

1910.

THE PARLIAMENT OF THE COMMONWEALTH.

## HOUSE OF REPRESENTATIVES.

Read 1<sup>o</sup> 13th September, 1910.*(Brought in by the Honorable F. W. Bamford.)*

## A BILL

FOR

## AN ACT

To alter the provisions of the Constitution so as to provide for the Reconstruction of the States of the Commonwealth.

WHEREAS not less than sixty thousand residents of the Commonwealth have presented Petitions to Parliament praying that the question of the Reconstruction of the States of the Commonwealth on a broader and more National basis be referred to the Electors : Be it therefore enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth, with the approval of the Electors as required by the Constitution, as follows :—

1. This Act may be cited as *Constitution Alteration (Unification)* Short title.  
10 1910.

## THE PARLIAMENT.

2. The Constitution is altered by repealing section seven and inserting the following section in lieu thereof :—

“ 7. The Senate shall be composed of Senators directly chosen by the people in the following manner— The Senate.

(i.) The Parliament shall divide the Commonwealth into sixteen Provinces having an equality of population with community of interests so far as may be practicable : Provided, that all that part or portion of Australia

[C. 42]—830/14.9.1910.—F.12787.

lying

- lying to the northward of the twenty-sixth parallel of south latitude and lying to the westward of the one hundred and thirty-eighth meridian of east longitude shall not be included in the division of the Commonwealth into Provinces : 5
- (ii.) A quota shall be obtained by dividing the population of the Commonwealth, as ascertained at the census of One thousand nine hundred and eleven, by sixteen and the difference between the population of any two Provinces shall not exceed one-fourth above or one-fourth below the quota : 10
- (iii.) Three Senators shall be chosen for each Province :
- (iv.) Senators shall be chosen for a term of four years :
- (v.) In choosing Senators each Province shall vote as one electorate." 15
- New Section.** 3. The Constitution is altered by inserting the following new section :—
- “ For the purposes of this Act, and until Parliament otherwise provides, all that part or portion of Australia lying to the southward of the twenty-sixth parallel of south latitude and lying to the westward of the one hundred and twenty-ninth meridian of east longitude and also the island of Tasmania shall each be deemed to be and to contain two Provinces.” 20
- Repeal.** 4. The Constitution is altered by repealing sections nine, ten, and eleven. 25
- Alteration of Section 12.** 5. Section twelve of the Constitution is altered by omitting the words “ The Governor of a State may cause writs to be issued for elections of Senators for the State ” and inserting the words “ The Governor-General may cause writs to be issued for the elections of Senators.” 30
- Casual vacancy in the Senate.** 6. The Constitution is altered by repealing section fifteen and inserting the following section in lieu thereof :—
- “ 15. If the place of a Senator becomes vacant before the expiration of his term of office, the Governor-General shall within a reasonable time notify the Administrator of the Province in the representation of which the vacancy has occurred. Immediately upon the receipt of such notification the Administrator shall communicate the same to the Provincial Council, whereupon the Provincial Council shall, by an absolute majority of its members, choose some person to fill the vacancy for the unexpired term. Should the Provincial Council not be in session when the vacancy occurs, the Administrator, with the advice of the Executive Committee, shall appoint some person to fill the vacancy until the expiration of seven days after the commencement of the next ensuing session of the Council, or until the election of a successor, whichever shall first happen.” 35  
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45
- Repeal of Section 21.** 7. The Constitution is altered by repealing section twenty-one.
8. The

8. The Constitution is altered by inserting the following new section :— New section .

“ Notwithstanding anything contained in the preceding sections any and every Senator elected at the elections of One thousand nine hundred and ten, shall, if not re-elected at the first elections held under this Act, receive all monetary allowances, travelling and other privileges to which he would be entitled if this Act had not been passed.” Senators' privileges maintained.

#### HOUSE OF REPRESENTATIVES.

9. The Constitution is altered by repealing section twenty-four and inserting the following section in lieu thereof :—

“ 24. The House of Representatives shall be composed of Members directly chosen by the people in the following manner :— House of Repre entatives.

- (i.) The Parliament shall divide each Province into six electorates ;
- (ii.) a quota shall be obtained by dividing the population of each Province, as ascertained at the census of One thousand nine hundred and eleven, by six, and the difference between the population of any two electorates shall not exceed one-fifth above or one-fifth below the quota ;
- (iii.) one Member for the House of Representatives shall be chosen for each electorate ;
- (iv.) Members for the House of Representatives shall be chosen for a term of four years.”

