



ANNO OCTAVO

# EDWARDI VII REGIS.

A.D. 1908.

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## No. 959.

An Act to amend the Constitution.

[*Assented to, December 2nd, 1908.*]

**B**E it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

- 1.** This Act may be cited as "The Constitution Amendment Act, 1908," and shall be incorporated with, and, so far as consistent with the tenor thereof, shall be construed as one with "The Constitution Act" and "The Electoral Code, 1896," and any Acts amending or substituted for the same.

Short title and incorporation.  
Act 779/1901, s. 1.  
Act 2 of 1855-6.  
Act 667 of 1896.
- 2.** Section 22 of "The Constitution Act," and the whole of "The Constitution Act Amendment Act, 1901," are hereby repealed.

Repeal.  
Act 779 of 1901.
- 3.** From and after the passing of this Act, notwithstanding anything to the contrary contained in "The Constitution Act," or the Acts amending the same, the Parliament of South Australia shall be constituted in manner hereinafter provided.

Future constitution of Parliament.  
Ibid., s. 4.
- 4.** Subject to the provisions of section 21, the Legislative Council shall consist of eighteen Members.

Legislative Council.  
Ibid., s. 5.
- 5.** The House of Assembly shall consist of forty-two Members.

House of Assembly.  
Ibid., s. 6.
- 6.** South Australia, including the Northern Territory, shall be divided for electoral purposes into four Council Districts, each distinguished by the names, and returning the number of Members, and

Council Districts.  
Ibid., s. 7.

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and comprising the Assembly Divisions set forth in the First Schedule. The district named "Midland Electoral District" in such Schedule is the district heretofore named "North-Eastern Electoral District," and the Members representing the district in the Legislative Council immediately before the passing of this Act shall continue to be the Members for the district as if its name had not been changed.

Assembly Districts.  
Ibid., s. 8.

**7.** For the purpose of electing Members of the House of Assembly the State of South Australia, excluding the Northern Territory thereof, shall be divided, in manner hereinafter provided, into twelve electoral districts, hereinafter called Assembly Districts, and the Northern Territory shall remain, as heretofore, one electoral district, returning two Members to the said House.

Names of Assembly  
Districts.  
Ibid., s. 9.

**8.** The Assembly Districts shall be distinguished by the names, and shall each return the number of Members, and shall comprise the former Assembly Districts set forth in the Second Schedule.

Electoral divisions of  
Council Districts.  
Ibid., s. 10.

**9.** Every Assembly District shall be also an electoral division of the Council District in which it is situated.

Term of service of  
Legislative  
Councillors.  
Ibid., s. 11, altered.

**10.** Subject to the provisions hereinafter contained as to the dissolution of the Legislative Council, every Member of the said Council, except a Member elected to fill a casual vacancy, shall occupy his seat for the term of six years at least, calculated as from the first day of March of the year in which he was last elected, and for such further period as is provided for in the next succeeding section. Provided nevertheless, if the seat of any Member of the Legislative Council becomes vacant by death, resignation, or otherwise before the expiration of his term of service, and a Member is returned from the Electoral District in which the vacancy occurred, he shall hold office only for the unexpired term of the Member whose seat has been vacated as aforesaid, and shall, for the purpose of retirement, be deemed to have been elected at the time when such last-mentioned Member was or was deemed to be elected: Provided also that where two or more Members are so returned at the same time to fill vacated seats of unequal terms such seats shall be deemed to be held by the said Members according to their position on the poll at their election, and that he who receives the greatest number of votes shall hold the seat which has the longest term to run, and in the event of a tie the matter shall be determined by lot.

Periodical retirement  
of Legislative  
Councillors.  
Ibid., s. 12, altered.

**11.** Whenever the House of Assembly is dissolved by the Governor, or expires by effluxion of time, so many Members of the Legislative Council, not exceeding three for the Central District and two for each of the other Districts, as have completed the minimum term of service provided by section 10 shall retire and vacate their seats, and, subject to section 21, an election to supply the vacancies so created shall take place on the day of the next general election of the House of Assembly.

**12.** The

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**12.** The periodical retirement of Members of the Legislative Council under the provisions of the last preceding section shall be determined as follows :—

i. The Members retiring in each Council District shall be those who have represented such district for the longest time, calculated from the date of their last election :

ii. If two or more Members have represented the same Council District for an equal time, calculated as aforesaid, the order of retirement as between them shall be determined by their position on the poll at their election, and he or they who had the least number of votes shall retire first. If their position is equal in this respect, or if no poll was taken, the order of retirement between them shall be determined by lot :

iii. The Legislative Council shall keep a roll of its Members, containing all particulars necessary for the application of the foregoing rules as to their periodical retirement.

**13.** The Legislative Council shall not be competent to proceed with the dispatch of business unless there are present, including the President or the person chosen to preside in his absence, at least ten Members of the said Council.

