



Western Australia.

ANNO SEXAGESIMO

VICTORIÆ REGINÆ.

No. XXXII.

AN ACT to enable Western Australia to take part in the Framing, Acceptance, and Enactment of a Federal Constitution for Australasia.

[Assented to, 27th October, 1896.]

WHEREAS it is proposed that legislative provision shall be made by the Australasian Colonies for the framing, acceptance, and enactment of a Federal Constitution for Australasia: And whereas it is desirable to enable Western Australia to take part in the framing, acceptance, and enactment of the said Constitution: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in Parliament assembled, and by the authority of the same, as follows:—

Preamble.

1. THIS Act may be cited as the Australasian Federation Enabling Act of 1896.

Short title.

2. IN this Act the following terms bear the meanings set opposite to them respectively:—

Interpretation.

“Assembly”—The Legislative Assembly of Western Australia;

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“Colonies”—The Colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, and Western Australia, and the Province of South Australia, including the Northern Territory;

“Convention”—The Convention provided for by this Act;

“Council”—The Legislative Council of Western Australia;

“Governor”—The officer administering the Government, acting on the advice of the Executive Council;

“Prescribed”—Prescribed by Regulation made under this Act;

“Western Australian Representatives”—The Representatives of Western Australia in the Convention;

“Treasurer”—The Colonial Treasurer of Western Australia.

Chief objects.

3. THE chief objects of this Act are to provide as follows:—

(1.) For the representation of Western Australia in a Convention to be assembled for the purpose of framing a Federal Constitution for Australasia, and consisting of ten Representatives of each Colony;

(2.) For transmitting the Constitution for Legislative enactment by the Imperial Parliament.

Commencement.

4. THIS Act shall come into operation on a day to be fixed by Proclamation.

Parts.

5. THIS Act is divided into three parts, as follows:—

PART I.—THE CONVENTION;

PART II.—ADOPTION OF CONSTITUTION AND TRANSMISSION FOR LEGISLATIVE ENACTMENT;

PART III.—SUPPLEMENTAL.

PART I.—THE CONVENTION.

Ten members to be elected.

6. FOR the purpose of the representation of Western Australia in the Convention, ten Representatives shall be chosen in the manner hereinafter provided, whose duty it shall be to take part in the proceedings of a Convention to be assembled and held subject to the conditions set forth in the First Schedule to this Act.

First Schedule.

Members.

7. EVERY person qualified and entitled to vote for the election of a member of the Assembly, and no other person, shall be capable of being nominated for membership of the Convention as a Western Australian Representative.

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8. THE seat of a Western Australian Representative shall be vacated—

Vacancies.

- (1.) By resignation under his hand addressed to the Governor ;
- (2.) By failure, without leave of absence from the Convention, to attend any five sittings thereof ;
- (3.) By any circumstance, other than resignation or absence, which in the case of a member of the Assembly would vacate his seat therein.

9. EVERY vacancy occurring pursuant to the preceding section shall forthwith be filled by a fresh election.

Vacancies, how filled.

10. THE first election of Western Australian Representatives shall take place on a day, as nearly as may be conveniently practicable, the same as the day of first election of Representatives of other Colonies.

First election.

11. FOR the purposes of such election, the Colony of Western Australia shall be one electorate.

Whole Colony to be one electorate.

12. THE Governor may appoint, by commission under his hand and seal, a fit person to be Returning Officer.

Returning Officer.

Every such appointment shall be notified in the *Government Gazette*.

In case of sickness or other cause preventing any Returning Officer from acting at any election, the Governor may appoint some person to act as deputy Returning Officer in his stead.

13. THE Governor may from time to time direct writs to the Returning Officer for the election of a Western Australian Representative or Representatives, which writs shall specify that—

Writs, nomination, and polling.

- (a.) The place of nomination and polling shall be the Legislative Assembly Chamber, Perth.
- (b.) The poll shall be taken between the hours of ten o'clock in the forenoon and noon only.

Not less than fifteen days shall respectively elapse between—

- (a.) The date of the writ and the day of nomination ;
- (b.) The day of nomination and the day of polling.

A copy of every such writ shall be forthwith published in the *Government Gazette*.

14. IN order that any person may be or become a candidate at an election, he shall be nominated by not less than twenty persons,

How person may become candidate.

