

CLB

No 8750



### AN ACT

To re-enact the Law relating to the Constitution of the State of Victoria and for other purposes.

WHEREAS the Legislative Council of the colony of Victoria <sup>[19th November, 1975.]</sup> did in the year 1854 pass a Bill intituled "An Act to establish a Constitution in and for the colony for Victoria" Preamble.:

And whereas the said Bill was presented to the then Lieutenant-Governor of Victoria for Her Majesty's assent and the said Lieutenant-Governor did thereupon declare that he reserved the said Bill for the signification of Her Majesty's pleasure thereon:

And whereas the Imperial Parliament deemed it expedient to authorize Her Majesty to assent to the said reserved Bill amended by the omission of certain provisions thereof:

And whereas the said Bill as amended was set forth in a Schedule to an Act of the Imperial Parliament passed in the 18th and 19th years of the reign of Her Majesty Queen Victoria intituled "An Act to enable Her Majesty to Assent to a Bill, as amended, of the Legislature of Victoria to establish a Constitution in and for the Colony of Victoria" by which Act Her Majesty in Council was authorized to assent to the said reserved Bill amended by the omission of certain provisions thereof, and the Bill was assented to accordingly:

And

\* Reserved 20th May, 1975. Proclamation of Royal Assent published in the Victoria Government Gazette, 19th November, 1975.



And whereas by the said Bill as so amended the Colony of Victoria was established as a self-governing colony with responsible government :

And whereas the said Bill as so amended is the Constitution of Victoria and is known as *The Constitution Act* :

And whereas it is provided by section LX. of the said *The Constitution Act* that the Legislature of Victoria has full power and authority from time to time by any Act or Acts to repeal alter or vary all or any of the provisions of *The Constitution Act* and to substitute others in lieu thereof :

Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

Short title.

1. (1) This Act may be cited as the *Constitution Act 1975*.

Commencement.

(2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

Division into Parts &c.

(3) This Act is divided into Parts and Divisions as follows :—

Part I.—The Crown ss. 6-14.

Part II.—  
The Parliament  
ss. 15-74.

- Division 1.—Constitution and Powers ss. 15-18.
- Division 2.—Privileges of Parliament s. 19.
- Division 3.—Summoning of Parliament. Oath of Allegiance ss. 20-23.
- Division 4.—Presiding Officers s. 24.
- Division 5.—Legislative Council ss. 25-32.
- Division 6.—Legislative Assembly ss. 33-40.
- Division 7.—Provisions applicable to both Council and Assembly ss. 41-48.
- Division 8.—Offices and Places of Profit ss. 49-61.
- Division 9.—Provisions relating to Appropriation Bills and Disagreements between the Houses ss. 62-68.
- Division 10.—Acts of Parliament ss. 69-71.
- Division 11.—Publication of Parliamentary Proceedings ss. 72-74.

Part III.—The Supreme Court ss. 75-87.

Part IV.—The Executive s. 88.

Part

- Part V.—
  - Financial ss. 89-94.
    - Division 1.—Consolidated Revenue ss. 89-93.
    - Division 2.—Expenses of Executive Council Legislative Council and Legislative Assembly s. 94.

Part VI.—Relation of Public Officers to Political Affairs s. 95.

Part VII.—Repeals and Amendments s. 96.

2. (1) All laws which at the commencement of this Act are in force within Victoria shall remain and continue to be of the same force authority and effect as if this Act had not come into force except insofar as the same are repealed or varied by or under this or any subsequent Act.

Existing laws, Constitution Act s. XI, and XII.

(2) All courts within Victoria and all offices judicial administrative or ministerial therein and all charters legal commissions powers and authorities except insofar as the same may be abolished altered or varied by or may be inconsistent with the provisions of this Act or are abolished altered or varied by any Act or Acts shall continue to subsist in the same form and with the same effect as if this Act had not come into force.

Existing courts and offices.

(3) The Supreme Court of the State of Victoria as at present constituted shall continue under and subject to the provisions of this Act and shall for all purposes be deemed to be the same court after as before the commencement of this Act.

(4) If the appointed day for the Legislative Council under the *Electoral Provinces and Districts Act 1974* has not passed at the time that this Act comes into operation, section 26 shall have effect until that appointed day as if for the expression "44 members" there were substituted the expression "36 members" and sub-section (1) of section 27 shall have effect as if for the expression "22 provinces" there were substituted the expression "18 provinces".

(5) If the appointed day for the Legislative Assembly under the *Electoral Provinces and Districts Act 1974* has not passed at the time this Act comes into operation sub-section (1) of section 35 shall have effect until that appointed day as if for the expression "81 districts" there were substituted the expression "73 districts".

3. (1) Subject to the *Imperial Acts Application Act 1922* all laws and statutes in force within the realm of England on the 25th day of July, 1828 (not being inconsistent with any law now in force) shall be applied in the administration of justice in the courts of Victoria, so far as they can be applied within Victoria.

Laws of England to be applied in the administration of justice. 9 Geo. IV. c. 83 s. 24.

(2) If any doubt arises as to the application of any such laws or statutes in Victoria, it shall be lawful for the Parliament by Act to declare whether such laws or statutes shall be deemed to extend to Victoria, and to be in force within Victoria, or to make and establish such limitations and modifications of such laws and statutes within Victoria as may be deemed expedient in that behalf.

Parliament may declare law in force and limit and modify them.

4. (1) The



Continuation of existing Houses.

4. (1) The Legislative Council and the Legislative Assembly as at present constituted shall continue under and subject to the provisions of this Act.

Continuance in office of members.

(2) Subject to the provisions of this Act, all members of the Parliament holding office at the commencement of this Act shall continue to do so, and every such member, or if he shall sooner vacate his office, the person, if any, who is elected to fill his place, otherwise than at a periodical election, shall retire at the time when such member would have retired by effluxion of time if this Act had not come into force.

No. 6224 s. 2 (2).

(3) Except as in this Act expressly or by necessary implication provided—

(a) all persons things and circumstances appointed or created by or under any of the Acts or enactments repealed by this Act or existing or continuing under any of such Acts or enactments immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if such Acts or enactments had not been so repealed ;

(b) in particular and without affecting the generality of the foregoing paragraph, such repeal shall not disturb the continuity of status operation or effect of any proclamation regulation rule by-law order appointment application probate letters of administration decision action cause matter appeal proceeding agreement examination affidavit declaration affirmation reference recognizance security certificate liability roll writ poll determination membership classification notice pension salary allowance liability or right made given issued accrued incurred or acquired or existing or continuing by or under any such Acts or enactments before the commencement of this Act.

Interpretations.

5. In this Act unless inconsistent with the context or subject-matter—

" Assembly."

" Assembly " means Legislative Assembly of Victoria.

" Chief Justice."

" Chief Justice " means the Chief Justice of the Supreme Court and includes " Acting Chief Justice " and in the absence of the Chief Justice and the Acting Chief Justice from duty means the senior puisne Judge for the time being present.

" Consolidated Fund."

" Consolidated Fund " means the Consolidated Fund constituted under the *Public Account Act* 1958.

" Council."

" Council " means Legislative Council of Victoria.

" Court

" Court of Disputed Returns " means the Court of Disputed Returns provided for in section 280 of *The Constitution Act Amendment Act* 1958.

" Court of Disputed Returns."

" District " means electoral district of the Assembly.

" District."

" General election " means an election at which all the members of the Council or of the Assembly (as the case may be) have to be elected.

" General election."

" Master " means Master of the Supreme Court.

" Master."

" Parliament " means the Parliament of Victoria.

" Parliament."

" Parliamentary Offices Committee " means the Parliamentary Offices Committee constituted by the *Parliamentary Officers Act* 1975.

" Parliamentary Offices Committee."

" Periodical election " in relation to the Council means an election at which one-half of the members of the Council have to be elected.

" Periodical election."

" Prescribed " means prescribed by this Act or any regulation thereunder.

" Prescribed."

" President " means President of the Council and includes any person acting as the President of the Council.

" President."

" Presiding officer " means—

" Presiding officer."

(a) in relation to the Legislative Council—the President ; and

(b) in relation to the Legislative Assembly—the Speaker.

" Province " means electoral province of the Council.

" Province."

" Speaker " means Speaker of the Assembly and includes any person acting as the Speaker of the Assembly.

" Speaker."

" Subdivision " means subdivision of a province or district and includes any unsubdivided province or district.

" Subdivision."

" Supreme Court " means the Supreme Court of the State of Victoria.

" Supreme Court."

PART I.—THE CROWN.

6. The Governor appointed by Her Majesty shall be Her Majesty's representative in Victoria.

The Governor to be Queen's representative.

7. (1) The Governor shall receive a salary at the rate of \$20,500 per annum and shall defray the salaries of his staff his travelling and all other expenses out of such salary except to the extent that moneys are appropriated by the Parliament to meet expenses for services in connexion with Government House (including secretarial domestic and maintenance services).

