LEGISLATIVE ASSEMBLY

Read 1° 26 September, 1978.

(*Brought in by Mr. Maclellan and Mr. Rafferty.*)

A BILL

To amend the Constitution of the Victoria Law Foundation, to amend the *Legal Profession Practice Act* 1958 and for other Purposes.

BE it 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):—

1. (1) This Act may be cited as the *Victoria Law Foundation Act* 1978. Short title.

(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*. Commencement.

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

" Bar Council " means the Victorian Bar Council. " Bar Council."

" Foundation " means the Victoria Law Foundation. " Foundation."

" Law Institute " means the Council of the Law Institute of Victoria incorporated by the *Law Institute Act* 1917. " Law Institute."

" Lawyer

"Lawyer."

"Lawyer" includes a person who has been admitted to practice and is enrolled as a barrister and solicitor of the Supreme Court or is qualified to be so admitted and enrolled, or a person who holds or has held judicial office, or a person who is a graduate in law. 5

"Member."

"Member" means a member of the Victoria Law Foundation.

"Solicitors' Guarantee Fund."

"Solicitors' Guarantee Fund" means the Solicitors' Guarantee Fund established under the *Legal Profession Practice Act* 1958. 10

Amendment of No. 6291.

3. The *Legal Profession Practice Act* 1958 is hereby amended as follows :—

(*a*) In section 1 the expression "Part IIA.—Victoria Law Foundation ss. 14A–14D." is repealed ;

(*b*) Part IIA. is repealed. 15

Constitution of Victoria Law Foundation.

4. The Foundation shall consist of the following members, namely, the Chief Justice of Victoria who shall be the President of the Foundation, the Attorney-General of Victoria, the Law Reform Commissioner, the President for the time being of the Law Institute or his nominee, the Chairman for the time being of the Bar Council 20 or his nominee and no less than nine and no more than twelve other persons (of whom at least six shall be lawyers) of whom—

(*a*) nine shall be appointed by the Governor in Council of whom—

(i) three shall be appointed on the nomination of 25 the Chief Justice ;

(ii) three shall be appointed on the nomination of the Attorney-General ;

(iii) three shall be appointed on the nomination of the Law Institute ; and 30

(*b*) no more than three may be appointed by co-option by the Foundation.

Foundation capable to suing and being sued, &c.

5. The Foundation shall be a body corporate with perpetual succession and a common seal and shall be capable in law of suing and of being sued and of purchasing leasing holding demising 35 selling transferring conveying mortgaging and otherwise acquiring and disposing of real and personal property for the purposes of and subject to this Act and of doing and suffering all acts matters and things which bodies corporate may by law do or suffer and as are necessary or expedient for the purposes of carrying out its 40 objects and powers under this Act.

No member liable to action or suit in respect of any Act, &c. of Foundation.

6. No member of the Foundation shall be liable to any action or suit whatsoever in respect of any act or thing done or omitted to be done in the exercise or purported exercise of any power or duty conferred or imposed upon the Foundation or on any member 45 or members of the Foundation by or under this Act.

7. (1) The

7. (1) The common seal of the Foundation shall be kept and used according to such regulations as the Foundation may make in respect thereto. Common seal.

(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Foundation affixed to a document and until the contrary is proved shall presume that it was duly affixed.

8. (1) Subject to the provisions of this Act an appointed member shall hold office for the period of five years from the date of his appointment unless sooner cancelled but he is eligible for re-appointment. Term of office.

(2) The Governor in Council may at any time cancel the appointment of any member if the member— Cancellation of appointment.

(*a*) resigns his office by writing under his hand delivered to the President ;

(*b*) becomes bankrupt, applies to take the benefit of any laws for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes assignment of his estate for the benefit of his creditors ;

(*c*) becomes of unsound mind ;

(*d*) is absent from three consecutive meetings of the Foundation without the consent of the Foundation—

or, if the body or person by which or whom he was nominated or co-opted requests his removal.

9. (1) Meetings of the Foundation shall be held at such times and places as the Foundation may from time to time determine or as the President may direct. Meetings.

(2) In the absence of the Chief Justice the members present at any meeting shall appoint a chairman of the meeting. Chairman.

(3) At any meeting of the Foundation six members shall form a quorum, unless the number of members of the Foundation exceeds fourteen, in which case seven shall form a quorum. Quorum.

(4) All questions coming before a meeting of the Foundation shall be decided by a majority of votes of the members present at the meeting and in the event of an equality of votes the chairman shall have an additional vote. Decisions.

(5) An act or decision of the Foundation is not invalid by reason only of a vacancy in the office of a member or a defect or irregularity in the appointment of a member.

10. The Foundation may appoint an Executive Director and may appoint such other officers and employés as it may consider to be necessary for the purposes of the Foundation. Executive Director.

11. The

Objects of the Foundation.

