

Hon. Sir F. Whitaker.

LEGISLATIVE COUNCIL.

ANALYSIS.

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A BILL INTITULED

AN ACT to alter the Constitution of the Legislative Council of New Zealand. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Legislative Council Act, 1889." Short Title.

2. In the construction of this Act the following terms shall, if not inconsistent with the subject-matter or context, have the meanings hereby severally assigned to them:— Interpretation.

- “Clerk” means the Clerk of Parliaments :
 “Council” means the Legislative Council of New Zealand :
 “General Assembly” means the Council and the House :
 “House” means the House of Representatives of New Zealand :
 “Legislative Body” means the Council and the House sitting
 together as one body : 5
 “Rejected,” as applied to a Bill, includes any action or omission
 whereby a Bill is prevented from passing, or by which a
 Bill is so altered as to lead to its rejection ; and a Bill shall
 not be deemed to be rejected unless transmitted by the 10
 Council to the House or by the House to the Council
 twenty-one clear days before the last day of the session :
 “Speaker” means the Speaker of the Legislative Council.

3. Sections thirty-three, thirty-four, thirty-five, thirty-six, thirty-
 seven, and thirty-eight of the Constitution Act, and section two of an 15
 Act passed in the thirty-first and thirty-second years of Her Majesty's
 reign, chapter fifty-seven, making provision for the appointment of
 members of the Legislative Council of New Zealand, are hereby
 repealed.

Sections of Con-
 stitution Act
 repealed.

Present members
 to continue.

4. Those who are members of the Council at the passing of this 20
 Act shall continue to be members thereof under their then existing
 appointments, and they shall continue subject to the provisions of the
 Constitution Act ; but the power of appointment by Her Majesty or by
 the Governor shall cease upon this Act becoming law, and members
 shall thereafter be elected or appointed under this Act, and not 25
 otherwise.

Powers of appoint-
 ment to cease.

Appointment of
 Speaker.

5. Whenever after the passing of this Act a vacancy in the office
 of Speaker shall occur, the Council shall proceed to the choice of one
 of their members to be the Speaker thereof, and such choice, being
 confirmed by the Governor, shall be valid and effectual. 30

Number of mem-
 bers of the Council.

6. Whenever the number of members of the Council is reduced
 from any cause below one-half of the number for the time being of the
 members of the House, there shall be a vacancy to be filled up as here-
 inafter provided. If the number of members of the House is then an
 uneven number, one shall be omitted in the reckoning. 35

Provided that not less than two of such members shall always be
 aboriginal natives of New Zealand or half-castes or their descendants
 by Natives.

Persons incapable
 of becoming
 members.

7. No person shall be capable of being elected or appointed a
 member under this Act who shall not be of the full age of twenty-one 40
 years, and a natural-born subject of Her Majesty, or a subject of Her
 Majesty naturalised according to the law of New Zealand for the
 time being in force for the naturalisation of aliens.

Tenure of office.

8. Every member of the Council elected or appointed under this
 Act, except a person appointed under section forty-eight thereof, 45
 shall hold his seat for seven years from the day of his election or
 appointment.

Members may
 resign.

9. It shall be lawful for any member of the Council, by writing
 under his hand addressed to the Speaker, to resign his seat in the
 Council, and upon the receipt by the Speaker of such resignation the 50
 seat of such member shall become and be vacant.

10. If any member shall for one whole session of the General Assembly, without permission of the Council, fail to give his attendance in the Council, or shall take any oath, or make any declaration or acknowledgment, of allegiance, obedience, or adherence to any foreign Prince or Power, or do or concur in or about any act whereby he may become a subject or citizen of any foreign State or Power, or become entitled to the rights, privileges, or immunities of a subject of any foreign State or Power, or shall become a bankrupt, or an insolvent debtor within the meaning of the laws relating to insolvent debtors, or shall become a public defaulter, or be attainted of treason, or be convicted of felony or any infamous crime, his seat in the Council shall thereby become vacant.
11. Whenever it shall be established to the satisfaction of the Speaker that a vacancy exists in the Council he shall forthwith give notice thereof in the *Gazette* in the form set forth in the *First Schedule* to this Act.
12. A printed copy of such notice shall be forwarded by the Clerk by post as a registered letter to every member of the General Assembly, addressed to him at his usual or last known place of abode in New Zealand, or such notice may be delivered personally to any such member.
13. If the vacancy occur during a recess the election shall take place on the second Tuesday after the day of meeting of Parliament in the next session.
14. If a vacancy occur during a session the election shall take place on the second Tuesday after the publication in the *Gazette* of the notice by the Speaker as hereinbefore provided.
15. If a session ends before the expiration of fourteen days after the day on which a poll is appointed to take place, and no person has been elected, an election shall take place in the following session, in like manner as though the vacancy had occurred during a recess.
16. The Clerk shall be the Returning Officer, and, with such assistance as he may require, shall conduct the election.
17. Any three members of the General Assembly may nominate a candidate in the form set forth in the *Second Schedule* to this Act: Provided always that no person shall be nominated or capable of being elected who is not of the full age of twenty-one years, and a natural-born subject of Her Majesty or a subject of Her Majesty duly naturalised according to the law for the time being in force in Great Britain or New Zealand for the naturalisation of aliens.
18. The nomination-paper must be left with the Clerk five days before the day appointed for the election.
19. The Clerk shall forthwith cause a printed notice, in the form set forth in the *Third Schedule* to this Act, setting forth the names of the candidates, to be posted in at least four conspicuous places in the General Assembly Buildings.
20. A copy of such notice shall also be printed on the Order Papers of the Council and the House.
21. Whether there be more candidates than one or only one, the election shall be by ballot, and shall be conducted by the Returning Officer in a convenient room in the General Assembly Buildings.
22. Every member of the General Assembly shall be entitled to one vote in respect of each vacant seat.