**14.** The House of Assembly shall not be competent to proceed with the dispatch of business unless there are present, including the Speaker or the person chosen to preside in his absence, at least twenty Members of the said House.

**15.** Subject to being sooner dissolved, and notwithstanding the limit of time prescribed by section 3 of "The Constitution Act"—

(1) Whenever any House of Assembly would expire by the effluxion of time between the thirtieth day of September of any year and the first day of March next thereafter such House shall continue up to and including the day preceding such first day of March and no longer :

(2) Whenever the said House would expire by effluxion of time between the last day of February and the first day of October of any year such House shall cease and determine on the day preceding the first day of March of that year.

**16.** The Governor shall appoint such Returning Officers, Electoral Registrars, and other officers for the electoral districts and electoral divisions as are required by and in conformity with the provisions of "The Electoral Code, 1896," and any Act amending the said Code or of any Act substituted therefor, and this Act.

**17.** The electoral rolls now in force by virtue of sections 18 and 19 of "The Constitution Act Amendment Act, 1901," for districts newly

Order of retirement.  
Ibid., s. 13, altered.

Quorum of the Legislative Council.  
Ibid., s. 15, altered.

Quorum of the House of Assembly.  
Ibid., s. 16, altered.

Continuation or early determination of House of Assembly.

New.

Appointment of Returning Officers and other officials.  
Ibid., s. 17.  
Act 667 of 1896.

New electoral rolls.  
Ibid., s. 18, altered.  
Act 779 of 1901.

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newly created thereunder and the alterations made in the electoral rolls of districts the boundaries of which were altered by or pursuant to the said Act, are hereby continued, and the Returning Officer for the State is hereby authorised to make such alterations in Schedule II. of "The Electoral Code, 1896," and in any Schedule substituted therefor by any Act amending or substituted for the said Code, as shall in his discretion be necessary to carry this Act into effect; and to the extent to which such alterations are made the said Schedule and such substituted Schedule (if any) shall be deemed to be repealed or amended by this Act, as the case may be; and all such alterations, on being made by the Returning Officer for the State, and being published in the *Government Gazette*, after having been approved by the Governor, shall be as valid in law as if herein enacted, but in all cases the registration of electors shall be preserved as of the date of their registration at the time such alterations are or were made.

"Officers of Parliament Act" to be applicable.  
Ibid., s. 20, altered.

**18.** "The Officers of Parliament Act" shall apply to any future dissolution of the Legislative Council by virtue of the provisions in that behalf herein contained.

Absence of Members of Parliament from their places.  
Ibid., s. 21.

**19.** Sections 12 and 25 of "The Constitution Act" are hereby amended by substituting the words "one month" for the words "two consecutive months" in each.

Number of Ministers.  
Ibid., s. 22, altered.

**20.** The number of Ministers of the Crown shall not exceed six, one of whom shall be an honorary Minister. Such Ministers shall respectively bear such titles and fill such ministerial offices as the Governor from time to time appoints, and not more than four of such Ministers shall at any one time be Members of the House of Assembly. The total salaries to be paid to such Ministers shall not exceed Five Thousand Pounds per annum.

Settlement of deadlocks.  
Ibid., s. 24, altered.

**21.** (1) Whenever any Bill for an Act has been passed by the House of Assembly during any Session of Parliament, and the same Bill, or a similar Bill with substantially the same objects and having the same title, has been passed by the House of Assembly during the next ensuing Parliament, a general election of the House of Assembly having taken place between such two Parliaments, and the second and third readings of such Bill having been passed in the second instance by an absolute majority of the whole number of Members of the said House of Assembly, and both such Bills have been rejected by or fail to become law in consequence of any amendments made therein by the Legislative Council, it shall be lawful for but not obligatory upon the Governor of the said State, within six months after the last rejection or failure, by Proclamation to be published in the *Government Gazette*, to dissolve the Legislative Council and House of Assembly, and thereupon all the Members of both Houses of Parliament shall vacate their seats, and Members shall be elected to supply the vacancies so created; or for the Governor, within six months after such rejection or failure,

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to issue writs for the election of three additional Members for the Central District and of two additional Members for each of the other districts of the Legislative Council.

(2) After the issue of such writs no vacancy, whether arising before or after the issue thereof, shall be filled, except as may be necessary to bring the representation of the district in which such vacancy occurs to its proper number, as set forth in First Schedule hereto. Whenever there are more seats vacated by Members returned for the same district than are to be filled, and such Members' seats were of unequal tenure, the seats of those Members the unexpired portions of whose terms are the shorter shall be first filled.

(3) Upon every such dissolution of the Legislative Council the order of retirement, as between the Members elected after such dissolution, shall be as provided in section 12 of this Act; and one half of such Members shall retire after three years' service, calculated from the first day of March of the year of their election, or after such further period as is provided for in section 11.