10. The Constitution is altered by repealing sections twenty-eight and twenty-nine. Repeal.

11. The Constitution is altered by omitting the word “ four ” of section twenty-eight and inserting the word “ six ” in lieu thereof ; provided that the Leader of His Majesty’s Opposition shall receive an additional allowance of four hundred pounds a year. Alteration of Section 28.

#### POWERS OF PARLIAMENT.

12. Section fifty-one of the Constitution is repealed and the following section inserted in lieu thereof :— Repeal of Section 51.

“ 51. The Parliament shall, subject to this Constitution, make laws for the peace, order, and good government of the Commonwealth.”

#### THE EXECUTIVE GOVERNMENT.

13. Section sixty-five of the Constitution is altered by omitting the word “ seven ” and inserting the word “ ten ” in lieu thereof. Alteration of Section 65.

14. Section sixty-six of the Constitution is altered by omitting the word “ twelve ” and inserting the word “ sixteen ” in lieu thereof. Alteration of Section 66.

THE

## THE PROVINCES.—THE EXECUTIVE.

Constitution of  
Provincial  
Executive.

15. The Constitution is altered by inserting the following new sections :—

(1.) In each Province there shall be a chief executive officer, who shall be chosen by the people of the Province, and who shall be styled the Administrator of the Province, and in whose name all executive acts relating to provincial affairs therein shall be done. 5

(2.) Each Administrator shall hold office for a term of four years, and shall not be removed before the expiration thereof except by the Governor-General in Council for cause assigned, which shall be communicated to both Houses of Parliament within fourteen days after the removal, or, if Parliament is not sitting, then within seven days after the commencement of the next ensuing session. 10

(3.) The Governor-General shall, whenever necessary, issue writs for the election of Administrators. 15

(4.) Parliament shall make such regulations as may be necessary to provide for the elections of Administrators.

(5.) Any person qualified to vote for a member of the House of Representatives shall be qualified to vote for the election of an Administrator. 20

(6.) The Provincial Council may from time to time appoint a deputy Administrator to execute the office and functions of the Administrator during absence, illness, or other inability.

(7.) No person shall be eligible to hold the office of Administrator unless he shall have reached the full age of thirty-five years, and shall have been a resident of the Commonwealth for five years next preceding the date of his election. 25

(8.) Until Parliament shall otherwise provide, the salaries of Administrators shall be One thousand pounds a year, and shall not be reduced during their respective terms of office. 30

## PROVINCIAL COUNCILS.

Provincial  
Councils  
how chosen.

16.—(1.) In each Province there shall be a Provincial Council. Members of the Provincial Councils shall be directly chosen by the people in the following manner :—

(i.) Until Parliament otherwise provides each Province shall be divided into twenty-four electorates ; 35

(ii.) A quota shall be ascertained by dividing the population of the Province, as disclosed at the census of One thousand nine hundred and eleven, by twenty-four, and the difference between any two electorates shall not exceed one-sixth above or one-sixth below the quota ; 40

(iii.) One member for the Provincial Council shall be chosen for each electorate.

(2.) Each Provincial Council shall continue for a term of three years and shall not be subject to dissolution except by effluxion of time. 45

(3.) Any person qualified to vote for the election of a Provincial Councillor shall be qualified to be a Provincial Councillor.

(4.) Any

(4.) Any person qualified to vote for the election of a member of the House of Representatives shall be qualified to vote for the election of a Provincial Councillor.

5 17. The Governor-General shall cause writs to be issued for the first elections of Provincial Councillors, held under this Act, and all provisions made under this or other Acts of the Commonwealth for the elections of members for the House of Representatives, shall, *mutatis mutandis*, be applicable to such elections.

Issue of writs for elections of Provincial Councillors.

10 18. Subsequent to the first elections held under this Act, the Administrator shall issue writs for the elections of Provincial Councillors.

15 19. The Administrator of each Province shall, by proclamation, fix such time for holding the session of the Provincial Council as may be recommended by the Executive Committee, and may from time to time prorogue such Council: Provided that there shall be a session of every Provincial Council once at least every year so that a period of twelve months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session.

Fixing time for holding sessions.

20 20. The Provincial Council shall elect from its members a Chairman who shall preside at all meetings of the Council: Provided that the Council may appoint a deputy Chairman, who shall preside during any absence of the Chairman.

Provincial Council to elect Chairman.