Appropriation for staff and other expenses of the Governor. No. 6224 s. 10 (1).

(2) The salary of the Governor shall be paid out of the Consolidated Fund which is hereby to the necessary extent appropriated accordingly.

8. (1) The



Convocation prorogation and dissolution. Constitution Act s. XXVIII.

8. (1) The Governor may by proclamation or otherwise fix such places within Victoria and subject to this Act such times for holding every session of the Council and Assembly and may vary and alter the same respectively in such manner as he thinks fit.

(2) The Governor may if he thinks fit by proclamation or otherwise from time to time—

(a) prorogue the Council the Assembly or both the Council and the Assembly ; or

(b) dissolve the Assembly.

Demise of the Crown not to dissolve Parliament. No. 6224 s. 5.

9. The Parliament in being at any demise of the Crown shall not be determined or dissolved by such demise, but shall continue so long as it would have continued but for such demise, unless it is sooner prorogued or dissolved by the Governor.

Certain acts not to be affected by a demise of the Crown. No. 6224 s. 4.

10. All things done within Victoria at any time after any demise of the Crown but before the Governor by his proclamation published in the *Government Gazette* has notified such demise and which but for this Act might be affected by such demise shall have the same effect and be of the same force as if no such demise had happened.

All appointments &c. by the Governor to continue in force notwithstanding demise of the Crown. No. 6224 s. 6.

11. (1) Every commission warrant or other authority for the exercise of any office or employment of any kind or nature within Victoria issued or exercised by the Governor or the Governor in Council or by any other person in the name and on behalf of Her Majesty in virtue of his office or under the authority of any Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland or of the Parliament of Victoria or of any rules or regulations made thereunder respectively shall continue in full force notwithstanding any demise of the Crown and be of the same effect as if no such demise had happened.

All civil or criminal process &c. to subsist and continue notwithstanding demise.

(2) No action suit or other process or proceeding civil or criminal in or to which Her Majesty is a party or which has been commenced or carried on in her name or by her authority shall by reason of her demise abate discontinue or be in any manner affected ; but every such action suit process or proceeding shall be carried on enforced or otherwise completed or acted on in the name of the reigning Sovereign for the time being and as if such demise had not happened.

(3) The Public Seal of the State and other Public Seals in being at the time of the demise of the Crown shall continue and be made use of as if no such demise had happened.

Exercise by the Governor of powers given to and reservation in favour of Her Majesty. No. 6224 s. 8.

12. Where in and by any grant or lease from the Crown or deed or document any exception or reservation is made in favour of or any power is given to Her Majesty or Her Majesty her heirs and successors, the Governor may on behalf of Her Majesty or Her Majesty her heirs and successors take the benefit and advantage of any such exception or reservation and may exercise any such power in the same manner as Her Majesty or Her Majesty her heirs and successors might have done.

13. All

13. All contracts of every kind lawfully entered into by or on behalf of Her Majesty or any of her successors to the Crown with any person body or authority and all benefit and advantage thereof and all liability in respect thereof shall attach and belong to the heirs and successors of Her Majesty or of such successors (as the case may be) although they are not expressly named in any such contract.

Contracts by or on behalf of Her Majesty. No. 6224 s. 7.

14. The Governor may transmit by message to the Council or the Assembly for its consideration any amendment which he desires to be made in any Bill presented to him for Her Majesty's assent and all such amendments shall be taken into consideration in such convenient manner as the standing rules and orders of the Council and the Assembly provide.

Governor's amendments. Constitution Act s. XXXVI.

#### PART II.—THE PARLIAMENT.

##### DIVISION 1.—CONSTITUTION AND POWERS.

15. The legislative power of the State of Victoria shall be vested in a Parliament, which shall consist of Her Majesty, the Council, and the Assembly, to be known as the Parliament of Victoria.

Parliament. No. 6224 s. 11.

16. The Parliament shall have power to make laws in and for Victoria in all cases whatsoever.

Legislative power of Parliament. Constitution Act s. 1.

17. Subject to this Act the Parliament may make laws regulating the sale letting disposal and occupation of the waste lands of the Crown within Victoria and of all mines and minerals which are within the jurisdiction control or disposition of Her Majesty in and adjacent to Victoria.

Waste lands of the Crown. Constitution Act s. LIV.

18. (1) Subject to sub-section (2) the Parliament may by any Act repeal alter or vary all or any of the provisions of this Act and substitute others in lieu thereof.

Power for Parliament to alter this Act. Constitution Act ss. LX. and LXI.

(2) It shall not be lawful to present to the Governor for Her Majesty's assent any Bill—

(a) by which an alteration in the constitution of the Parliament, the Council or the Assembly may be made ; or

(b) by which this section, Part I., Part III., or Division 2 of Part V., or any provision substituted for any provisions therein contained may be repealed altered or varied—

unless the second and third readings of such Bill shall have been passed with the concurrence of an absolute majority of the whole number of the members of the Council and of the Assembly respectively.

(3) Any Bill dealing with any of the matters specified in paragraphs (a) and (b) of sub-section (2) which has not been passed with the concurrence of an absolute majority of the whole number of the members of the Council and of the Assembly respectively shall be void.

(4) Sub-section



Power to alter  
Electoral Act.  
Constitution  
Act s. LXI.

- (4) Sub-section (2) shall not apply to any Bill to—
- (a) alter the qualifications of electors and members of the Council or the Assembly ;
  - (b) establish new electoral provinces or districts or vary or alter any such province or district ;
  - (c) appoint alter increase or decrease the number of members of the Council or the Assembly to be elected for an electoral province or district ;
  - (d) increase the whole number of members of the Council or the Assembly ;
  - (e) alter and regulate the appointment of returning officers ;  
or
  - (f) make provision for the issue and return of writs for the election of members to serve in the Council and the Assembly respectively or for the time place and manner of holding such elections.

DIVISION 2.—PRIVILEGES OF PARLIAMENT.

Privileges  
powers &c. of  
Council and  
Assembly.  
No. 6224 s. 12.

19. (1) The Council and the Assembly respectively and the committees and members thereof respectively shall hold enjoy and exercise such and the like privileges immunities and powers as at the 21st day of July, 1855 were held enjoyed and exercised by the House of Commons of Great Britain and Ireland and by the committees and members thereof, so far as the same are not inconsistent with any Act of the Parliament of Victoria, whether such privileges immunities or powers were so held possessed or enjoyed by custom statute or otherwise.

(2) The Parliament may by Act legislate for or with respect to the privileges immunities and powers to be held enjoyed and exercised by the Council and the Assembly and by the committees and the members thereof respectively.

Printed  
copies of  
Journals of  
House of  
Commons to  
be evidence.  
No. 6224 s. 13.

(3) Any copy of the Journals of the House of Commons printed or purporting to be printed by the order or printer of the House of Commons shall be received as *prima facie* evidence without proof of its being such copy, upon any inquiry touching the privileges immunities and powers of the Council or the Assembly or of any committee or member thereof respectively.

DIVISION 3.—SUMMONING OF PARLIAMENT. OATH OF ALLEGIANCE.

Summoning  
of Parliament.  
No. 6224 s. 50.

20. The Governor may by proclamation summon the Council and the Assembly to meet for the despatch of the business of the Parliament on any day not less than six days from the date of such proclamation or in a case of emergency upon such shorter notice as he may think fit.

21. When

21. When the Governor by proclamation summons the Council and the Assembly for the despatch of the business of the Parliament as provided by the last preceding section the Council and the Assembly shall thereupon stand adjourned to the day and time declared in such proclamation notwithstanding any previous adjournment of the Council and the Assembly or either of them to any later day and notwithstanding any former law usage or practice to the contrary.

Effect of  
summoning  
of Parliament.  
No. 6224 s. 51.

22. All orders made by the Council or the Assembly and appointed for the day to which the Council or the Assembly (as the case may be) has been adjourned or to any day or days subsequent thereto other than and except any order or orders specially appointed for particular days and declared to be so fixed notwithstanding any meeting under the provisions of section 20 and other than any order made under the express provisions of any Act shall be deemed and taken to have been appointed for the day on which the Council and the Assembly shall meet in pursuance of such proclamation.

How in case  
of adjournment  
orders of  
either House  
shall be  
deemed to  
have been  
appointed.  
No. 6224 s. 52.

23. (1) No member either of the Council or the Assembly shall be permitted to sit or vote therein respectively until he has taken and subscribed before the Governor or some person authorized by the Governor in that behalf the oath or affirmation in the Second Schedule.

Oath of  
allegiance.  
No. 6224  
s. 53.

Second  
Schedule.

(2) Whenever the demise of the Crown is notified by the Governor to the Council and the Assembly, the members of the Council and of the Assembly shall before they are permitted to sit or vote therein respectively take and subscribe the like oath or affirmation to the successor for the time being to the Crown.

DIVISION 4.—PRESIDING OFFICERS.

