

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE COUNCIL,
1ST JULY, 1891.]

Hon. Mr. Buckley.

LEGISLATIVE COUNCIL.

ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Appointment of members.</p> <p>3. Members to hold office for ten years only. Saving as to existing members.</p> <p>4. Vacancies.</p> <p>5. Questions as to vacancies to be decided by Council. Appeal.</p> <p>6. Quorum. Decision of questions. Casting-vote.</p> | <p>7. Appointment of Speaker.</p> <p>8. Council may appoint temporary Speaker, to have same privileges as permanent Speaker.</p> <p>9. Clerk of Council to be Clerk of Parliaments.</p> <p>10. Definition of "public defaulter."</p> <p>11. Repeal. Saving of appointments, &c.</p> <p>12. When Act to come into force.</p> |
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A BILL INTITULED

AN ACT to alter the Mode of making Appointments of Members of the Legislative Council of New Zealand; and to regulate Vacancies therein. Title.

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Legislative Council Act, 1891." Short Title.

10 2. The Governor may from time to time, in Her Majesty's name, by an instrument or instruments under the Public Seal of the Colony, summon to the Legislative Council of New Zealand (hereinafter called "the Council") such persons as he shall think fit, and every person so summoned shall thereby become a member thereof: Pro-
15 vided that no person shall be so summoned—

Appointment of members.
31 and 32 Vict.,
c. 57, s. 2.

(1.) Who shall not be of the full age of thirty-five years, and either a natural-born subject of Her Majesty, or a subject of Her Majesty naturalised by or under any Act of the Imperial Parliament or by or under an Act of the General Assembly of New Zealand; or Ibid.

20 (2.) Who at any time theretofore has been bankrupt and has not received his discharge, or who has been attainted or convicted of any treason, felony, or infamous offence within any part of Her Majesty's dominions, or as a public defaulter within the colony, unless he has received a free pardon, or has undergone the sentence or punishment to which he was adjudged for such offence. 1867, No. 49, s. 2.
1882, No. 23.

25 No. 1—3.

Members to hold office for ten years only.

3. From and after the passing of this Act, every person who shall be appointed member of the Council shall hold his seat therein for ten years, to be reckoned from the date of the instrument of his appointment, and no longer; but every such person may from time to time be reappointed.

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Saving as to existing members.

Nothing in this section contained shall apply to any member of the Council who was appointed thereto before the passing of this Act.

Vacancies. Constitution Act, ss. 35, 36.

4. The seat of any member of the Council, whether appointed thereto before the time of the passing of this Act, or subsequently thereto, shall *ipso facto* be vacated—

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(1.) If he takes any oath or makes any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign Prince or Power: or

(2.) If he does, or concurs in, or adopts any act whereby he may become a subject or citizen of any foreign State or Power, or is entitled to the rights, privileges, or immunities of a subject of any foreign State or Power: or

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(3.) If he is a bankrupt, or compounds with his creditors under any Act for the time being in force: or

(4.) If he is a public defaulter, or is attainted of treason, or is convicted of felony or any infamous crime: or

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(5.) If he resigns his seat by writing under his hand addressed to and accepted by the Governor: or

(6.) If for more than one whole session of the General Assembly he fails, without permission of the Governor notified to the Council, to give his attendance in the Council: Provided that the Governor may grant leave of absence for one other consecutive session, which leave shall be notified to the Council.

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Questions as to vacancies to be decided by Council. Ibid, s. 37.

5. Any question which shall arise within the Council as to any vacancy in the Council, or as to the right of any person to sit or vote therein, shall be referred by the Governor to the Council, which shall hear and determine the same.

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Appeal.

Provided always that either the person respecting whose seat such question shall have arisen, or Her Majesty's Attorney-General for New Zealand on Her Majesty's behalf, may appeal from the determination of the said Council to Her Majesty; and the judgment of Her Majesty, given with the advice of her Privy Council thereon, shall be final and conclusive to all intents and purposes.

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Quorum. 1865, No. 20, s. 3.

6. The number of members of the Council necessary to constitute a meeting for the exercise of its powers shall be regulated from time to time by Standing Orders of the Council.

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Decision of questions. Constitution Act, s. 39. Casting-vote.

All questions which shall arise in the Council shall be decided by a majority of votes of the members present, other than the Speaker, and when the votes shall be equal the Speaker shall have the casting-vote.

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Appointment of Speaker.

7. Whenever, after the passing of this Act, the office of Speaker of the Legislative Council becomes vacant the said Council shall have the power and authority to elect one of its members to fill the vacancy; and the Speaker so elected shall remain in office for five years, or until his seat as a member of the Council becomes vacant by resignation or effluxion of time or otherwise.

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8. In any case of the absence on leave of the Speaker, or of his protracted illness, or of his inability or probable inability from any cause to attend at the opening of any session of Parliament, or to continue his attendance thereat during any session, the Council
 5 may appoint such other member of the Council for the time being as it shall think fit to be the Speaker thereof during such period as it shall think necessary in each case.

Council may appoint temporary Speaker to have same privileges as permanent Speaker.

Every person appointed temporarily, as aforesaid, to the above-named office shall, whilst holding such office, have all the powers,
 10 responsibilities, duties, and privileges of such office, in the same manner as if he had been appointed to a vacancy in such office; except in respect to salary, which shall be such, in each case, as may be appropriated by the General Assembly.

9. The Clerk of the Legislative Council for the time being, so
 15 long as he shall hold such office, shall hold the office of Clerk of the Parliaments.

Clerk of Council to be Clerk of Parliaments.

1872, No. 2, s. 3.

10. A "public defaulter" in this Act means any person who is convicted of wrongfully expending, using, or taking any moneys the property of Her Majesty, or of any local authority, or of any corpora-
 20 tion represented by a local authority.

Definition of "public defaulter."

11. Sections thirty-three, thirty-five, thirty-six, thirty-seven, thirty-eight, and thirty-nine of the Constitution Act, "The Legisla-
 tive Council Quorum Act, 1865," and "The Clerk of Parliaments Act, 1872," are hereby respectively repealed. Section thirty-four of
 25 the Constitution Act shall not apply to any future appointments to the Council.

Repeal.

Notwithstanding such repeal, all existing appointments of Speaker, members, or officers respectively in the said Council, and
 all existing Standing Orders of the said Council, shall continue in
 30 force as if this Act had not been passed.

Saving of appointments, &c.

12. This Act shall not come into operation unless and until the Governor notifies by Proclamation that it is Her Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Governor shall notify by the same or any other
 35 Proclamation; and on this Act coming into operation as hereinbefore provided, the Imperial Act passed in the thirty-first and thirty-second years of the reign of Her Majesty, chapter fifty-seven, shall cease to have any further operation.

When Act to come into force.