25 21. The Council shall make rules for the conduct of its proceedings. Such rules shall be transmitted by the Administrator to the Governor-General in Council and the said rules shall have full force and effect unless and until the Governor-General in Council shall express his disapproval thereof in writing to the Administrator.

Councils to make rules for conduct of business.

30 22. There shall be freedom of speech in the Provincial Council and no member shall be liable to any action or proceeding in any court by reason of his speech or vote in such Council.

Freedom of speech allowed at Council meetings.

35 23. If the place of a Provincial Councillor become vacant before the expiration of his term of office the Provincial Council shall, by an absolute majority of its members, choose some person to fill the vacancy, and the person so chosen shall hold office as a Provincial Councillor until the next ensuing election of Provincial Councillors.

#### THE PROVINCIAL EXECUTIVE COMMITTEE.

40 24.—(1.) Each Provincial Council shall, at its first meeting after any general election, elect from its members four persons, who, with the Chairman, shall form an Executive Committee for the Province. The members of the Executive Committee shall hold office until the election of their successors in the same way.

Executive Committees.

45 (2.) If any casual vacancy arise in the Executive Committee the Provincial Council shall elect some person from amongst its members to fill the vacancy.

25.—(1.) Each

Allowances to  
Provincial  
Councillors.

25.—(1.) Each Provincial Council shall, subject to the approval of the Governor-General in Council, prescribe such monetary allowances as shall be paid to—

- (i.) Members of the Provincial Councils :
- (ii.) Chairmen of Provincial Councils : 5
- (iii.) Members of the Executive Committees of Provincial Councils.

(2.) All allowances paid to Provincial Councillors, Chairmen of Provincial Councils, or members of the Executive Committees of Provincial Councils shall commence on the date of their election to the respective offices. 10

Questions, how  
determined.

26. Questions arising in the Executive Committee shall be determined by a majority of votes of the members present, and, in case of an equality of votes, the Chairman shall have also a casting vote. The Executive Committee shall, subject to the approval of the Governor-General in Council, make rules for the conduct of its proceedings. 15

Administration  
by Executive  
Committee.

27. The Executive Committee shall, on behalf of the Provincial Council, carry on the administration of Provincial affairs. Until the first election of members of the Executive Committee such administration shall be carried on by the Administrator. 20

Powers vested in  
Executive  
Committees.

28. Subject to the provisions of this Act, all powers, authorities, and functions which at the coming into force of this Act are in any of the States vested in or exercised by the Governor or the Governor in Council, or any Minister of a State, shall, after the coming into force of this Act, be vested in the Executive of the Province so far as such powers, authorities, and functions relate to matters in respect of which the Provincial Council is competent to make such ordinances. 25

#### POWERS OF PROVINCIAL COUNCILS. 30

29. Subject to the provisions of this Act and the assent of the Governor-General in Council as hereinafter provided, the Provincial Council may make ordinances in relation to matters coming within the following classes of subjects (that is to say)—

- (i.) Direct taxation within the Province in order to raise revenue for provincial purposes : 35
- (ii.) The borrowing of money on the whole credit of the Province : Provided that no moneys shall be borrowed other than from the Governor-General in Council :
- (iii.) Local works and undertakings other than railways and harbors, and such other works as extend beyond the borders of the Province and subject to the power of Parliament to declare any work a national work, and to provide for its construction by arrangement with the Provincial Council or otherwise : 40

(iv.) Roads, 45

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- (iv.) Roads, ferries, and bridges, other than bridges connecting two Provinces: Provided that when it is proposed to erect a bridge connecting two Provinces the Governor-General in Council may allow the Provincial Councils of the Provinces concerned to make mutual arrangements for the erection of any such bridge for the capital outlay upon which Parliament shall be responsible :
- 5 (v.) Water conservation and irrigation to the extent and subject to the conditions defined by Parliament :
- 10 (vi.) Agriculture and forestry :
- (vii.) The establishment and management of hospitals and charitable institutions :
- (viii.) Municipal institutions, divisional boards and councils, shire councils, and other local institutions of a like nature :
- 15 (ix.) Hotel, auctioneer, hawker, and other licences other than licences to professional persons :
- (x.) Markets and pounds :
- 20 (xi.) Fish and game preservation ; and the protection of native birds and animals :
- (xii.) The incorporation of companies the operations of which do not extend beyond the Province :
- (xiii.) Provincial lands, to the extent and subject to the conditions defined by Parliament :
- 25 (xiv.) Mines and minerals other than coal mines and coal :
- (xv.) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law or ordinance of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section :
- 30 (xvi.) Generally all matters which in the opinion of the Governor-General in Council are of a merely local or provincial nature :
- 35 (xvii.) All other subjects in respect of which Parliament shall by any law delegate the power of making ordinances to the Provincial Council.