24. (1) If the presiding officer of the Council or the Assembly resigns his office or his seat, he shall, for the purposes of the exercise of any powers or functions by the presiding officer of that House under this or any other Act or under the standing orders or the joint standing orders be deemed to continue to be the presiding officer of that House (whether or not that House is dissolved after he so resigns) until the day before a presiding officer is to be chosen by that House.

As to term of  
office and  
power of  
presiding  
officers.

(2) If the President of the Council ceases to be a member of the Council by reason of the expiration of his term of office, he shall, for the purposes of the exercise of any powers or functions

by



by the President of the Council under this or any other Act or under the standing orders or the joint standing orders be deemed to continue to be the President of the Council (whether or not the Council is dissolved after he so ceases to be a member) until the day before a President is to be chosen by the Council.

(3) If—

(a) the presiding officer of either House ; or

(b) a person who, by virtue of this section, is deemed to be, for the purposes of the exercise of any powers or functions of the presiding officer of either House, to be or to continue to be the presiding officer of that House—

dies, is absent from Victoria or is incapable by reason of illness leave of absence or other unavoidable cause from exercising any powers or functions conferred or imposed upon the presiding officer, the Chairman of Committees of that House shall, for the purposes of the exercise of any powers or functions of the presiding officer of that House, be deemed to be the presiding officer of that House (whether or not that House is dissolved after the death or during the absence or incapacity) until a presiding officer is chosen by that House or the absence or incapacity terminates, as the case may be.

(4) For the purposes of sub-section (3) where there is no Chairman of Committees of a House, the person who last held office as Chairman of Committees of that House shall be deemed to continue to be Chairman of Committees of that House until a Chairman of Committees of that House is appointed by that House.

(5) Where either House is dissolved, the person, if any, who is the presiding officer of that House immediately before the dissolution shall, for the purposes of the exercise of any powers or functions of the presiding officer of that House under this or any other Act or under the standing orders or the joint standing orders, be deemed to continue to be the presiding officer of that House until the day before a presiding officer is to be chosen by that House.

(6) If, after either House has been dissolved the person (if any) who was the presiding officer of that House immediately before the dissolution dies, is absent from Victoria or is incapable by reason of illness of exercising any powers or functions under this or any other Act or under the standing orders or the joint standing orders, the person who last held office as Chairman of Committees of that House shall, for the purposes of the exercise

of

of any powers or functions by the presiding officer of that House under any such Act or Order be deemed to be the presiding officer of that House until a presiding officer is chosen by that House or the absence or incapacity terminates, as the case may be.

DIVISION 5.—LEGISLATIVE COUNCIL.

25. In this Division unless inconsistent with the context or subject-matter—

“ Member ” means a member of the Council.

“ Seat ” means the right of sitting and voting as a member in the Council.

Interpretation.  
No. 6224 s. 67.

“ Member.”

“ Seat.”

Subdivision (1).—Provinces and Members.

26. The Council shall consist of 44 members who shall be representatives of and be elected by the electors of the respective provinces.

Number of  
members of  
the Council.  
No. 6224 s. 68.

27. (1) Victoria shall be divided into 22 provinces each of which shall return two members to the Council.

Division of  
Victoria into  
22 provinces.  
No. 6224 s. 69.

(2) The name and boundaries of each province shall be published in the *Government Gazette*.

Boundaries and  
names of  
provinces and  
subdivisions.

(3) The Governor in Council may by proclamation published in the *Government Gazette*—

(a) divide any province into subdivisions ;

(b) specify the names and boundaries of subdivisions ; and

(c) alter the name and boundaries of any subdivision—

but each subdivision of a province shall correspond with a subdivision of an electoral district.

(4) The subdivisions and the names and boundaries thereof shall be such as are specified in any such proclamation.

28. (1) Subject to this Act a member of the Council shall be entitled to hold his seat for a period of six years.

Tenure of  
members.  
No. 6224 s. 70.

(2) Where there is a general election for the Council, the member first elected for a province shall be entitled to hold his seat for six years, and the other member shall be entitled to hold his seat for three years.

(3) The period during which a member of the Council is entitled to hold his seat therein shall—

Commencement  
of period of  
membership.  
No. 6224 s. 71.

(a) in the case of a general election commence from and including the date appointed for taking the poll at the general election at which such member is elected ; and

(b) in



(b) in the case of a periodical election commence—

- (i) from and including the date appointed for taking the poll at the periodical election at which such member is elected ; or
- (ii) where such poll is taken before the date on which the retiring members are due to retire by effluxion of time, from and including the day after the date when such retirement is due—

whichever last happens.

In the case of casual vacancies.

(4) A member of the Council elected to fill the place of any member whose seat becomes vacant otherwise than by his retirement by effluxion of time or the dissolution of the Council shall subject to this Act be entitled to hold the seat from the declaration of the poll until the expiration of the period for which his predecessor was elected.

Members to sit during election of successors.  
No. 6224 s. 72.

(5) Every retiring member of the Council shall if not otherwise disqualified be eligible to be re-elected and except when the Council is dissolved shall be entitled to sit and vote as a member until the day before the day appointed for the polling at the election of a member to fill his place for the province represented by him or until the expiration of the period for which he was elected, whichever last happens.

Member of Assembly not capable of being member of Council.  
Constitution Act s. XVI.

29. A member of the Assembly may not be elected to or sit or vote as a member of the Council.

Resignation of members.  
Constitution Act s. VIII.

30. A member may resign his seat by a letter addressed to the Governor and on its receipt by the Governor the seat of such member shall become vacant.

*Subdivision (2).—Proceedings of the Council.*

Election of President.  
Constitution Act s. VI.

31. (1) The Council, if there is no President, shall before proceeding to the despatch of any other business elect a member of the Council to be the President.

(2) In the case of the death resignation or removal by a vote of the Council of the President the Council shall before proceeding to the despatch of any other business elect some other member to be the President.

(3) The President so elected shall preside at the meetings of the Council except as may be provided by the standing rules and orders.

32. (1) The

32. (1) The Council shall not proceed to the despatch of business unless there be present exclusive of the President one-third at least of the members.

Quorum of Legislative Council.  
Constitution Act s. IX.

(2) Subject to section 18 all questions arising in the Council shall be decided by a majority of the members present other than the President and when the votes are equal the President shall have a casting vote.

(3) The Chairman of Committees shall be the Deputy President of the Council.

*DIVISION 6.—LEGISLATIVE ASSEMBLY.*

33. In this Division unless inconsistent with the context or subject-matter—

Interpretation.

“Member” means a member of the Assembly.

“Member.”

“Seat” means the right of sitting and voting as a member in the Assembly.

“Seat.”

*Subdivision (1).—Districts and Members.*

34. The Assembly shall consist of members who shall be representatives of and be elected by the electors of the respective districts.

Constitution of Assembly.  
No. 6224 s. 85.

35. (1) Victoria shall be divided into 81 districts each of which shall return one member to the Assembly.

Division of Victoria into electoral districts.  
No. 6224 s. 86.

(2) The name and boundaries of each district shall be published in the *Government Gazette*.

Names and boundaries of districts.  
No. 6224 s. 87.

(3) The Governor in Council may by proclamation published in the *Government Gazette*—

(a) divide any district into subdivisions ;

(b) specify the names and boundaries of subdivisions ; and

(c) alter the name and boundaries of any subdivision.

(4) The subdivisions and the names and boundaries thereof shall be such as are specified in any such proclamation.

36. A member of the Council may not be elected to or sit or vote as a member of the Assembly.

Member of Council not capable of being member of Assembly.  
Constitution Act s. XVI.

37. A member



Resignation  
of members.  
Constitution  
Act s. XXIII.

37. A member may resign his seat by a letter addressed to the Speaker and on its receipt by the Speaker the seat of such member shall become vacant.

*Subdivision (2).—Duration of the Assembly.*

Duration of  
Assembly.  
No. 6224  
s. 101.

38. The Assembly shall exist and continue for three years from the day of its first meeting after a general election unless sooner dissolved by the Governor.

*Subdivision (3).—Proceedings of the Assembly.*

Election  
of Speaker.  
Constitution  
Act s. XX.

39. (1) The Assembly shall at its first meeting after a general election and before proceeding to the despatch of any other business elect a member of the Assembly to be Speaker.

(2) In case of the death resignation or removal by a vote of the Assembly of the Speaker the Assembly shall before proceeding to the despatch of any other business elect some other member to be Speaker.

(3) The Speaker shall preside at the meetings of the Assembly except as may be provided by the standing rules and orders.

Quorum of  
Assembly.  
Constitution  
Act s. XXI.

40. (1) The Assembly shall not proceed to the dispatch of business unless there be present exclusive of the Speaker at least twenty of the members.

(2) Subject to section 18 all questions arising in the Assembly shall be decided by a majority of members present other than the Speaker and when the votes are equal the Speaker shall have a casting vote.

(3) The Chairman of Committees shall be the Deputy Speaker of the Assembly.

