

Constitutional Reform and the Victorian Experience

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Background

On 23 November 1855 the Constitution Act was proclaimed in Victoria and some twelve months later on 25 November 1856, the first Parliament of Victoria was formally opened. Since then, the Victorian Parliament has debated many significant constitutional changes. These include the introduction of universal manhood suffrage for electors of the Legislative Assembly in 1857, the introduction of postal voting in 1900, the granting of adult suffrage for women aged 21 years or more in 1908, the introduction of preferential voting for the Legislative Assembly in 1911 and the Legislative Council in 1921, compulsory voting for the Legislative Assembly in 1926 and for the Legislative Council in 1935, the introduction of full adult suffrage and the abolition of membership qualifications for the Legislative Council in 1950 and the introduction of a maximum term of four years for the Legislative Assembly and the alteration of the tenure of Members of the Legislative Council from 6 years to two terms of the Legislative Assembly in 1984.

Each of these changes was particularly important and had a lasting impact upon constitutional development in Victoria. Each involved the Parliament at the time in a great deal of debate. However, there was to be a further round of changes made in 2003, which may arguably be regarded as a watershed in Victoria's constitutional and parliamentary history, especially relating to Upper House powers. They were to come about through a largely unexpected change of Government in 1999 that heralded in what was to become a period of unprecedented constitutional activity in the Parliament over the next four years.

The 1999 election was held on 18 September but the result was largely inconclusive on election day, complicated by the death of a sitting Member that day which necessitated a supplementary election one month later. Following that election and

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the adoption of a memorandum of understanding with three Independent Members of the Legislative Assembly the Bracks' Labor Government was sworn in on 20 October 1999 as a minority government.

Reform, or even abolition in the past, of the Upper House had long been part of Labor Party policy and the 1999 election campaign, which saw the party promise to improve the democratic operation of the Parliament, was no exception. Having achieved its aim of being in government, the Government moved with considerable speed to implement its program and the immediate period after that saw the Victorian Parliament focus on constitutional reform probably to a greater extent than at any other time since the establishment of responsible government, certainly in living memory.

The process of achieving reform was a long and difficult one for a Government without a majority in its own right in the Legislative Assembly and significantly outnumbered in the Upper House. However, despite many disappointments in its first term, the Government finally achieved its objective during its second term in 2003 and the Legislative Council will be forever changed as a result. In my view, the changes are the most significant ever made to the Victorian Legislative Council since the establishment of responsible government in 1856.

Attempts at Reform During the Government's First Term 1999–2002

The 54th Parliament of Victoria was opened by the then Governor, Sir James Gobbo, on 3 November 1999. In his opening speech, the Governor referred to the intention of the Government to, as a matter of priority, restore public confidence in our democratic institutions, including the reform of the Legislative Council. This reform was to be achieved by a Bill — the Constitution (Reform) Bill — which was introduced into the Legislative Assembly on 24 November 1999 and given its second reading the following day. In his second reading speech on the Bill the Premier told the Legislative Assembly that the Bill before the House was one of the most significant Bills to come before the Parliament. It contained measures that had previously been attempted, have been long awaited and were vital for democracy in this State.¹ The primary objectives of that Bill were to reform the Legislative Council, end the ability of that House to block Supply and establish a fixed four-year term of Parliament. The Bill sought to reduce the number of Members in the Legislative Council from 44 to 35 and in the Assembly from 88 to 85, introduce proportional representation, reduce the term of the Legislative Council to one term of the Legislative Assembly and remove the ability of the Council to reject Supply.

The Bill, however, was not proceeded with and was withdrawn on 1 June 2000 following the decision of the Government to instead introduce two Bills — the Constitution (Amendment) Bill and the Constitution (Proportional Representation)

¹ Constitution (Reform) Bill, second reading speech, Legislative Assembly *Hansard* Vol. 444, p. 609.

