

No. V.

CONSTITUTION ACT
AMENDMENT
(No. 2).

An Act to amend the Law relating to the incapacity of persons holding Offices of profit under the Crown to be elected or sit or vote as Members of the Legislative Assembly and to declare the elections of certain persons holding such Offices to have been valid and for other purposes. [21st February, 1881.]

Preamble.

WHEREAS it is expedient to amend the law relating to the incapacity of persons holding offices of profit under the Crown to be elected or sit or vote as Members of the Legislative Assembly and to declare the elections of certain persons holding such offices to be valid and in connexion with the said purposes to enact as hereinafter provided Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

Short title &c.

1. This Act may be cited as the "Constitution Act Amendment Act of 1881" and in its construction the expression "Constitution Act" means the Act contained in the Schedule to the Imperial Act eighteenth and nineteenth Victoria chapter fifty-four.

As to offices of profit &c.

2. After the passing of this Act no person holding an office of profit under the Crown other than one or more of the offices enumerated in the Schedule hereto and no person having a pension from the Crown during pleasure or for any term of years shall be capable of being elected or of sitting or voting as a Member of the Legislative Assembly but the holders for the time being of the offices enumerated in the Schedule shall be so capable Provided always that the holder of any office of profit under the Crown created by Act of Parliament as an office of the Executive Government shall be capable of being elected and of sitting and voting as a Member of the said Assembly.

Further disqualifications and exceptions therefrom.

3. If any Member of the said Assembly shall accept any office of profit or pension from the Crown during pleasure or for term of years his election shall be thereupon and is hereby declared to be void and a writ shall forthwith issue for a new election Provided that nothing in this or the last preceding section contained shall extend to any person in receipt only of pay half-pay or a pension as an officer in Her Majesty's Navy or Army or who shall receive any new or other commission in the Navy or Army respectively or any increase of pay on such Commission or to any of the officers enumerated in the Schedule hereto or referred to in the last preceding section who shall accept any other office of the Executive Government referred to in the said section or enumerated in the Schedule hereto.

General validating provisions.

4. No person holding any of the offices of profit under the Crown mentioned in the eighteenth section of the Constitution Act as an official Member of the Government or any office enumerated in the Schedule hereto who has at any time before the passing of this Act been elected a Member of the Legislative Assembly shall be deemed to have

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have been illegally elected or to have been incapable of sitting or voting as such member on any of the following grounds viz. :—

- (I.) That the Governor with the advice of the Executive Council did not by a notice in the *Government Gazette* declare such person (whether by his own name or that of his office) capable of being elected a Member of the said Assembly
- (II.) That at the time of his election five additional officers within the meaning of such section had already been declared capable by any such notice of being elected Members of the said Assembly or that at any such time the power of the Governor with the advice of the Executive Council to declare from time to time by a notice in the *Government Gazette* any additional officer capable of being elected a Member of the Legislative Assembly had been exhausted
- (III.) That in consequence of the abeyance or discontinuance of the offices of Auditor-General and Solicitor-General as offices constituting their holders official Members of the Government the maximum number of official Members capable of being elected Members of the said Assembly had been reduced below the aggregate number limited by the said section

Provided that nothing in this section shall apply to the holders of the office of Minister of Public Instruction.

5. The provisions of this Act shall be deemed and taken to indemnify and save harmless every holder of any office enumerated in the Schedule hereto against and from all pains penalties and liabilities whatsoever which may have been incurred by him by reason of his having sat or voted or voting as a Member of the said Assembly although incapable by the eighteenth section of the Constitution Act of being elected thereto or of sitting or voting therein. General indemnity clause.

6. The eighteenth and nineteenth sections of the Constitution Act are hereby repealed but without prejudice to their past operation Repeal. save as hereinbefore enacted.

SCHEDULE.

The Colonial Secretary.
 The Colonial Treasurer.
 The Attorney-General.
 The Secretary for Lands.
 The Secretary for Public Works.
 The Minister of Justice.
 The Minister of Public Instruction.
 The Secretary for Mines.
 The Postmaster-General.
