

LEGISLATIVE COUNCIL (POSTPONE- MENT OF ELECTION).

8° and 9° GEO. VI., No. XXXIX.

No. 39 of 1944.

AN ACT to provide for the postponement of the general election of members of the Legislative Council to fill vacancies about to be caused by the retirement of certain members by effluxion of time and for other purposes incidental thereto.

[Assented to 11th January, 1945.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the *Legislative Council (Postponement of Election) Act, 1944.*

This Act to be read in conjunction with other Acts.

2. This Act shall be read in conjunction with the Constitution Acts Amendment Act, 1899 (No. 19 of 1899), and with the Electoral Act, 1907-1940 (No. 27 of 1907 as reprinted in Volume 2 of the Reprinted Acts of the Parliament of Western Australia), and with the Legislative Council (Postponement of Election) Act, 1942 (No. 19 of 1942), hereinafter referred to as "the Constitution Act," "the Electoral Act," and "the Postponement Act" respectively.

3. (1) Notwithstanding anything to the contrary contained in the Constitution Act or in the postponement Act or in any other Act, but subject to subsection (2) of this section it shall not be necessary for the Governor by warrant under his hand to direct the Clerk of the Writs—

Authority
to postpone
general
election.

- (a) to issue a writ within the time specified in section three of the postponement Act for the general election for the Legislative Council which but for the provisions of the postponement Act would have been caused by the retirement of the senior member for each Province of the said Legislative Council by effluxion of time on the twenty-first day of May, One thousand nine hundred and forty-four, but which by the operation of section three of the postponement Act was postponed for the period specified in paragraph (b) of subsection (2) of section three of the postponement Act; or
- (b) to issue a writ for the general election for the Legislative Council which will be caused in the ordinary course of law by the retirement of a member for each Province of the said Legislative Council by effluxion of time on the twenty-first day of May, One thousand nine hundred and forty-six, within the time prescribed by section eight of the Constitution Act and by section sixty-four of the Electoral Act in relation to the date upon which the said members would but for this Act retire as aforesaid.

(2) (a) In so far as relates to the postponement of the general election provided for in paragraph (a) of subsection (1) of this section but subject to the proviso contained in subsection (3) of this section the Governor shall, after the period of twelve months ending on the tenth day of April, One thousand nine hundred and forty-five, but at a time to be determined by the Governor within twelve months computed from that date issue his said warrant to the Clerk of the Writs directing him to issue a Writ for the general election aforesaid.

(b) In so far as relates to the postponement of the general election provided for in paragraph (b) of sub-

section (1) of this section but subject to the proviso contained in subsection (3) of this section the Governor shall after the tenth day of April, One thousand nine hundred and forty-six, but at a time to be determined by the Governor within two years computed from that date issue his said warrant to the Clerk of the Writs directing him to issue a Writ for the general election aforesaid.

(3) Provided that—

(i) So far as relates to the general election postponed by the operation of paragraph (a) of subsection (1) of this section the said Legislative Council may at any time after the expiration of the period of twelve months ending on the 10th day of April, One thousand nine hundred and forty-five, specified in paragraph (b) of subsection (2) of section three of the postponement Act, and within the twelve months computed from that date by resolution carried by an absolute majority recommend that the Governor issue his said warrant under section sixty-four of the Electoral Act for the general election aforesaid; and

(ii) So far as relates to the general election postponed by the operation of paragraph (b) of subsection (1) of this section the said Legislative Council may at any time after the tenth day of April, One thousand nine hundred and forty-six (that is to say after the time prescribed by section eight of the Constitution Act and by section sixty-four of the Electoral Act in relation to the twenty-first day of May, One thousand nine hundred and forty-six, upon which but for this Act the members for each Province referred to in paragraph (b) of subsection (1) of this section would retire) and within the two years computed from such tenth day of April, One thousand nine hundred and forty-six, by resolution carried by an absolute majority recommend that the Governor issue his said warrant under section sixty-four of the Electoral Act for the general election aforesaid; and

- (iii) The Governor shall give effect to any recommendation of the Legislative Council which may be made under either paragraph (i) or paragraph (ii) of this proviso.

4. Consequentially upon the operation of section three of this Act—

Terms of office of members of the Legislative Council extended.

(a) The terms of office of the senior members for each Province of the Legislative Council who but for the provisions of the postponement Act would have been due to retire by effluxion of time on the twenty-first day of May, One thousand nine hundred and forty-four, which by the provisions of the postponement Act were extended for the period specified in that Act shall be and are hereby further extended after such specified period for a period ending on the date of the completion of the postponed general election provided for in paragraph (a) of subsection (2) of section three of this Act, and such members shall continue to be the senior members of the Legislative Council accordingly;

(b) The terms of office of the members for each Province of the Legislative Council which would but for this Act expire by effluxion of time on the twenty-first day of May, One thousand nine hundred and forty-six, shall be and are hereby extended after that date for a period ending on the date of the completion of the postponed general election provided for in paragraph (b) of subsection (2) of section three of this Act and such members shall continue to be members of the Legislative Council accordingly.

5. Section three of the postponement Act shall be read subject to this Act and where that section imposes upon the Governor a duty and confers upon the Legislative Council a right which must be performed or may be exercised in a manner which is inconsistent with the provisions of this Act, such duty and such right shall as from the date of the passing of this Act be deemed no longer to exist.

Section 3 of the postponement Act to be read subject to this Act.