30. Any ordinance made by a Provincial Council shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of Parliament.

Ordinances must be in harmony with Acts of Parliament.

- 40 31. A Provincial Council may recommend to Parliament the passing of any law relating to any matter in respect of which such Council is not competent to make ordinances.

Provincial Council may request Parliament make laws.

- 45 32. A Provincial fund shall be formed in every Province, into which shall be paid all revenues raised by or accruing to the Provincial Council and all moneys paid over by the Governor-General in Council. Such fund shall be appropriated by the Provincial Council by ordinance for the purposes of the provincial administration generally, or, in the case of moneys paid over by the Governor-General in Council for particular purposes, then for such purposes

Provincial fund to be formed.

purposes. A vote or resolution for the appropriation of money shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Administrator to the Council.

Ordinances must receive assent of Governor-General in Council.

33. When a proposed ordinance has been passed by a Provincial Council it shall be presented by the Administrator to the Governor-General in Council for his assent. The Governor-General in Council shall declare within two months from the presentation to him of the proposed ordinance that he assents thereto, or that he withholds assent, or that he reserves the proposed ordinance for further consideration. A proposed ordinance so reserved shall not have any force unless and until within one year from the day on which it was presented to the Governor-General in Council he makes known by proclamation that it has received his assent. 5 10

Ordinances have force of law within Province.

34. An ordinance assented to by the Governor-General in Council and promulgated by the Administrator shall, subject to the provisions of this Act, have the force of law within the Province. 15

Audit of Provincial accounts.

35.—(1.) In each Province there shall be an auditor of accounts to be appointed by the Governor-General in Council.

2.) No such auditor shall be removed from office except by the Governor-General in Council for cause assigned, which shall be communicated to Parliament within one week after the removal, if Parliament be then sitting, and, if Parliament be not sitting, then within one week after the commencement of the next ensuing sitting. 20 25

(3.) Each such auditor shall receive out of the Consolidated Revenue Fund such salary as the Governor-General in Council, with the approval of Parliament, shall determine.

(4.) Each such auditor shall examine and audit the accounts of the Province to which he is assigned subject to such regulations and orders as may be framed by the Governor-General in Council and approved by Parliament, and no warrant signed by the Administrator authorizing the issue of money shall have effect unless countersigned by such auditor. 30

#### THE JUDICATURE.

Repeal of Sections 74, 76, 77, 78, and 79.

36. The Constitution is altered by repealing sections seventy-four, seventy-six, seventy-seven, seventy-eight, and seventy-nine. 35

#### FINANCE AND TRADE.

Repeal of Section 81 and insertion of new Section.

37. The Constitution is altered by repealing section eighty-one and inserting the following section in lieu thereof :— 40

“ 81.—(1.) All revenues from whatever source arising over which the several States have, at the passing of this Act, power of appropriation and control, shall vest in the Governor-General in Council.

(2.) There shall also be formed a Consolidated Revenue Fund into which shall be paid all other revenues raised or received by the Governor-General in Council, and such fund shall be appropriated for the purposes of the Commonwealth, subject to the charges imposed under this Act.” 45

