

*This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and having this day passed as now printed is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.*

*Legislative Council,  
2nd July, 1891.*

[AS AMENDED BY THE HOUSE OF REPRESENTATIVES, 4TH SEPTEMBER, 1891.]

*Hon. Mr. Buckley.*

LEGISLATIVE COUNCIL.

ANALYSIS.

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A BILL INTITULED

AN ACT to alter the Mode of making Appointments of Members of the Legislative Council of New Zealand; and to regulate Vacancies therein. Title.

5 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, 1891." Short Title.

10 2. The Governor may from time to time, in Her Majesty's name, by an instrument or instruments under the Public Seal of the Colony, summon to the Legislative Council of New Zealand (hereinafter called "the Council") such persons as he shall think fit, and every person so summoned shall thereby become a member thereof: Appointment of members.  
31 and 32 Vict.,  
c. 57, s. 2.  
15 provided that no person shall be so summoned—

(1.) Who shall not be of the full age of ~~thirty-five~~ *twenty-one* years, and either a natural-born subject of Her Majesty, or a subject of Her Majesty naturalised by or under any Act of the Imperial Parliament or by or under an Act of the General Assembly of New Zealand; or Ibid.

20 (2.) Who at any time theretofore has been bankrupt and has not received his discharge, or who has been attainted or convicted of any treason, felony, or infamous offence within any part of Her Majesty's dominions, or as a public defaulter within the colony, unless he has received a free pardon, or has undergone the sentence or punishment to which he was adjudged for such offence. 1867, No. 49, s. 2.  
1882, No. 23.

Members to hold office for seven years only.

Saving as to existing members.

Vacancies.

Constitution Act, ss. 35, 36.

Questions as to vacancies to be decided by Council. Ibid, s. 37.

Appeal.

Quorum. 1865, No. 20, s. 3.

Decision of questions. Constitution Act, s. 39. Casting-vote.

3. From and after the passing of this Act, every person who shall be appointed member of the Council shall hold his seat therein for ~~ten~~ seven years, to be reckoned from the date of the instrument of his appointment, and no longer; but every such person may from time to time be reappointed.

Nothing in this section contained shall apply to any member of the Council who was appointed thereto before the ~~passing of this Act.~~ first day of January, one thousand eight hundred and ninety-one.

4. The seat of any member of the Council, whether appointed thereto before the time of the passing of this Act, or subsequently thereto, shall *ipso facto* be vacated—

- (1.) If he takes any oath or makes any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign Prince or Power: or
- (2.) If he does, or concurs in, or adopts any act whereby he may become a subject or citizen of any foreign State or Power, or is entitled to the rights, privileges, or immunities of a subject of any foreign State or Power: or
- (3.) If he is a bankrupt, or compounds with his creditors under any Act for the time being in force: or
- (4.) If he is a public defaulter, or is attainted of treason; or is convicted of felony or any infamous crime: or
- (5.) If he resigns his seat by writing under his hand addressed to and accepted by the Governor: or
- (6.) If for more than one whole session of the General Assembly he fails, without permission of the Governor notified to the Council, to give his attendance in the Council: ~~Provided that the Governor may grant leave of absence for one other consecutive session, which leave shall be notified to the Council.~~

5. Any question which shall arise within the Council as to any vacancy in the Council, or as to the right of any person to sit or vote therein, shall be referred by the Governor to the Council, which shall hear and determine the same:

Provided always that either the person respecting whose seat such question shall have arisen, or Her Majesty's Attorney-General for New Zealand on Her Majesty's behalf, may appeal from the determination of the said Council to Her Majesty; and the judgment of Her Majesty, given with the advice of her Privy Council thereon, shall be final and conclusive to all intents and purposes.

6. The number of members of the Council necessary to constitute a meeting for the exercise of its powers shall be regulated from time to time by Standing Orders of the Council.

All questions which shall arise in the Council shall be decided by a majority of votes of the members present, other than the Speaker, and when the votes shall be equal the Speaker shall have the casting-vote.

*Struck out.*

7. Whenever, after the passing of this Act, the office of Speaker of the Legislative Council becomes vacant the said Council shall have the power and authority to elect one of its members to fill the vacancy; and the Speaker so elected shall remain in office for five years, unless his seat as a member of the Council becomes sooner vacant by resignation or effluxion of time or otherwise.

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8. 7. The Clerk of the Legislative Council for the time being, so long as he shall hold such office, shall hold the office of Clerk of the Parliaments.

Clerk of Council to be Clerk of Parliaments.  
1872, No. 2, s. 3.

9. 8. A "public defaulter" in this Act means any person who is convicted of wrongfully expending, using, or taking any moneys the property of Her Majesty, or of any local authority, or of any corporation represented by a local authority.

Definition of "public defaulter."

10. 9. Sections thirty-three, thirty-five, thirty-six, thirty-seven, thirty-eight, and thirty-nine of the Constitution Act, "The Legislative Council Quorum Act, 1865," and "The Clerk of Parliaments Act, 1872," are hereby respectively repealed. Section thirty-four of the Constitution Act shall not apply to any future appointments to the Council.

Repeal.

15. Notwithstanding such repeal, all existing appointments of Speaker, members, or officers respectively in the said Council, and all existing Standing Orders of the said Council, shall continue in force as if this Act had not been passed.

Saving of appointments, &c.

20. ~~11. 10. This Act shall not come into operation unless and until the Governor notifies by Proclamation that it is Her Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Governor shall notify by the same or any other Proclamation; and on this Act coming into operation as hereinbefore provided, the Imperial Act passed in the thirty-first and thirty-second years of the reign of Her Majesty, chapter fifty-seven, shall~~  
25. cease to have any further operation.

When Act to come into force.

*New clause.*

30. 11. Any member of the Legislative Council at the time of this Act becoming law, and who shall voluntarily resign such position, shall thereafter be entitled to a free railway pass over the New Zealand railways so long as such railways remain the property of the colony, and shall also have access to the Parliamentary Library for the remainder of his life.

Privileges granted to retiring members.