Seats vacated in certain cases.

Speaker to give notice of vacancy.

Notice to be sent members.

Vacancy in recess.

Vacancy in session.

Provision when session ends within fourteen days.

Clerk to be Returning Officer.

Three members may nominate.

Nomination-papers to be left with Clerk.

Clerk to post notice in Assembly Buildings.

Printed copy to be sent to each member.

Election to be by ballot.

Every member entitled to vote.

Ballot-box to be provided; also voting-papers.

23. There shall be provided a ballot-box, having a lock and key, and a slit in the upper side by which the voting-papers may be put into the box; also a sufficient number of voting-papers in the form or to the effect set forth in the *Fourth* Schedule to this Act.

The ballot-box shall be in charge of the Clerk or his assistant. 5

Members to be entitled to voting-papers.

24. Every member shall, on application to the person in charge of the ballot-box, be entitled to receive a voting-paper with an official mark thereon to authenticate the same, and, having dealt with it as thereon directed, may deposit it in the ballot-box.

Hours for voting.

25. The time for depositing voting-papers shall be between the 10 hours of twelve noon and two o'clock in the afternoon.

Names of members voting to be marked off.

26. The name of any member who votes shall be marked off on a list of the members by the person in charge of the ballot-box.

When voting-papers to be counted.

27. As soon as the hour of two p.m. arrives the ballot-box shall be opened in the presence of such of the members of the Assembly as 15 are in attendance, and the votes counted by the Clerk.

If voting-papers in excess of members voting, fresh ballot to be taken.

28. If, on comparing the voting-papers with the list showing the number who have voted, it is found that there are more voting-papers in number than the members who have voted, the ballot shall be treated as a nullity, and another ballot shall be taken in like manner on the 20 next day on which both the Council and House are sitting.

Candidate having a majority to be elected.

29. When any candidate obtains the votes of a majority of all the members of the General Assembly the Clerk shall sign a certificate in the form set forth in the *Fifth* Schedule to this Act, and deliver the same to the Speaker, and thereupon such candidate, having taken the 25 oath, or made the affirmation or declaration, as prescribed by the Constitution Act, shall become and be a member of the Council.

In case no candidate has a majority, other ballots to be taken, and, they failing, Governor to appoint.

30. In case no candidate shall have such a majority on the first day a ballot is taken, another ballot shall in like manner be taken on the following Tuesday, and if no candidate then obtains the required 30 majority, another ballot shall be taken on the succeeding Tuesday, and if no candidate then obtains the required majority, the Governor shall within three months appoint some person to fill the vacancy.

Person appointed to hold office as though elected.

31. The person so appointed shall thereupon become and be a member of the Council, in like manner as though he had been elected 35 as in this Act provided, and shall hold office accordingly.

Provision in case of more than one vacancy.

32. If there be more than one vacancy at the same time, the proceedings for the elections may be carried on simultaneously, but separately.

How questions to be determined.

33. Any question which shall arise as to any vacancy in the 40 Council, or as to the validity of any election, or as to the right of any person to sit or vote therein, shall, both as to law and fact, be heard and determined in a summary way by two Judges of the Supreme Court, to be nominated by the Chief Justice, of whom he may be one:

Proviso, appeal.

Provided that it shall be lawful, either for the person in respect of 45 whom any such question shall have arisen or for Her Majesty's Attorney-General for New Zealand on Her Majesty's behalf, to appeal from the determination of the said Court to Her Majesty; and the judgment of Her Majesty, given with the advice of her Privy Council, therein shall be final and conclusive to all intents and purposes. 50

Chief Justice may make rules.

34. The Chief Justice of the Supreme Court may make any rules he may deem necessary or proper for the purpose of regulating the

practice in respect of such questions as the Court is empowered to hear and determine under this Act.

35. Whenever a Bill (except as hereinafter provided) has been passed by the Council and rejected by the House on two several occasions, at least *six* months apart, it shall be competent for the Council to require that the said Bill be submitted to the Council and House sitting together as one Legislative Body.

Bill twice rejected by House may be submitted to joint sitting of Council and House.