**DIVISION 7.—PROVISIONS APPLICABLE TO BOTH THE COUNCIL AND THE ASSEMBLY.**

Sessions of  
Council and  
Assembly.  
Constitution  
Act s. XXIX.

41. There shall be a session of the Council and the Assembly once at least in every year so that a period of twelve calendar months shall not intervene between the last sitting of the Council and the Assembly in one session and the first sitting of the Council and the Assembly in the next session.

Quorum of  
Houses may  
act though  
election  
may have  
failed.  
Constitution  
Act s. XXII.

42. No omission or failure to elect a member or members in or for any province or district nor the vacating of the seat or avoiding of the election of any such member or members shall be deemed or taken to make either the Council or the Assembly

(as

(as the case may be) incomplete or to invalidate any proceedings thereof or to prevent the Council or the Assembly from meeting and despatching business so long as there shall be a quorum of members present.

43. (1) The Council and the Assembly may from time to time make amend or vary standing rules and orders for or with respect to—

Standing  
rules and  
orders.  
Constitution  
Act s. XXXIV.

(a) the manner in which the Council and the Assembly shall be presided over in case of the absence of the President and Deputy President or Speaker and Deputy Speaker (as the case may be);

(b) the mode in which the Council and the Assembly shall communicate;

(c) the proper passing intituling and numbering of the Bills introduced into and passed by the Council and the Assembly;

(d) the proper presentation of such Bills to the Governor for Her Majesty's assent and the consideration of any amendment that the Governor desires to be made;

(e) the due publication of all proposed proceedings in the Council and the Assembly; and

(f) the conduct of all business and proceedings in the Council and the Assembly severally and collectively.

(2) A standing rule or order affecting the mode of communication between the Council and the Assembly or the proceedings of the Council and the Assembly collectively shall be of no force unless the same shall have been adopted both by the Council and the Assembly.

*Subdivision (1).—Membership of the Council and the Assembly.*

44. (1) Subject to this Act a person who is entitled under section 48 to enrol as an elector for the Assembly shall be qualified to be elected a member of the Council or the Assembly.

Membership of  
the Council  
and the  
Assembly.  
No. 6224 ss. 79  
and 99.

(2) An elector who—

(a) is a judge of a court of Victoria;

(b) is a member of either House of the Parliament of the Commonwealth;

(c) is



(c) is an undischarged bankrupt—

shall not be qualified to be elected a member of the Council or the Assembly.

(3) An elector who has been convicted or found guilty of a felony committed by him when of or over the age of 18 years under the law of Victoria or under the law of any other part of the British Commonwealth of Nations shall not be qualified to be elected a member of the Council or the Assembly.

Avoidance of election of unqualified person.  
Constitution Act s. XXVI.  
No. 6224 s. 74.

45. (1) If a person who is not qualified to be elected a member of the Council or the Assembly (as the case may be) is elected and returned as such a member the election and return shall be declared by the Court of Disputed Returns to be void.

(2) If a person so elected and returned contrary to the provisions of this Part sits or votes in the Council or the Assembly he shall be guilty of an offence against this Act.

Penalty : \$500.

Vacation of seat.  
Constitution Act s. XXIV.

46. If a member of the Council or the Assembly—

(a) ceases to be qualified to be elected a member of the Council or the Assembly ; or

(b) fails to attend the Council or the Assembly without the permission of the Council or the Assembly (as the case may be) for one entire session—

his seat in the Council or the Assembly shall become vacant.

Member of Victorian Parliament elected to Federal Parliament.  
No. 6224 s. 48.

47. If a member of the Council or the Assembly is elected a member of either House of the Parliament of the Commonwealth his seat in the Council or the Assembly shall become vacant—

(a) if a petition against the return of the member to the Parliament of the Commonwealth is not lodged within the time allowed for the lodging of such petitions, upon the expiration of the time so allowed ; or

(b) if a petition is lodged within the time allowed for the lodging of such petitions, upon the final determination of that petition in favour of the member.

Subdivision

Subdivision (2).—Qualification of Electors for the Council and the Assembly.

48. (1) Subject to this Act a person who—

(a) is a natural-born or naturalized subject of Her Majesty ;

(b) is of the full age of 18 years ; and

(c) has resided in Australia for at least six months continuously and in Victoria for at least three months and in a subdivision for at least one month immediately preceding the date of his claim for enrolment as an elector—

Qualification of electors for the Council and the Assembly.  
No. 6224 ss. 76, 77, 102 and 103.

shall be entitled in respect of residence in that subdivision—

(d) to enrol as an elector for the Council and the Assembly on the roll for that subdivision ; and

(e) when enrolled and so long as he continues to reside in that subdivision to vote at an election for the province or the district in which the subdivision is situated :

Provided that—

(i) an elector who has changed his residence to another place within the same subdivision or to another subdivision of the same province or district shall not be deemed by reason only of the change of residence to be dispossessed of the qualification in respect of which he is enrolled ;

(ii) an elector who within three months before an election has changed his residence to another province or district may vote at the election for the province or district for which his name appears on the roll prepared for the purpose of that election ; and

(iii) a woman shall not by reason only that her surname has been changed by marriage be disqualified from voting under the name appearing on the roll.

(2) A person who—

(a) has been convicted of treason committed by him when of or over the age of eighteen years under the law of Victoria or under the law of any other part of the British Commonwealth of Nations ;

(b) is undergoing a sentence of imprisonment under the law of Victoria or under the law of any other State or country or place or is on parole for any such offence ; or

(c) is



(c) is a protected person within the meaning of the *Public Trustee Act 1958*—

is not qualified to have his name placed on or retained on a roll of electors of the Council or Assembly or to vote at an election for the Council or the Assembly.

DIVISION 8.—OFFICES AND PLACES OF PROFIT.

Public officers not to sit in Parliament except as mentioned.  
No. 6224 s. 14.

49. Except where express provision is made to the contrary by any Act or enactment no person who holds any office or place of profit under the Crown, or who is in any manner employed in the public service of Victoria for salary wages fees or emolument, shall sit or vote in the Council or the Assembly ; and the election of any such person to be a member of the Council or the Assembly shall be null and void.

Salaried officers in Parliament.  
No. 6224 s. 15.

50. (1) The Governor may from time to time appoint any number of officers so that the entire number shall not at any one time exceed seventeen who shall be entitled to be elected members of either House of the Parliament and to sit and vote therein.

(2) Such officers shall be responsible Ministers of the Crown and members of the Executive Council, and ten at least of such officers shall be members of the Council or the Assembly.

(3) Not more than five of such officers shall at any one time be members of the Council and not more than thirteen of such officers shall at any one time be members of the Assembly.

Ministers to be in Council or Assembly.  
No. 6224 s. 16.

51. A responsible Minister of the Crown shall not hold office for a longer period than three months unless he is or becomes a member of the Council or the Assembly.

Power of Ministers to speak in either House.  
No. 6224 s. 17.

52. (1) Notwithstanding anything contained in any Act any responsible Minister of the Crown who is a member of the Council or of the Assembly may at any time with the consent of the House of the Parliament of which he is not a member sit in such House for the purpose only of explaining the provisions of any Bill relating to or connected with any department administered by him, and may take part in any debate or discussion therein on such Bill, but he shall not vote except in the House of which he is an elected member.

(2) It shall not be lawful at any one time for more than one responsible Minister under the authority of this section to sit in the House of which he is not a member.

Responsible Minister not required to vacate seat on appointment to office.  
No. 6224 s. 19.

53. (1) Notwithstanding anything in this Act where a person is appointed by the Governor to be a responsible Minister of the Crown the acceptance by him of the appointment shall not prevent him from becoming a member of the Council or the Assembly or from sitting and voting as a member or if he is a member shall not vacate his seat.

(2) If

(2) If any person accepts more than one of the offices referred to in sub-section (1), he shall not receive the salaries of more than one of such offices.

No person to draw salaries for two offices.  
No. 6224 s. 20.

54. A person who is either directly or indirectly concerned or interested in any bargain or contract entered into by or on behalf of Her Majesty in right of the State of Victoria, or who participates or claims or is entitled to participate either directly or indirectly in the profit thereof or in any benefit or emolument arising from the same, shall not sit or vote in the Council or the Assembly ; and the election of any such person to be a member of either the Council or the Assembly shall be void.

Contractors not to be elected.  
No. 6224 s. 23.

55. If any member of the Council or the Assembly—

(a) either directly or indirectly becomes concerned or interested in any bargain or contract entered into by or on behalf of Her Majesty in right of the State of Victoria ;

(b) participates or claims or is entitled to participate either directly or indirectly in the profit of any such bargain or contract or in any benefit or emolument arising therefrom ;

(c) becomes bankrupt or applies to take the benefit of any Act for the relief of bankrupt debtors ; or

(d) except where otherwise expressly provided or permitted by any Act or enactment, accepts any office or place of profit under the Crown, or in any character or capacity for or in expectation of any fee gain or reward performs any duty or transacts any business whatsoever for or on behalf of the Crown—

Seats to become vacant in certain cases.  
No. 6224 s. 24.

his seat shall thereupon become vacant.