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each of whom is entitled to vote at the election of a member of the Assembly for some electoral district within the Colony, in manner following, that is to say—Before six o'clock after noon of the day of nomination named in the writ, there shall be delivered to the Returning Officer, who shall, if required, give a receipt for the same, a nomination paper naming such person as a candidate at such election and signed by him and the persons nominating him, in the following form:—

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Form of nomination.

We, the undersigned persons qualified and entitled to vote for the election of a member of the Legislative Assembly of the Colony of Western Australia, do hereby nominate [*state Christian name and surname*], of [*state residence and occupation*], for the office of Western Australian Representative for the said Colony.

[*Here are to follow the signatures, with name of roll on which the nominator is registered, and his number on the roll.*]

I hereby consent to be nominated, and if elected, to serve as a Western Australian Representative.

[*Signature of person nominated.*]

No money deposit required.

15. NO payment of money shall be required to be made to the Returning Officer in respect of any nomination.

Advertisements and intimations.

16. AS soon as possible after six o'clock after noon of the day of nomination, the Returning Officer shall advertise in the *Government Gazette* the names of all the persons nominated, and shall deliver or send to every member of the Council and Assembly a list of such names, and an intimation of the place, day, and hour at and on which the polling for the election will be held.

Number of members.

17. UPON the day appointed for the polling, the members of the Council and Assembly, sitting and voting together, may elect by ballot from among the persons respectively nominated ten members to represent the Colony of Western Australia in the Convention.

How member not present may vote.

18. ANY member of the Council or Assembly may, by a writing under his hand, or by telegraph message under the provisions of the Telegraphic Messages Act, 1874, addressed to the Returning Officer, and delivered to him at or before the time of election, indicate the persons for whom he desires to vote, and the votes so given shall be added to the votes given by ballot.

Endorsement and return of writs.

19. THE names of the persons so elected shall be endorsed upon the writ by the Returning Officer, who shall return the writ so endorsed to the Governor, and the names of the persons so endorsed

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shall be published in the *Government Gazette*. Such publication shall be conclusive evidence of their election and of their qualification as Western Australian Representatives. Evidence.

20. IN the event of an equality of votes for two or more persons, the Returning Officer shall report the fact to the Governor, and a second ballot for such persons shall take place and the same procedure followed as in the first ballot. Equality of votes.

The election of every person so determined shall be published in the *Government Gazette* as hereinbefore provided.

21. THE members of the Council and Assembly voting shall, in every case, vote for the full number of ten members to be elected, and every ballot-paper which contains a greater or a lesser number of candidates not struck out than the ten members to be elected, shall be rejected at the close of the poll. Full number of members to be voted for.

22. UNLESS and until otherwise prescribed, the laws relating to the conduct of elections under the Electoral Act, 1895, the proceedings before and at and subsequent to such elections, electoral offences, and all incidental matters shall apply *mutatis mutandis* to the election of Western Australian Representatives. Application of general laws.

23. AS soon as convenient after a draft Constitution has been prepared by the Convention, and has been received by the Governor, it shall be submitted for consideration to each House of Parliament sitting in Committee of the Whole, and such amendments as may be desired by either House, together with the draft Constitution, shall be remitted to the Convention through one of the Western Australian Representatives. Submission of Draft Constitution to both Houses of Parliament.

24. EACH Western Australian Representative shall cease to hold office at the expiration of fourteen days after the proceedings of the Convention have closed. Expiration of term of office.

25. EACH Western Australian Representative shall be entitled during his term of office to payment for his services at such rate as the Governor may determine, to be paid by the Treasurer out of the Consolidated Revenue. The position of a Western Australian Representative shall not be deemed or taken to be an office or place of profit or emolument or of employment in the public service, within the meaning of any law now or hereafter in force in the Colony of Western Australia. Payment of representatives.
Not to be an office of profit under Crown.

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Payment of expenses
of Convention.

26. WESTERN Australia shall contribute to the payment of the expenses of the meeting and proceedings of the Convention in the proportion which the population of Western Australia bears to the total population of the Colonies represented at the Convention, and the Treasurer shall make such payment accordingly out of the Consolidated Revenue.

Draft Constitution to
be published in
Western Australia
and laid before
Parliament.

27. WHEN a draft Constitution, as finally adopted by the Convention, has been received by the Governor, a copy thereof shall be laid before Parliament, and the Governor may also cause the same to be published and made known throughout Western Australia in such manner as he may think best adapted to inform the people of the provisions thereof.

To be submitted to
electors.