36. Whenever a Bill (except as hereinafter provided) has been passed by the House and rejected by the Council on two several occasions, at least *six* months apart, it shall be competent for the House to require that the said Bill be submitted to the House and Council sitting together as one Legislative Body.

Bill twice rejected by Council may be submitted to joint sitting of Council and House.

37. At every sitting of the Legislative Body the Speaker of the Legislative Council shall preside as Speaker, and the Standing Orders of the House relating to debate shall be in force and acted on.

Speaker of Council to preside.

38. It shall be competent for the Legislative Body to alter and amend the Bill, provided that a majority of the members of the Council and House, voting separately, agree to such alteration and amendment.

Bill may be altered or amended.

39. After debate, the question shall be put by the Speaker, That this Bill do pass.

Speaker to put question.

40. Every member of the Legislative Body shall be entitled to one vote.

Every member one vote.

41. If a majority consisting of at least one-half of all the members of the Legislative Body vote in favour of the passing of the Bill, it shall be deemed to be a Bill duly passed by the Council and the House sitting separately, and shall be presented accordingly to the Governor for Her Majesty's assent.

Vote of majority to pass Bill.

42. Nothing herein contained shall apply to or affect the annual Appropriation Bill or any Bill for altering, amending, or repealing this Act.

Act not to apply to annual Appropriation Bill.

43. The annual Appropriation Act shall contain only the usual preamble and clauses of appropriation and application, and such items of expenditure only required for the service of the year as have been previously submitted to the House in the estimates of expenditure for the year.

What Appropriation Bill to contain.

44. If such estimates contain any grant for money, clause, or matter which in the opinion of the Council is not in conformity with the *next-preceding* clause, it may transmit a message to the House requesting that such grant, clause, or matter may be dealt with by a separate Bill.

Council may request separate grant, &c., to be dealt with by separate Bill.

45. If the House by message give assent to the request of the Council, the grant, matter, or clause objected to shall be struck out, and the Bill then forthwith passed by the Council.

If House assent, grant, &c., objected to to be struck out.

46. If the House by message refuse to comply with the request of the Council, the question whether the grant, clause, or matter objected to is or is not in conformity with section *forty-three* of this Act shall, at the request of the Council, be submitted to the Legislative Body hereinbefore mentioned, in like manner as hereinbefore provided in respect of Bills, and the determination of such Legislative Body on the question so submitted shall be final and conclusive.

Question to be submitted to Legislative Body.

Appropriation Bill in conformity with its determination.

Governor, upon recommendation in writing by the Premier, may appoint a person to be a member of the Council.

Proviso.

Schedules.

47. The Appropriation Bill, unaltered, or altered in conformity with such determination, as the case may be, shall be thereupon passed by the Council without alteration or amendment.

48. Whenever the Premier shall in writing inform the Governor that he desires that some person already appointed or to be forthwith appointed to be a member of the Executive Council should be appointed to be a member of the Council, it shall be lawful for the Governor to appoint such person accordingly, though there shall be no vacancy in the number of members: 5

Provided the person so appointed shall continue to be a member so long as he holds office as a member of the Executive Council, and no longer. 10

SCHEDULES.

FIRST SCHEDULE.

I HEREBY give notice that it has been established to my satisfaction that a vacancy exists in the Legislative Council, and an election to fill the vacancy will take place during the next [or present] session of the General Assembly pursuant to "The Legislative Council Act, 1889."

Dated this day of , 18 .
Speaker of Legislative Council.

SECOND SCHEDULE.

To the Clerk of Parliaments.

WE, the undersigned, hereby give notice that we nominate A.B. [*residence and occupation*] as a candidate to fill the vacant seat in the Legislative Council at the election to take place during the next [or present] session of the General Assembly.

Dated this day of , 18 .
[Names in full of at least three Members of the
General Assembly.]

THIRD SCHEDULE.

In pursuance of "The Legislative Council Act, 1889," I, Clerk of Parliaments, do hereby give notice that a poll will be taken on the day of next, to fill a vacancy in the Legislative Council.

Dated this day of , 18 .
Clerk of Parliaments.

FOURTH SCHEDULE.

FORM OF VOTING-PAPER.—LEGISLATIVE COUNCIL.

[Names of candidates in full.]

DIRECTIONS.

The voter is to strike out the name of every candidate for whom *he does not vote*. He must take care not to leave uncanceled more than one name, or the voting-paper will be rejected.

The voting-paper is to be folded up so that the contents cannot be seen; and, having shown the official mark on the back to the person in charge of the ballot-box, the voting-paper is to be put into the ballot-box by the voter himself.

FIFTH SCHEDULE.

I DO certify that A.B. has received the largest number of votes at the election that has taken place to-day to fill a vacancy in the Legislative Council, and that the number of votes recorded in his favour is equal to [or exceeds] a majority of all the members of the General Assembly.

Votes recorded for A.B.: [*State number*].
Votes recorded for C.D.: [*State number*].

Clerk of Parliaments.