56. (1) Any reference in the last two preceding sections to any bargain or contract entered into by or on behalf of Her Majesty in right of the State of Victoria shall subject to sub-section (2) be deemed to include a reference to—

(a) any contract entered into by any Government department or by any Minister of the Crown in his capacity as such ; and

(b) (without affecting the generality of the last preceding paragraph) any contract entered into by any public statutory body.

Reference to certain contracts in last two preceding sections deemed to include reference to contracts with Government departments, Minister of Crown and certain public bodies.  
No. 6224 s. 25.

(2) It is hereby declared that any such reference in the said sections does not extend to—

(a) the supply or provision by Her Majesty (including any department Minister or body referred to in

Declaration as to scope of references to contracts in last two preceding sections.

sub-section



sub-section (1) of goods chattels or services where such goods chattels or services are supplied or provided to a member of the Council or the Assembly on no better terms than they are supplied or provided to persons other than members who are in similar circumstances or who are otherwise similarly qualified or eligible ;

- (b) any contract or agreement the benefit or burden of which or any interest in which devolves upon a member of the Council or the Assembly as beneficiary under a will or as a person entitled to share in the estate of an intestate or as executor administrator or trustee, until twelve months after such devolution ;
- (c) any isolated casual sale or supply of goods chattels or services to Her Majesty (including any department Minister or body referred to in sub-section (1)) where at the time of such sale or supply the member of the Council or the Assembly concerned did not know and could not reasonably have known that such sale or supply was a sale or supply to Her Majesty (or to a department Minister or body referred to in sub-section (1)) ; or
- (d) any compromise in respect of any compensation or other money payable by Her Majesty (including any department Minister or body referred to in sub-section (1)).

Certain contracts excepted.  
No. 6224 s. 26.

57. Nothing hereinbefore contained shall extend or apply to—

- (a) any bargain or contract entered into by any company partnership or association consisting of more than twenty persons where such bargain or contract is entered into for the general benefit of such company partnership or association ;
- (b) any lease licence for occupation sale or purchase of any land ;
- (c) any agreement for any such lease sale or purchase or for the occupation of such land or for any easement therein or for the loan of money ; or
- (d) any security for the payment of money only.

With certain exceptions members of Parliament not to accept offices of profit under the Crown.  
No. 6224 s. 27.

58. Except where express provision is made to the contrary by any Act or enactment other than this section, if any person while he is a member of the Council or the Assembly accepts any office or place of profit under the Crown other than an office as a responsible Minister of the Crown, he shall be guilty of an offence against this Act and shall be liable to a penalty of \$100 for every week that he holds such office.

59. Any

59. Any person who wilfully contravenes or fails to comply with any of the foregoing provisions of this Division shall be guilty of an offence against this Act.

Penalty : \$500.

Penalties for offences against this Division.  
No. 6224 s. 31.

60. (1) Notwithstanding anything in this Act or any corresponding previous enactment, the seat of a member of the Council or the Assembly shall not become vacant and shall not be deemed to have become vacant, and the election of any person to be a member of the Council or the Assembly shall not be and shall not be deemed to have been void, and no person shall be or be deemed to have been disqualified or incapable to be elected or to be or continue a member of or incapable of sitting or voting in the Council or the Assembly, and no such member or person shall be or be deemed to have been liable to any penalty under this Act or any corresponding previous enactment by reason only that such member or person was or is an officer or member of the naval military or air forces of the Commonwealth whose services were not or are not wholly employed by the Commonwealth or received or receives any pay half-pay allowance or pension as such an officer or member of any of the said forces.

Removal of disqualification by reason of certain naval or military services.  
No. 6224 s. 28.

(2) A person shall not for the purposes of this Act or any corresponding previous enactment be deemed to have accepted or to accept an office or place of profit under the Crown by reason only that such person (while he was or is a member of the Council or the Assembly) was or is or served or serves as an officer or member of any of the forces aforesaid or received or receives any pay half-pay allowance or pension as aforesaid.

61. Notwithstanding anything in this Act or the *Public Service Act 1974*, the *Teaching Service Act 1958*, the *Railways Act 1958*, the *Police Regulation Act 1958* or any other Act a person shall not be disqualified or disabled from or be ineligible to be a candidate at any election whether for the Council or the Assembly or being elected or returned a member of the Council or of the Assembly by reason only of his being in any manner employed in the public service or in the teaching service or in the railway service or in the police force and the election and return of any such person shall not be or be declared void by reason only of his being so employed ; and on the election of any such person to be a member of the Council or the Assembly he shall cease to be so employed.

Persons employed in the public service teaching service and railway service or police force not thereby disqualified from election to Council or Assembly.  
No. 6224 s. 29.

#### DIVISION 9.—PROVISIONS RELATING TO APPROPRIATION BILLS AND DISAGREEMENTS BETWEEN THE HOUSES.

62. All Bills for appropriating any part of the Consolidated Fund and for imposing any duty rate tax rent return or impost shall originate in the Assembly and may be rejected but not altered by the Council.

Appropriation Bills.  
Constitution Act s. LVI.

63. The



Appropriation to be in pursuance of message. Constitution Act s. LVII.

63. The Assembly may not originate or pass any vote resolution or Bill for appropriating any part of the Consolidated Fund or of any duty rate tax rent return or impost for any purpose which has not been first recommended by a message of the Governor to the Assembly during the session in which such vote resolution or Bill is passed.

Appropriation Bills. No. 6224 s. 54.

64. (1) A Bill shall not be taken to be a Bill for appropriating any part of the Consolidated Fund or for imposing any duty rate tax rent return or impost by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties or for the demand or payment or appropriation of fees for licences or fees for services under such Bill.

Power of Council to suggest alterations in Appropriation Bills.

(2) The Council may once at each of the undermentioned stages of a Bill which the Council cannot alter return such Bill to the Assembly suggesting by message the omission or amendment of any items or provisions therein, and the Assembly may if it thinks fit make any of such omissions or amendments with or without modifications :

Provided that the Council may not suggest any omission or amendment the effect of which will be to increase any proposed charge or burden on the people.

(3) The stages of a Bill at which the Council may return the Bill with a message as aforesaid shall be—

- (a) the consideration of the Bill in Committee ;
- (b) the consideration of the report of the Committee ; and
- (c) the consideration of the question that the Bill be read a third time.

Annual Appropriation Bill to deal only with appropriation. No. 6224 s. 55.

65. An annual Appropriation Bill shall deal only with appropriation.

Provisions applicable on disagreements between Houses as to Bills. No. 6224 s. 56 (1).

66. (1) If—

- (a) the Assembly passes a Bill and the Council rejects it ; and
- (b) the Assembly is thereafter (but not later than six months before the date of the expiry of the Assembly by effluxion of time) dissolved by the Governor by a proclamation declaring such dissolution to be granted in consequence of the disagreement between the two Houses as to such Bill and as to that one Bill only ; and

(c) the Bill is passed by the Assembly in the next session (not earlier than nine months after the date of the

second

second reading in the preceding session of the Bill in the Assembly) and is rejected by the Council—

the Governor may notwithstanding anything in this Act but subject to sub-section (2) by proclamation dissolve the Council.

(2) The Governor shall not pursuant to the power conferred by sub-section (1) dissolve the Council within one month after the Bill is so last rejected by the Council or within nine months after any general or periodical election for the Council.

67. (1) If after such dissolution of the Council the Assembly again passes the Bill in the same or next succeeding session and the Council rejects it the Governor may convene a joint sitting of the members of the Council and of the Assembly.

Joint sitting of members of both Houses. No. 6224 s. 56 (2).

(2) The members present at such joint sitting may deliberate and shall vote together upon the Bill.

(3) Any amendments in such Bill proposed at such joint sitting if affirmed by an absolute majority of the whole number of the members of the Council and the Assembly shall be deemed to have been carried.

(4) If such Bill with the amendments (if any) so carried is affirmed by an absolute majority of the whole number of the members of the Council and the Assembly it shall be deemed to have been duly passed by the Council and the Assembly and shall be presented to the Governor for Her Majesty's assent.

(5) The Speaker or in his absence or at his request the President shall preside at such joint sitting and shall have a deliberative but not a casting vote.

(6) The proceedings at any such joint sitting shall be conducted in accordance with joint standing rules and orders prepared and adopted by the Council and the Assembly in the manner provided in section 43 and in all cases not provided for in any such joint standing rules and orders resort shall be had to the standing orders rules forms usages and practice of the Assembly so far as the same may be applicable to the proceedings of such joint sitting.

68. (1) A Bill shall be deemed to be rejected by the Council if having been transmitted to the Council not less than two months before the end of the session—

Bills deemed to be rejected by Council. No. 6224 s. 56 (3) to (7).