Bill — to deal with the issue of parliamentary reform. Both Bills were introduced into the Legislative Assembly on 31 May 2000, and given their second reading on 1 June. In his second reading speech on the Constitution (Amendment) Bill the Premier told the House the Government had taken the decision to withdraw the previous Bill following comment on the Bill and consultation with a number of persons, including the Independent Members and the non-government parties. As a result, some of the provisions in the Reform Bill had been altered.²

As the title suggests, the purpose of the Constitution (Proportional Representation) Bill was to introduce a system of proportional representation in the Legislative Council as well as reducing the number of Members in the House. The Bill sought to reduce the number of provinces to eight with each returning five Members, a net reduction of four Members. Unlike the Reform Bill there was to be no change to the number of Members in the Legislative Assembly. The relationship between the eight new provinces with Assembly districts was to also be significantly changed as the Bill provided that each province would consist of 11 districts. The Bill also sought to alter the minimum election period from 25 to 32 days to allow proportional representation elections to be conducted.

The Constitution (Amendment) Bill dealt with three issues of parliamentary reform — the term of Parliament, the duration of the Legislative Council and the ability of the Council to block Supply. The provisions concerning the term of Parliament were substantially the same as those in the Reform Bill by providing for a fixed term of four years unless the Government has lost the confidence of the Lower House. Like the Reform Bill the four-year term would commence not from the first sitting day of the new Parliament but from the date of the General Election. The Bill also reduced the term of Legislative Councillors from two terms of the Legislative Assembly to a single term. As a result, fixed terms would apply to both Houses.

One of the more significant changes from the Reform Bill concerned the ability of the Legislative Council to block Supply. The Reform Bill had proposed that Annual Appropriation Bills were to be presented for Royal Assent once passed by the Legislative Assembly. However, in his second reading speech, the Premier told the Assembly that following concerns that this would deprive the Upper House of its ability, as a house of review, to debate and comment on Supply Bills, the Bill had adopted the approach used in New South Wales and in the United Kingdom. This approach would allow the Legislative Council to consider and debate Annual Appropriation Bills but provide that, should the Council reject or fail to pass such a Bill within one month of it being passed by the Assembly, the Bill must be presented for Assent.³

² Constitution (Amendment) Bill, second reading speech, Legislative Assembly *Hansard* Vol. 447, p. 2163.

³ Constitution (Amendment) Bill, second reading speech, Legislative Assembly *Hansard* Vol. 447, pp. 2163–4.

Debate on the Constitution (Amendment) Bill resumed on 16 August 2000 and on the Constitution (Proportional Representation) Bill, one day later. A particular feature of the way the debate was conducted was that the Government, although conceding that the two Bills were inter-related, refused to agree to a request from the Opposition parties to debate the Bills concurrently, thus requiring the Speaker to leniently apply the rule of anticipation in the debate. This rule prevents reference being made in the debate on one Bill to another Bill listed on the Notice Paper. The Government's position was that they were two separate Bills which could be dealt with independently of each other and they should therefore be debated and subsequently voted on separately.

In the debate itself the provisions in the Bills were strongly opposed by members of the Liberal and National Parties. The introduction of a fixed term of the Parliament to four years unless there is a vote of no confidence attracted a great deal of criticism, with speakers against the Bill arguing that a constitutional crisis would occur if the Legislative Council decided to block legislation as there was no way to resolve the deadlock. It was claimed that the Government would have to vote against itself in the Legislative Assembly to achieve a dissolution as an attempt to resolve the issue. Not unexpectedly, the non-Government parties were also critical of the removal of the Legislative Council's power to block Supply consistent with their long held views regarding the powers of that House. It was also suggested that the proposed model would lead to less stability and reduce the Council's capacity to act as a house of review simply because its composition would mirror that of the Assembly at each election. The present arrangements whereby half the members only were elected each time enabled the Council to put a break on the system and exercise greater scrutiny over the activities of the Executive and should be retained.

The principal argument advanced against the Constitution (Proportional Representation) Bill was that the new boundaries would seriously impact upon the representation of country voters as rural provinces were being reduced from eight to three.