28. THE draft Constitution, as finally adopted by the Convention, if approved by Parliament, shall be submitted for the decision of the electors for the Legislative Assembly of Western Australia by their vote; and if a majority of the electors voting on such question signify their approval of such Constitution, the same may be adopted by the Colony, provided that any number of votes in the affirmative less than six thousand shall be equivalent to the rejection of the Constitution.

PART II.—ADOPTION OF CONSTITUTION FOR TRANSMISSION FOR LEGISLATIVE ENACTMENT.

Addresses to the
Queen.

29. THE adoption of the Constitution by Western Australia may be signified by the passing of an Act or by a joint resolution of both Houses of Parliament, and both Houses may thereupon adopt Addresses to the Queen praying that the Constitution may be passed into law by the Imperial Parliament, subject to the adoption of similar addresses by at least two other Colonies, of which New South Wales shall be one.

Transmission.

30. WHEN Addresses have been agreed to, pursuant to the preceding section, the same shall be transmitted to the Queen with a certified copy of the Constitution.

PART III.—SUPPLEMENTAL.

Regulations.

31. THE Governor may from time to time, by Proclamation, make Regulations not inconsistent herewith, for the purpose of carrying into effect such provisions of this Act as relate to Western Australia.

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32. ALL such Regulations shall be published in the *Government Gazette*, and on such publication shall have the force of law; and all such Regulations shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be then sitting, or if Parliament be not then sitting, within fourteen days after the next meeting of Parliament.

Publication of Reg-
ulations.

In the name and on behalf of the Queen I hereby assent
to this Act.

ALEX. C. ONSLOW, Governor's Deputy.

THE FIRST SCHEDULE.

- Constitution of Convention. 1. The Convention shall consist of ten Representatives of each Colony represented.
- Meeting of Convention. 2. When the first elections have been held in three or more Colonies, a meeting of the Convention shall be convened for a time and place agreed to by the Governors of such Colonies, and, in default of agreement, at such time and place as a majority of such Governors shall decide, or, in case of an equal division, as the Governor of the senior of such Colonies shall fix.
- Procedure. 3. The Convention may adopt Standing Orders, and may provide for keeping and publishing records and journals of its proceedings, and for the conduct of its business, in such manner as shall be thought fit; and, until otherwise provided, the proceedings of the Convention shall be regulated by the Standing Orders and practice of the House of Commons so far as applicable.
- Convention to frame a Federal Constitution. 4. The Convention shall be charged with the duty of framing for Australasia a Federal Constitution under the Crown in the form of a Bill for enactment by the Imperial Parliament.
- President. 5. The Convention shall at its first meeting, before proceeding to the despatch of any other business, elect a Member of such Convention to be President thereof.
- Resignation or removal of President. 6. The President may resign his Office, or he may be removed from Office by a vote of the Convention; and upon his ceasing to be a Member of the Convention his Office shall become vacant.
- Absence of President. 7. In the case of the absence of the President the Convention may choose some other Member to perform his duties during his absence.
- Supply of vacancy. 8. Whenever a vacancy shall occur in the Office of President, such vacancy shall forthwith be filled by a fresh election.
- Quorum. 9. The presence, exclusive of the President, of at least one-half of the total number of the Members of the Convention shall be necessary to constitute a meeting of the Convention for the exercise of its powers.
- Committees. 10. The Convention may temporarily delegate any of its powers to any Committee of its Members, but the Constitution shall be submitted to and approved by the Convention.
- Voting. 11. Questions arising in the Convention shall be decided by a majority of the votes of the Members present, other than the President; and when on any division the votes are equal, but not otherwise, the President shall have a vote, and his vote shall decide the question.
- Adjournment of Convention. 12. When the Constitution shall have been framed and approved by the Convention, two copies thereof shall be supplied to each of the Members of the Convention, and six copies thereof to the Governor of Western Australia, and the President shall declare the sitting of the Convention adjourned to a time and place to be fixed by the Convention, not being less than sixty nor more than one hundred and twenty days thereafter.
- Re-assembling of Convention. 13. On the re-assembling of the Convention, the Constitution as framed and approved prior to the adjournment shall be considered, with any amendments which may be proposed, and shall be finally adopted with any amendments that may be agreed to.
- Final adoption. 14. So soon as the Convention shall have finally adopted a Federal Constitution as required by the preceding section, and shall have disposed of all incidental business, two copies thereof, certified by the President, shall be supplied to each of the Members of the Convention, and six copies certified in like manner shall be forwarded to the Governor of Western Australia, and the President shall declare the proceedings of the Convention closed.