(a) it is not, within two months after being so transmitted, passed by the Council ; or

(b) (where the case so requires) the second and third readings are not, within two months after it has been so transmitted,



transmitted, passed with the concurrence of an absolute majority of the whole number of the members of the Council—

either without amendment or with such amendments only as may be agreed to by both Houses (and for the purposes of this and the next succeeding sub-section any omission or amendment suggested by the Council pursuant to section 64 shall be deemed to be an amendment made by the Council).

Bills deemed to be same Bills as former Bills.

(2) A Bill shall be deemed to be the same Bill as a former Bill transmitted to the Council if, when it is transmitted to the Council, it is identical with the former Bill or contains only such alterations as are certified by the Speaker to be necessary owing to the time which has elapsed since the date of the former Bill or to represent any amendments which have been made by the Council in the former Bill and any amendments which are certified by the Speaker to have been made by the Council after the dissolution of the Council and agreed to by the Assembly shall be inserted in the Bill as submitted to the joint sitting of the members of the Council and of the Assembly in pursuance of section 67 :

Provided that the Assembly may, if it thinks fit, on the passage of such a Bill through the House, suggest any further amendments without inserting the amendments in the Bill, and any suggested amendments shall be considered by the Council, and, if agreed to by the Council, shall be treated as amendments made by the Council and agreed to by the Assembly, but the exercise of this power by the Assembly shall not affect the operation of sections 66 and 67 and this section in the event of the Bill being rejected by the Council.

Certificates as to compliance with section.

(3) When a Bill is presented to the Governor for assent in pursuance of the provisions of section 67 there shall be endorsed on the Bill a certificate of the President and the Speaker signed by them that the appropriate provisions of sections 66 and 67 and this section have been duly complied with.

Certificates to be conclusive.

(4) A certificate by the Speaker or by the President and the Speaker (as the case may be) given under this section shall be conclusive for all purposes and shall not be questioned in any court of law.

Exemptions.

(5) Any Bill providing for the abolition of the Council or by which an alteration may be made in or amending or repealing this section or either of the last two preceding sections shall not be within the operation of the foregoing provisions of this section or of the last two preceding sections.

DIVISION

DIVISION 10.—ACTS OF PARLIAMENT.

69. (1) The Clerk of the Parliaments shall indorse on every Act of the Parliament immediately after the title of such Act the day month and year when the same has received the Royal assent, and such indorsement shall be taken to be part of such Act and to be the date of its commencement where no other commencement is therein provided.

Date of passing of Act to be indorsed by Clerk and such date shall be taken as commencement of Act if no other is provided.

No. 6224 s. 60.

(2) An Act which has been reserved by the Governor for the signification of Her Majesty's pleasure thereon shall for the purposes of this section be deemed to have received the Royal assent on the day when a proclamation by the Governor that Her Majesty has been pleased to assent to the same is published in the *Government Gazette*.

70. Whenever by any Act of the Parliament a day or time is appointed fixed or indicated as the day or time on or at which any act matter or thing is to be done or effected and such day or time is antecedent to the passing of such Act and its receiving the Royal assent the Governor in Council unless the contrary is expressly enacted may by proclamation in the *Government Gazette* appoint or fix or indicate a day or time for doing or effecting such act matter or thing and every such act matter or thing done or effected upon the day or time so appointed fixed or indicated shall be as good valid and effectual as if it had been done or effected on the day or at the time appointed fixed or indicated in the Act and all provisions of the Act following and dependent directly upon the doing or effecting of such act matter or thing shall be read and construed as if the date or time so appointed fixed or indicated by the Governor in Council had been the date appointed fixed or indicated in the Act.

Where the time fixed by an Act for the doing of any act &c. cannot be observed being antecedent to the passing of the Act the Governor in Council may fix a time.

No. 6224 s. 61.

71. Where in any session any Bill is introduced into either the Council or the Assembly for the continuance of any Act which would expire in such session and such Act has expired before the Bill for continuing the same has received the Royal assent such continuing Act shall be deemed and taken to have effect from the expiration of the Act intended to be continued as fully and effectually to all intents and purposes as if such continuing Act had actually passed before the expiration of the Act intended to be continued unless otherwise specially provided in such continuing Act : Provided that nothing herein contained shall extend or be construed to extend to affect any person with any punishment penalty or forfeiture whatsoever by reason of anything done or omitted to be done by any such person contrary to the provisions of the Act so continued between the expiration of the same and the date on which the Act continuing the same receives the Royal assent.

Where Bill for continuing Act which would expire during the session does not pass before the Act expires such Act shall be deemed to continue from expiration.

No. 6224 s. 62.

DIVISION



## DIVISION 11.—PUBLICATION OF PARLIAMENTARY PROCEEDINGS.

Government Printer.  
No. 6224 s. 63.

Government Printer deemed to be and to have been authorized to publish reports of Parliamentary debates.

Publication of reports proceedings &c. of either House of Parliament protected.  
No. 6224 s. 64.

72. (1) Subject to the *Public Service Act* 1974, there shall be appointed a person to be the Government Printer for Victoria.

(2) The Government Printer shall be deemed to be and always to have been authorized by each House of the Parliament to publish the reports of debates in each such House and to publish extracts from the reports of such debates.

73. (1) Any person who is defendant or respondent in any civil criminal or mixed proceeding commenced or prosecuted in any manner whatsoever for or on account or in respect of the publication of any report paper votes or proceedings of the Houses of the Parliament or either of them or of any committee of such Houses or either of them by such person or by his officer or servant by or under the authority of such Houses or either of them or of any committee of such Houses or either of them may bring before the court in which such proceeding has been or is so commenced or prosecuted or before any judge of the same, first giving twenty-four hours notice of his intention so to do to the prosecutor or plaintiff in such proceeding, a certificate under the hand of the President or of the Speaker or under the hands of the President and the Speaker or under the hand of the Clerk of the Parliaments or of the Clerk of the Council or of the Clerk of the Assembly (as the case may require) stating that the report paper votes or proceedings (as the case may be) in respect whereof such proceeding has been commenced or prosecuted was published by such person or by his officer or servant by order or under the authority of such Houses or either of them or of any committee of such Houses or either of them together with an affidavit verifying such certificate.

(2) The court or judge shall thereupon immediately stay such proceeding; and the same and every writ or process issued therein shall be determined and superseded by virtue of this Act.

(3) In this and the next succeeding section any reference to the publication of proceedings of either House of the Parliament shall include and shall be deemed always to have included a reference to the publication of the reports of debates in either such House and to the publication of extracts from such reports.

Copy of authenticated report thereof.  
No. 6224 s. 65.

74. (1) In any civil criminal or mixed proceeding for or on account or in respect of the publication of any copy of such report paper votes or proceedings the defendant at any stage of the proceeding may lay before the court or judge such report paper votes or proceedings and such copy, with an affidavit verifying such report paper votes or proceedings and the correctness of such copy.

(2) The court or judge shall immediately stay such proceeding; and the same and every writ or process issued therein shall be determined and superseded by virtue of this Act.

(3) It shall be lawful, in any civil criminal or mixed proceeding for printing any abstract of such report paper votes or proceedings, to give in evidence such report paper votes or proceedings, and to show that such abstract was published *bona fide* and without malice; and if such is the opinion of the judge or of the jury (as the case may be) in any such proceeding a judgment or a verdict (as the case may require) shall be entered for the defendant.

Extract or abstract of proceedings.

## PART III.—THE SUPREME COURT OF THE STATE OF VICTORIA.

75. (1) A Court shall be held in and for Victoria and its dependencies which shall be styled "The Supreme Court of the State of Victoria" which in this Part is called "the Court".

Supreme Court of the State of Victoria.  
No. 6387 s. 6.

(2) The Court shall consist of such number of Judges not exceeding 21 in number as are from time to time appointed and the Prothonotary, the Registrar of Probates and the Masters of the Court.

(3) Each of the Judges shall be or have been a practitioner of the Court of not less than eight years' standing.

(4) The Court shall be held by and before a Judge or Judges except in the case of any action issue or application which is or is of a class in respect of which the jurisdiction of the Court has been conferred upon the Prothonotary, the Registrar of Probates or Master by any Act or enactment or by Rules of Court.

(5) The Judges shall be appointed by the Governor with the advice of the Executive Council.

76. The Court shall be a court of record, and shall have and use as occasion may require a seal bearing an impression of the Royal Arms having inscribed thereon the words "The seal of the Supreme Court of the State of Victoria"; and such seal shall be kept in the custody of the Chief Justice of the Court.

Court to be a Court of record and to have a seal.  
No. 6387 s. 14.

77. (1) The commissions of the Judges of the Court shall subject to sub-section (4) continue and remain in full force during their good behaviour notwithstanding the demise of Her Majesty by any law usage or practice to the contrary hereof in anywise notwithstanding but the Governor may remove any such Judge upon the address of the Council and the Assembly.

Commissions of Judges.  
Constitution Act s. XXXVIII. 12 and 13 Will. IV. c. 2 s. 3. 1 Geo. III. c. 23 ss. 1 and 2.