The Constitution (Amendment) Bill passed the Legislative Assembly on 31 August 2000 by 45 votes to 42, with one of the three Independents voting against the Bill on the second reading. The number of votes in favour was just sufficient for the Bill to receive the absolute majority required for it to pass. On 6 September, the Constitution (Proportional Representation) Bill was finally passed after five divisions. On this occasion, all three Independents voted in favour of the Bill and the third reading was passed by 45 votes to 41.

When the Legislative Council met on 5 September the Constitution (Amendment) Bill was introduced and read a first time and the second reading speech was given the following day. It was not until 3 October, after a two week break in the sittings, when the Constitution (Proportional Representation) Bill was read a first time. The second reading speech was given later that day and, on this occasion, the Council agreed to a cognate debate on the two Bills.

Debate on both Bills resumed on 4 October. The debate in the Council was as vigorous as that in the Assembly with the views being put on both sides essentially the same as those in the other House. Opposition speakers condemned the provisions of the Bill saying that the Government had no mandate to make such changes and claiming that they represented a threat to democracy. The reforms would emasculate the Legislative Council and end its scrutinizing role. On the other hand, Government Members took the view that the provisions redressed a long overdue electoral imbalance and gave effect to world's best Westminster practice. It was claimed that the Bills' provisions would not injure the integrity and function of the Council but rather enhance it.

The Bills were put to a vote in the Legislative Council on 24 October and were defeated on the second reading — the Constitution (Amendment) Bill failing to pass by 13 votes to 27 and the Constitutional (Proportional Representation) Bill being lost by 13 votes to 28.

The Establishment of the Constitutional Commission

In the debate on the two Bills the Premier foreshadowed that should they fail to pass the Upper House, a Constitutional Commission would be established to make recommendations in relation to an appropriate role for the Legislative Council. The Commission was established on 19 March 2001 and comprised three Commissioners — Professor the Hon George Hampel, QC, a former Judge of the Supreme Court, the Hon Alan Hunt, AM, a former President of the Legislative Council and Liberal Minister and the Hon Ian Macphie, AO, a former Federal Liberal Minister. The Commission's terms of reference were to consider the structure, powers and practices of the Legislative Council, as well as the method of election and number of Members. The relationship of the Council to the Legislative Assembly was also to be considered.

The Commission was given the task of consulting widely with the community and its recommendations were to be based on its consultation with community groups, business and interest groups and individuals, as well as a study of authoritative literature. Written submissions were sought by the end of November 2001. A Discussion Paper entitled *A House of Review: The Role of the Victorian Legislative Council in the Democratic Process*, designed to generate discussion and debate and facilitate the holding a number of public seminars, was released in August 2001. Approximately 7000 copies of the discussion paper were printed and the paper was also available on the Commission's website. The paper highlighted the following issues which were to be considered:

- What is 'good governance'?
- The foundation of Victorian democracy
- Victoria's current parliamentary structure

- The first Victorian Parliament
- The role of the Legislative Assembly
- The role of the Legislative Council
- How a government is formed
- How the Legislative Council has evolved
- The original role of the Legislative Council
- Why look at the role of the Legislative Council?
- The features of a House of Review
- How committees can operate with a House of Review
- Could the Legislative Council use committees more effectively?
- What do Upper Houses elsewhere look like?
- How do the different voting systems work?
- How the voting system is relevant to the role of a House of Review
- The role of Ministers in a House of Review

Should there be a link between Legislative Assembly and Legislative Council elections?

The Commission was required to report by 30 June 2002. In its investigations the Commission held three seminars in August and September 2001. During October and November, 10 public consultations in both country and metropolitan areas were conducted and on 9 January 2002, a consultation paper on *The Role of the Legislative Council: Issues and Options for the Victorian Community* was circulated. The Commission also received 196 written submissions from individuals and community groups from the Women's Electoral Lobby to the Country Women's Association. On the weekend of 1 to 3 March 2002 a news poll was conducted on the Commission's behalf with 300 respondents aged 18 years and over who were asked five questions in relation to the Legislative Council.