38. The



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38. The Constitution is altered by repealing sections ninety-four to ninety-eight inclusive. Repeal of Sections 94 to 98 inclusive.
39. The Constitution is altered by repealing section one hundred and two. Repeal of Section 102.
- 5 40. The Constitution is altered by inserting the following new section :— New Section. Finance Committee.
- “ (1.) Upon the passing of this Act a Committee, to be called the Finance Committee, shall be appointed by the Governor-General in Council, and shall consist of the Auditor-General, the principal  
10 Secretary to the Treasury, the Comptroller of Customs, the Secretary to the Post Office, and three other persons.
- (2.) The functions of the Finance Committee shall be to examine into all matters necessary to enable it to report and recommend to  
15 Parliament what proportion, if any, of the Consolidated Revenue should be paid over to the several Provinces.
- (3.) Such proportion, if any, of the revenues raised from customs, excise, or other duties as the Finance Committee recommend shall be paid to the several Provinces shall be paid on a *per capita* basis.
- 20 (4.) The Finance Committee shall report within a period of twelve months from the date of its being formally constituted.
- (5.) Pending the completion of the inquiry of the Finance Committee, and until Parliament otherwise provides, there shall be paid out of the Consolidated Revenue Fund to the Administrator of each  
25 Province such sums as the Governor-General in Council may consider necessary for the due performance of the services and duties assigned to the Provinces respectively.”
41. The annual interest of the public debts of the States, and any sinking funds constituted by law, shall, upon this Act coming  
30 into force, form a first charge upon the Consolidated Revenue Fund. Interest on public debts.
42. All stocks, cash, bankers' balances, and securities for money belonging to each of the States, shall, upon this Act coming into force, become the property of the Commonwealth: Provided that the balances of any funds raised or appropriated for any special  
35 purpose in any of the States shall be deemed to have been appropriated by Parliament for the special purposes for which they have been provided. All moneys and securities to pass over to Commonwealth.
43. Crown lands, public works, and all property throughout the Commonwealth, movable or immovable, and all rights of whatever  
40 description belonging to the several States, shall, upon this Act coming into force, vest in the Governor-General in Council subject to any debt or liability specifically charged thereon. Crown lands works and rights become property of Commonwealth.
44. The Commonwealth shall assume all debts and liabilities of the States existing at such time as this Act shall come into force, subject, notwithstanding any other provision contained in this Act,  
45 to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and without prejudice to any rights Commonwealth to take over all debts and liabilities.

rights of security or priority in respect of the payment of principal, or interest, sinking fund, and other charges conferred on the creditors of any of the States, and may, subject to such conditions and rights, convert, renew, or consolidate such debts.

#### THE STATES.

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Alteration of  
Section 106.

45. Section one hundred and six of the Constitution is altered by omitting the words "in accordance with the Constitution of the States" and inserting in lieu thereof the words "by the Parliament of the Commonwealth."

Alteration of  
Section 107.

46. Section one hundred and seven of the Constitution is altered by adding at the end thereof the words "until altered by the Parliament of the Commonwealth." 10

Repeal.

47. The Constitution is altered by repealing sections one hundred and eleven, one hundred and thirteen, and one hundred and twenty. 15

#### NEW STATES.

Repeal.

48. The Constitution is altered by repealing section one hundred and twenty-one.

To provide for  
territory not  
elsewhere  
specifically  
included.

49. The Constitution is altered by repealing section one hundred and twenty-two and inserting the following section in lieu thereof:— 20

"The Parliament may make laws for the government of any territory within the Commonwealth which is specifically excluded from that area within which Provinces shall be established—to wit—All that part or portion of Australia lying to the northward of the twenty-sixth parallel of South latitude, and lying to the westward of the one hundred and thirty-eighth meridian of East longitude. Parliament may allow the representation of such territory in either House of the Parliament to such extent and on such terms as it may think fit." 25 30

Repeal.

50. The Constitution is altered by repealing sections one hundred and twenty-three and one hundred and twenty-four.

#### MISCELLANEOUS.

51. The Constitution is altered by repealing section one hundred and twenty-five and inserting the following section in lieu thereof:— 35

Federal  
Capital.

"125.—(1.) The seat of Government shall be determined by the Parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth.

(2.) Such territory shall contain an area of not less than one thousand square miles, and such portion thereof as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor. 40

(3.) The Parliament shall sit at Melbourne until it meet at the seat of Government." 45

52. The

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52. The Constitution is altered by inserting the following new section :— New section.

5 "The Parliament shall make such laws or regulations as it may deem necessary for the management and control of railways, ports and harbors."

53. Until Parliament otherwise provides, all officers of the Public Service of the States shall, upon this Act coming into force, become officers of the Commonwealth. New section.

#### ALTERATION OF CONSTITUTION.

10 54. Section one hundred and twenty-eight of the Constitution is altered by omitting the three last paragraphs thereof and inserting in lieu thereof the following paragraphs :— Alteration of Section 128.

15 "When a proposed law is submitted to the electors the vote shall be taken in such manner as the Parliament prescribes. And if a majority of the electors voting approve of the proposed law it shall be presented to the Governor-General for the King's assent."

20 55. The Constitution is altered by omitting the word "State" wherever such omission may be necessary and inserting the word "Province" in lieu thereof. The word "State" to be omitted.

56. This Act shall be brought into force, by proclamation issued by the Governor-General, not later than the first day of March One thousand nine hundred and thirteen. Act to be brought into force.