(2) The salaries of such Judges as set out in section 82 shall be paid to each of them so long as their commissions remain in force respectively.

Constitution Act s. XXXIX.

(3) A person who has attained the age of seventy-two years shall not be appointed a Judge of the Court.

Judges to be under 72 years of age when appointed.

(4) Notwithstanding

No. 6389 s. 7.



Office of Judge to become vacant on attaining age of 72.

(4) Notwithstanding anything in sub-section (1) or in any corresponding previous enactment, when any Judge of the Court attains the age of seventy-two years thereupon his commission shall cease to be in force and his office shall become vacant.

Chief Justice. No. 6387 s. 8.

78. One of the Judges shall be styled "The Chief Justice of the Supreme Court of the State of Victoria", and until Her Majesty's pleasure is known he shall have rank and precedence above and before all persons whomsoever in Victoria excepting the Governor and Lieutenant-Governor thereof.

Governor in Council may appoint Acting Chief Justice. No. 6387 s. 9.

79. (1) When and so often as the Chief Justice for the time being is absent on leave or in consequence of sickness or for any reason is temporarily unable to perform the duties of his office, the Governor in Council may, if he thinks fit, appoint a puisne Judge of the Court to be Acting Chief Justice thereof for the period during which the said Chief Justice is temporarily absent or unable to perform the duties of his office and for no longer.

(2) Any puisne Judge so appointed to be Acting Chief Justice shall during the period of his appointment as Acting Chief Justice have the same powers and jurisdiction as the Chief Justice.

Filling vacancies. No. 6387 s. 10.

80. If by reason of death resignation or removal or otherwise the office of a Judge of the Court becomes vacant a new Judge may be appointed by the Governor in Council.

Qualified person may be appointed temporarily in place of any Judge of the Supreme Court. No. 6387 s. 11.

81. (1) When and so often as any Judge of the Court is absent or on leave or in consequence of sickness or for any other reason is temporarily unable to perform the duties of his office, the Governor in Council may, if he thinks fit, appoint a fit and proper person qualified as hereinbefore required or a Judge of the County Court to be an acting Judge of the Court for the period during which such Judge of the Court is temporarily absent or on leave or unable to perform the duties of his office and for no longer.

(2) When and so often as the Chief Justice certifies that it is desirable for an acting Judge to be appointed temporarily to assist in disposing of the business of the Court during any period the Governor in Council may, if he thinks fit, appoint a Judge of the County Court to be an acting Judge of the Court for such period not exceeding six months as is specified by the Chief Justice in his certificate but not more than two Judges of the County Court shall be so appointed to be acting Judges of the Court at any one time.

(3) An acting Judge shall hold office for the period for which he is appointed as a Judge of the Court for all purposes whatsoever and shall during that period have the same powers and jurisdiction as a puisne Judge of the Court.

(4) An acting Judge may during the period for which he is so appointed be removed from office in such manner and upon such grounds as Judges of the Court are by law liable to be removed therefrom.

82. (1) The Chief Justice shall be paid a salary at the rate of \$42,400 per annum and an allowance at the rate of \$2,500 per annum.

(2) Each puisne Judge shall be paid a salary at the rate of \$38,500 per annum and an allowance at the rate of \$2,000 per annum.

(3) Such salaries and allowances shall be paid out of the Consolidated Fund which is hereby to the necessary extent appropriated accordingly.

(4) For the purposes of computation of pensions under or pursuant to the next succeeding section the allowances payable under sub-sections (1) and (2) shall be treated as if they were part of the annual salaries of the Judges.

83. (1) Every Judge of the Court who—

(a) has attained the age of sixty years and has served for not less than ten years in the office of Judge of the Court; or

(b) having been appointed before he attained the age of sixty years has become afflicted with some permanent incapacity disabling him from the due execution of his office—

shall upon resignation or retirement from his office be entitled to a pension payable fortnightly at the rate per annum of fifty per centum of the annual salary for the time being fixed under sub-section (1) of section 82 if the Judge was immediately before his retirement the Chief Justice or for the time being fixed under sub-section (2) of that section in the case of any other Judge.

(2) Upon the death—

(a) of any Judge of the Court; or

(b) of any person who was formerly a Judge of the Court—his widow shall until her death or re-marriage be entitled to a pension payable fortnightly at the rate of five-sixteenths of the annual salary for the time being fixed under sub-section (1) of section 82 if the Judge was immediately before his retirement the Chief Justice or for the time being fixed under sub-section (2) of that section in the case of any other Judge.

(3) Notwithstanding anything contained in sub-section (2) no pension shall be payable to the widow of any former Judge in any case where she married such former Judge after his resignation or retirement.

(4) Unless

Salaries allowances and pensions of Judges of Supreme Court. No. 6387 s. 12.

As to pensions of Judges of the Supreme Court and their widows. No. 6387 s. 12.



(4) Unless the Governor in Council by Order otherwise determines in any particular case the right of a Judge to a pension under this section—

(i) shall cease upon his accepting appointment to any judicial office in or outside Victoria ; and

(ii) shall be suspended while—  
he holds any office or place of profit under the Crown in right of the Commonwealth or of a State ; or

he is engaged in the practice of the profession of a barrister or solicitor in any State or Territory of the Commonwealth or is employed by any barrister or solicitor in connexion with his practice in any such State or Territory :

Provided that this sub-section does not apply to or in relation to a Judge who resigned or retired before the 15th day of February, 1970.

(5) All pensions under this section or under any corresponding previous enactment shall be payable out of the Consolidated Fund which is hereby to the necessary extent appropriated accordingly.

(6) For the purposes of this section—

(a) if any Judge of the Court was immediately prior to his appointment Solicitor-General his service as Solicitor-General shall count as service in the office of Judge of the Court ;

(b) if any Judge of the Court was immediately prior to his appointment a Judge of the County Court his service as a Judge of the County Court or of County Courts shall count as service in the office of Judge of the Court ;

(c) any reference to retirement of a Judge of the Court shall be deemed to be a reference to his commission ceasing to be in force on his attaining the age of seventy-two years.

Judges not to hold any other place of profit.  
No. 6387 s. 13.

84. (1) A Judge of the Court may not accept take or perform the duties of any other office or place of profit or emolument within Victoria excepting such office as is granted to him by Her Majesty's sign manual or the office of Judge of a Vice-Admiralty Court.

(2) Any such acceptance taking or performance of the duties of any such other office shall be deemed in law an avoidance of his office of Judge, and his office and commission shall be thereby in fact superseded and his salary and allowance thereupon cease.

(3) Notwithstanding

(3) Notwithstanding anything in sub-section (1) a Judge may accept take and perform the duties of another office or place to which, with his consent—

(a) he is appointed by the Governor in Council ;

(b) he is appointed with the consent of the Chief Justice and the Governor in Council—

Notwithstanding anything in any other Act or regulation a Judge shall not receive and shall not be eligible to receive any payment for or in respect of any such other office or place.

(4) Sub-section (1) does not apply to or in relation to a judge nominated to an office on the Parole Board pursuant to Division 2 Part IV. of the Crimes Act 1958.

85. (1) Subject to this Act the Court shall have jurisdiction or in relation to Victoria its dependencies and the areas adjacent thereto in all cases whatsoever and shall be the superior Court of Victoria with unlimited jurisdiction.

Powers and jurisdiction of the Court.  
Comp. No. 6387 ss. 15-19.

(2) The Court and the Judges of the Court shall have and may exercise such jurisdictions powers and authorities as were had and exercised by any of the superior Courts in England or the judges thereof or by the Lord High Chancellor of England including the jurisdiction powers and authorities in relation to probate and matrimonial cases and administration of assets at or before the commencement of Act No. 502.

(3) The Court and the judges of the Court shall in addition have and may exercise such jurisdiction (whether original or appellate) and such powers and authorities as are now prescribed by any Act as belonging to or exercisable by the Supreme Court of Victoria or the Judges thereof.

(4) This Act does not limit or affect the power of the Parliament to confer additional jurisdiction or powers on the Court.

86. Any Judge of the Court may award a writ of habeas corpus or bring any prisoner detained in any gaol or prison before any Court to be there examined as a witness.

Power to judges to issue habeas corpus.  
44 Geo. III. c. 102.

87. (1) Except as is provided by any Act or the rules of the Court the Court and the Judges thereof shall not be bound to exercise any jurisdictions powers or authorities in relation to any matters in respect of which jurisdiction is given by any Act to any other Court tribunal or body.

Court not to be required to exercise jurisdiction where jurisdiction conferred on other bodies.  
No. 6387 s. 15 (2).

(2) Notwithstanding anything in any Act or Rules of Court any power duty or act which might have been exercised or performed either in Court or in Chambers by any Judge of the Court but for his having ceased for any reason to be a Judge of the Court or for his absence on leave or vacation or in consequence of sickness or otherwise shall be and be deemed always to have been exercisable or performable by any other Judge of the Court.

