative Council for its concurrence, and on each of such occasions one or other of the following things shall have happened, namely—
- 10 (a) The said Council shall have rejected the said Bill; or  
 (b) The said Council shall have failed to return the said Bill to the said Assembly with or without any amendment within three months from the time when it was so presented for its concurrence, the Session not having closed and the said Assembly not having adjourned for more than a week in the meantime; or  
 15 (c) The said Council shall have returned the said Bill to the said Assembly with any amendment, but no agreement shall have been come to between the said Houses with regard to such amendment within three months after the said Bill shall have been returned as aforesaid, the Session not having closed and the said Assembly not having adjourned for more than a week in the meantime,

Power to refer certain Bills to the Electors.

then, if the Bill as passed on the second occasion is identical with the Bill as passed on the first occasion, or differs from it only by the adoption of some or all of the Council's amendments agreed to by the Assembly on the first occasion, it shall be lawful for the Legislative Assembly, upon resolution for that purpose, for the passing of which not less than one-half of the total number of Members on the roll of the said Assembly for the time being shall have voted, to cause a general vote of the Electors to be taken upon such Bill as finally passed by the said Assembly in such manner as may be provided by any Act hereafter to be passed.

21. If upon the taking of such general vote of the electors there shall have been one hundred thousand or more valid votes recorded upon any Bill, whereof a majority shall be in favour of the passing of the said Bill, then, subject to such provisions respecting appeal as may be contained in any Act which may be hereafter passed in respect of such general vote, such Bill in the form in which it was finally passed as aforesaid by the Legislative Assembly shall be presented by the Speaker of the said Assembly to the Governor for Her Majesty's assent; but if there shall not be a majority in favour of the passing of the said Bill, or if less than one hundred thousand valid votes shall have been recorded upon the said Bill, such Bill shall be deemed to have lapsed, and it shall not thereafter be lawful to take such general vote upon the same or any Bill of the like purport for a period of three years from the day on which such general vote was so taken thereupon as aforesaid.

Effect of Electors' Vote.

22. Every Bill authorised by this Act to be presented to the Governor for Her Majesty's assent upon resolution of the Legislative Assembly or after the taking of the general vote of the electors as aforesaid shall, when so presented, be deemed for all purposes to be a Bill duly passed by both Houses of the Legislature. And no such Bill after being assented to by or on behalf of Her Majesty shall be liable to be called in question on the ground that any requirement of this Act or any Act relating to such general vote has not been duly complied with.

Effect of Bills presented to Governor for Her Majesty's assent.