11. The objects of the Foundation are—

(*a*) to promote or undertake legal research, whether being conducted within or without Victoria, which in the opinion of the Foundation may be of value in the reform of the law in Victoria ; 5

(*b*) to promote legal education in Victoria, including the education and training of legal practitioners and persons employed by legal practitioners in any subject or field that in the opinion of the Foundation is likely to promote the efficient practice of law in Victoria ; 10

(*c*) to establish maintain or improve law libraries in Victoria ;

(*d*) to investigate or inquire into proposals for the improvement of the administration of law in Victoria, including the work of the legal profession, and to promote or undertake projects directed towards such improvements ; 15

(*e*) to promote or undertake within Victoria community education in law and the legal system, including programmes in schools ; 20

(*f*) to communicate to legal practitioners and other persons information on the law and matters related to the law ;

(*g*) to publish or subsidize the publication of material relating to, resulting from or connected with carrying out the objects of the Foundation ; 25

(*h*) to do anything incidental or conducive to the carrying out of the foregoing objects.

Powers of the Foundation

12. Subject to this Act the Foundation may do all things that are necessary or convenient to be done for or in connexion with the carrying out of its objects and in particular may— 30

(*a*) acquire by purchase gift grant bequest or devise any property whether on trust or otherwise and to agree to and carry out any conditions of any such purchase gift grant bequest or devise, and the Foundation may create and administer any trust fund or funds in connexion therewith or for any other purpose whatsoever ; 35

(*b*) raise or borrow money in such manner and upon such security (if any) as the Foundation may determine ; 40

(*c*) invest and deal with moneys standing to the credit of the Victoria Law Foundation Account in the Solicitors' Guarantee Fund and any other funds held by the

Foundation

Foundation not immediately required for any of the objects of the Foundation either in a common fund or funds or otherwise in any manner in which trust moneys may be invested by a trustee under the *Trustee Act* 1958 or any other Act and may consolidate divide or in any way alter any such investments ;

(*d*) create an Endowment and Reserve Fund to be managed and used as the Foundation may by regulation determine ;

(*e*) defray any expenses incurred by the Foundation for the purposes of this Act ;

(*f*) charge fees for lectures seminars courses or other activities conducted by the Foundation ;

(*g*) re-imburse to members reasonable travelling and other expenses incurred in attending meetings of the Foundation or otherwise in connexion with carrying out its business.

Power of Foundation to make regulations.

13. The Foundation may make amend and repeal regulations—

(*a*) with respect to the proceedings of the Foundation ; and

(*b*) for or with respect to any matter or thing which in the opinion of the Foundation is necessary or expedient for the purposes of this Act.

Application of Foundation Account.

14. (1) Subject to the *Law Reform Act* 1973 the Foundation shall determine the application of moneys standing to the credit of the Victoria Law Foundation Account in the Solicitors' Guarantee Fund.

(2) The Foundation shall pay out of the moneys standing to the credit of the Victoria Law Foundation Account in the Solicitors' Guarantee Fund such amounts as are required to be paid from time to time under section 11 of the *Law Reform Act* 1973 and may pay such further amounts to the Law Reform Commissioner for the purpose of assisting him in carrying out his functions under that Act as it thinks fit.

(3) Subject to sub-section (2) hereof, the amount standing to the credit of the Victoria Law Foundation Account from time to time and any other funds available to the Foundation may be applied by the Foundation to the furtherance of its objects and the exercise of its powers under this Act.

Accounts.

15. (1) The Foundation shall cause to be kept proper accounts and records of the transactions and affairs of the Foundation and shall do all things necessary to ensure that all payments out of moneys are correctly made and properly authorized and that adequate control is maintained over the assets of or in the custody of the Foundation and over the incurring of liabilities by the Foundation.

(2) The

(2) The accounts and records shall be kept at the office of the Foundation or at such other place or places as the Foundation thinks fit and shall be open to inspection by members and the Executive Director at all times and to such other persons as the Foundation shall from time to time determine at such times and subject to such conditions as it thinks fit. 5

Audit.

(3) The Foundation shall cause the accounts of the Foundation to be audited once in each year by a registered company auditor.

Annual report.

16. The Foundation shall at least once in each year make a report to the Attorney-General on the performance of its functions and every such report shall be laid before both Houses of Parliament. 10

Members appointed under *Legal Profession Practice Act* 1958.

17. Any member of the Foundation who at the commencement of this Act was holding office under the provisions of Part IIA. of the *Legal Profession Practice Act* 1958 shall be deemed to have been appointed as a member of the Foundation pursuant to section 4 and to continue to hold office until the expiration of his term of appointment under the *Legal Profession Practice Act* 1958 unless sooner cancelled pursuant to the provisions of section 8. 15

Foundation deemed same body corporate after this Act as before.

18. (1) The body corporate of the Foundation shall be and be deemed to be the same body corporate after the commencement of this Act as before the said commencement notwithstanding the alterations made in the constitution thereof by the provisions of this Act. 20

Foundation deemed to be legally constituted.

(2) The Foundation shall, whether all the members thereof to be appointed in accordance with section 4 have been so appointed or not, be deemed to be duly and legally constituted under this Act. 25

Saving.

19. No act matter or thing shall be in any way abated or affected by reason of the alteration in the constitution of the Foundation and any such act matter or thing may be continued and concluded in all respects as if this Act had not been passed and all things validly done by the Foundation before the coming into operation of this Act shall remain valid and operative notwithstanding the passing of this Act and in particular all regulations validly made by the Foundation before such passing shall continue in operation until repealed or amended under this Act. 30 35

By Authority: F. D. Atkinson, Government Printer, Melbourne