PART



## PART IV.—THE EXECUTIVE.

Appointment to public offices.  
Constitution Act s. XXXVII.

88. Subject to the express provisions of any other Act the appointment to public offices under the Government of Victoria hereafter to become vacant or to be created whether such offices be salaried or not shall be vested in the Governor in Council with the exception of the appointments of the officers liable to retire from office on political grounds which appointments shall be vested in the Governor alone.

## PART V.—FINANCIAL.

## DIVISION I.—CONSOLIDATED REVENUE.

Consolidated Revenue.  
Constitution Act s. XLIV.

89. All taxes imposts rates and duties and all territorial casual and other revenues of the Crown in right of the State of Victoria (including royalties) which the Parliament has power to appropriate shall form one Consolidated Revenue to be appropriated for the public service of Victoria in the manner and subject to the charges hereinafter mentioned.

Charges of collection and management.  
Constitution Act s. XLV.

90. The Consolidated Revenue shall be permanently charged with all the costs charges and expenses incidental to the collection management and receipt thereof such costs charges and expenses being subject nevertheless to be reviewed and audited in such manner as shall be directed by any Act of the Parliament.

Her Majesty not entitled to Crown Revenues.  
Constitution Act s. XLVII.

91. Her Majesty shall not be entitled to any territorial casual or other revenues of the Crown (including royalties) from any source whatsoever accruing to the Crown in right of the State of Victoria.

Power to appropriate Consolidated Revenue.  
Constitution Act s. LV.

92. The Consolidated Revenue arising from taxes duties rates and imposts levied by virtue of an Act and from the disposal of the waste lands of the Crown under any such Act made in pursuance of the authority herein contained shall be subject to be appropriated to such specific purposes as by any Act shall be provided in that behalf.

Warrants for issue of money.  
Constitution Act s. LVIII.

93. No part of the Consolidated Fund shall be issued or shall be made issuable except in pursuance of warrants under the hand of the Governor directed to the Treasurer of Victoria.

## DIVISION 2.—EXPENSES OF EXECUTIVE COUNCIL LEGISLATIVE COUNCIL AND LEGISLATIVE ASSEMBLY.

Special appropriations for expenses of Executive Council, Legislative Council and Legislative Assembly.  
No. 6224 s. 66.

94. (1) There shall be payable in every year to Her Majesty out of the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly)—

(a) for the Clerk and expenses of the Executive Council a sum not exceeding \$20,000 ;

(b) for the Clerk of the Parliaments the sum of \$1,000 ;  
(c) for the Clerk and expenses of the Council a sum not exceeding \$100,000 ; and  
(d) for the Clerk and expenses of the Assembly a sum not exceeding \$275,000.

(2) The said sums shall be issued by the Treasurer of Victoria in discharge of such warrants as shall from time to time be directed to him by the Governor.

(3) The Clerk of the Legislative Council shall each year be paid out of the sum of \$100,000 payable out of the Consolidated Fund under paragraph (b) of sub-section (1) the same salary and allowances as are from time to time payable to the Clerk of the Assembly.

(4) The Clerk of the Legislative Assembly shall each year be paid out of the sum of \$275,000 payable out of the Consolidated Fund under paragraph (c) of sub-section (1) such salary and allowances as are from time to time fixed by the Governor in Council.

## PART VI.—RELATION OF PUBLIC OFFICERS TO POLITICAL AFFAIRS.

95. (1) A person employed in any capacity (whether permanently or temporarily) in the service of the State of Victoria shall not—

(a) publicly comment upon the administration of any department of the State of Victoria ;  
(b) use except in or for the discharge of his official duties any information gained by or conveyed to him through his connexion with the public service ; or  
(c) directly or indirectly use or attempt to use any influence with respect to the remuneration or position of himself or of any person in the public service.

(2) Any person who contravenes this section shall on proof thereof to the satisfaction of the Public Service Board the Teachers Tribunal the Railways Discipline Board Police Discipline Board or other body or person to which or whom he is subject in matters of discipline (as the case requires) be liable to a fine not exceeding \$100 and in addition to such fine may be reduced in class subdivision grade status or salary or dismissed or have his services dispensed with.

(3) This section—

(a) shall apply to every person employed as aforesaid notwithstanding that he may not be subject to the *Public Service Act 1974* or the *Teaching Service Act 1958* or the *Railways Act 1958* or the *Police Regulation Act 1958* ;

(b) shall

Officers in the public service not to take part in political affairs.  
No. 6224 s. 415.



(b) shall not apply to officers in the service of the Parliament, but the Governor in Council on the recommendation of the Parliamentary Offices Committee may make regulations applying to such officers in relation to matters referred to herein.

PART VIII.—REPEALS AND AMENDMENTS.

Repeal.  
First Schedule.

96. The Acts or enactments mentioned in the First Schedule to the extent to which they are therein expressed to be repealed or amended are hereby repealed and amended accordingly.

SCHEDULES.

SCHEDULES.

FIRST SCHEDULE.

Section 96.

PART I.

Number of Act.	Title of Act.	Extent of Repeal.
	The Constitution Act ..	The whole Act.
6224 ..	<i>The Constitution Act Amendment Act 1958</i>	Sections 4-20, both inclusive, 23-29, both inclusive, 31, 48, 50-57, both inclusive, 60-77, both inclusive, 85-87, both inclusive, 99-103, both inclusive, section 415, and the Second Schedule.
6374 ..	<i>Solicitor-General Act 1958</i> ..	Sub-section (4) of section 5.
6387 ..	<i>Supreme Court Act 1958</i> ..	Sections 6-19, both inclusive.

PART II.

(1) After section 14 of the *Acts Interpretation Act 1958* there shall be inserted the following section :—

“ 14A. During the temporary absence of the Governor from the seat of government or from Victoria (except for the purpose of administering the Government of the Commonwealth of Australia) all the powers and authorities conferred upon or vested in the Governor by any statutory or other law or usage of Victoria shall and may be exercised performed and executed by the person appointed by the Governor under the letters patent bearing date the 29th day of October, 1900 as amended by the letters patent bearing date the 30th day of April, 1913 and mentioned in the preamble to the *Governor's Deputy's Powers Act 1916* to be his deputy during such absence subject nevertheless to anything expressed in the instrument appointing such deputy.”

Powers of  
Governor's  
deputy.

(2) After section 7 of the *Country Fire Authority Act 1958* there shall be inserted the following section :—

“ 7A. Notwithstanding anything in the *Constitution Act 1975* or in any other Act a member of the Authority shall not by reason only of receiving any payment under this Act be deemed to hold or accept an office or place of profit under the Crown or to be employed in the Public Service so as to render him incapable of sitting or voting as a member of the Legislative Council or the Legislative Assembly or to make void his election to Parliament or to disqualify him or to render him incapable of being or continuing to be a member of the Council or the Assembly or to make him liable to any penalty under the *Constitution Act 1975* or any other Act.”

(3) In section 253 of the *Crimes Act 1958* after the words “ or the seal of Victoria ” there shall be inserted the words “ or the seal of the Supreme Court of the State of Victoria ”.

FIRST



FIRST SCHEDULE—*continued.*

(4) After section 7 of the *Metropolitan Fire Brigades Act 1958* there shall be inserted the following section :—

“7A. Notwithstanding anything in the *Constitution Act 1975* or in any other Act a member of the Board shall not by reason only of receiving any payment under this Act be deemed to hold or to accept an office or place of profit under the Crown or to be employed in the Public Service so as to render him incapable of sitting or voting as a member of the Legislative Council or the Legislative Assembly or to make void his election to Parliament or to disqualify him or to render him incapable of being or continuing to be a member of the Council or the Assembly or to make him liable to any penalty under the *Constitution Act 1975* or any other Act.”

Section 23.  
Oath.

## SECOND SCHEDULE.

*Oath.*

I swear by Almighty God that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II. as lawful Sovereign of the United Kingdom and of this State of Victoria.<sup>(a)</sup>

*Affirmation.*

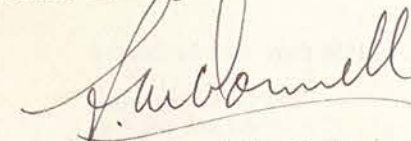
I do solemnly and sincerely affirm that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II. as lawful Sovereign of the United Kingdom and of this State of Victoria.<sup>(a)</sup>

[The name of the reigning Sovereign for the time being is to be substituted from time to time for that of Her Majesty Queen Elizabeth II.]

(a) For forms of administering oaths, see *Evidence Act 1958*, section 100.

I HEREBY CERTIFY that the above fair print of the Bill intituled “An Act to re-enact the Law relating to the Constitution of the State of Victoria and for other purposes” is the Bill to which the Legislative Council and the Legislative Assembly of the State of Victoria have agreed.

I reserve this Bill for the signification of Her Majesty's pleasure thereon.



Clerk of the Parliaments.



Governor.