**22.** (1) Whenever a casual vacancy occurs in the Legislative Council at or near the time when the Governor is issuing, or is about to issue, a writ or writs for periodical or other elections of Members of the Council, and such vacancy is to be filled, the President shall in his writ for filling the same fix, if practicable, the same days for nomination and polling respectively as are fixed by the Governor in the writ or writs issued by him.

Concurrent writs of Governor and President.

New.

(2) The elections so ordered for the same day shall in each district be conducted as a single election for all the Members to be so elected therein, one and the same form of voting paper being used for all voters; and the Returning Officer shall indorse upon the writ issued by the Governor the names of the elected candidates who, being the number therein required, polled the most votes, and the names of the remaining elected candidate or candidates he shall indorse upon the writ issued by the President of the Council. In the event of two or more elected candidates polling an equal number of votes the Returning Officer shall, by drawing lots, decide which of such candidates is to be deemed, for the purpose of this section, to have polled the greatest number and which the next to the greatest number, and so on as the case may require.

**23.** (1) No Member of Parliament shall be permitted to sit or vote therein until he has taken and subscribed the following oath before the Governor, or before some person or persons authorised by the Governor to administer such oath:—

Oath of allegiance.

Act 2, 1855-6, s. 22.

“I do sincerely promise and swear that I will be faithful and bear true allegiance to His Majesty King EDWARD THE SEVENTH as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of this State of South Australia and its Dependencies in the Commonwealth of Australia, dependent

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dependent on and belonging to the said United Kingdom; and that I will defend him to the utmost of my power against all traitorous conspiracies and attempts whatsoever which shall be made against His person, crown, and dignity; and that I will do my utmost endeavor to disclose and make known to His Majesty, His heirs and successors, all treasons and traitorous conspiracies and attempts which I shall know to be against Him, or any of them: and all this I do swear without any equivocation, mental evasion, or secret reservation, and renouncing all pardons and dispensations from any person or persons whatever to the contrary. So HELP ME GOD!"

(2) It shall not be necessary for any Member of Parliament who has taken the oath prescribed herein to again take the said oath in the event of the demise of the Crown; such oath shall be deemed to relate to the Sovereign, His heirs, and successors according to law, and the name of the Sovereign for the time being shall be substituted as occasion requires.

Act 671 of 1896.

(3) Nothing in this section shall be deemed to affect the operation of "The Affirmations Act, 1896."

Resignation of Members of Parliament.  
Amendment of secs. 11 and 23 of Constitution Act 2 of 1855-6.  
New.

**24.** Sections 11 and 23 of the Constitution Act are hereby so far amended as to permit Members of either House to resign their seats, by writing under their hands addressed and delivered to the Governor, whenever it happens that there is no President or Speaker, as the case may be, or that the President or the Speaker is absent from the State or is incapacitated from performing the duties of his office.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

GEORGE R. LE HUNTE, Governor.

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## SCHEDULES.

## FIRST SCHEDULE.

Section 6.

Act 779, 1901.  
Sched. 2.

Name of District.	Number of Members to be Returned.	Assembly Divisions comprised in Council Districts.
Central Electoral District . . . . .	6	Divisions—Adelaide, Port Adelaide, Torrens.
Southern Electoral District . . . . .	4	“ Victoria and Albert, Alexandra, Murray.
Midland Electoral District . . . . .	4	“ Barossa, Wooroora, Wallaroo.
Northern Electoral District . . . . .	4	“ Stanley, Burra Burra, Flinders, and Northern Territory.
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## SECOND SCHEDULE.

Section 8.

Ibid., Sched. 3.

Name of District.	Number of Members to be Returned.	Former Assembly Districts comprised in Assembly Districts.
Adelaide District . . . . .	4	{ East Adelaide West Adelaide North Adelaide
Port Adelaide District . . . . .	3	{ Port Adelaide West Torrens
Torrens District . . . . .	5	{ East Torrens Sturt
Victoria and Albert District . . . . .	3	{ Victoria Albert
Alexandra District . . . . .	4	{ Mount Barker Encounter Bay Noarlunga
Murray District . . . . .	3	{ Onkparinga Gumeracha
Barossa District . . . . .	3	{ Barossa Yatala

SECOND

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Name of District.	Number of Members to be Returned.	Former Assembly Districts comprised in Assembly Districts.
Wooroora District .....	3	{ Light Wooroora
Walleroo District .....	3	{ Wallaroo Yorke Peninsula
Stanley District .....	3	{ Gladstone Stanley
Burra Burra District .....	3	{ Frome Burra
Flinders District .....	3	{ Newcastle Flinders
District Northern Territory.....	2	Northern Territory
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