In its final report entitled *A House for our Future* the Commission indicated that on the basis of its work it was able to make recommendations that reflect current views and perceptions in the Victorian community and that it was satisfied that the climate and need for change are present. The Commission went on to say that the changes it was recommending would be in the interests of good governance in Victoria and would enhance the effectiveness, accountability and representation of Parliament. The Commission also said that the changes would help to diminish the distrust of the political process that was evident in the community.⁴

⁴ *A House for our Future*. Report by the Constitutional Commission Victoria, July 2002, p. 6.

The Commission made 14 major recommendations as follows:⁵

1. Electorates for the Victorian Legislative Council to be redesigned into multiple Electoral Regions each electing multiple members using the proportional representation voting system.
2. The members to be elected by the Australian Senate system of proportional representation.
3. The Senate electoral system to be modified to provide for optional preferential voting.
4. All Members of both Houses of the Victorian Parliament to be elected on a fixed day for a fixed concurrent four-year term.
5. Each candidate for election to the Legislative Council should have the suburb, township or district of his or her principal place of residence during the twelve months preceding the close of nominations disclosed on the ballot paper.
6. The committee system in the Council to be strengthened and the committees to be appropriately resourced.
7. Regional committees, for each Legislative Council region, to be established, made up of all Legislative Council Members of the region.
8. Ministerial posts in the Government to be phased out from the Legislative Council.
9. A Code of Parliamentary Conduct to be developed.
10. The right of the Government to govern according to its mandate to be recognised by the Legislative Council in performing its role as a House of Review.
11. A system for resolution of 'deadlocks' between the Legislative Council and the Legislative Assembly to be established.
12. The blocking of Supply by the Legislative Council to be prohibited.
13. Fundamental provisions of the Constitution Act to be entrenched.
14. Human rights of Victoria's citizens, based on the Universal Declaration of Human Rights and other international instruments, should be recognised as guiding principles in the Constitution.

A great deal of the Commission's report was devoted to considering four alternate electoral models —

Model 1 — The six electorates by seven member model.

Model 2 — The seven electorates by seven member model.

Model 3 — The eight electorates by five member model.

Model 4 — The nine electorates by five member model.

⁵ *A House for our Future*. Report by the Constitutional Commission Victoria, July 2002, p. 71.

All four models broke the existing nexus between the numbers of members in the Legislative Assembly and those in the Legislative Council. The Commission said that it was aware of the need to balance diversity and geographical considerations and that each model sought to achieve this balance in slightly different ways. Its inclination was toward lower rather than higher election quotas for the Upper House to better provide for diversity of representation. Any quota above the approximately 16.66 per cent required for models 3 and 4 would exclude diversity of representation. Any quota below 12 per cent would allow for the election of candidates who represented interests that were not truly reflected in the community. Taking these considerations into account the Commission favoured the six electorates by seven member model which had the advantage of reducing the size of the House by two members without prejudicing its ability to introduce an effective Committee system.⁶

Apart from the major recommendations the Commission also referred to a number of procedural reforms that might lead to a more effective Legislative Council. Although recommending that Parliament consider a number of these changes the Commission acknowledged that they were matters for Parliament itself to implement. These included deadlines for the introduction of Bills in both Houses, written answers to questions within 30 days, referral of petitions to committees, orders for the production of documents similar to the Senate, the rostering of an Assembly Minister to attend the adjournment debate, the appointment of select committees, the right of reply to statements made in debate, the removal of the Chair's casting vote and instead giving it a deliberative vote, the Parliament budget and the protection of human rights in a Bill of Rights.

In its report the Commission conceded that the level of public knowledge of and corresponding interest in the subject-matter of the inquiry was low. However, the Commission said that this was not surprising given that there was a general feeling in the community of remoteness from the political process and a concern about a lack of consultation. The Commission said that the regional consultation process began slowly, but built up steadily, in attendances, degree of community involvement and written submissions. In its report the Commission said that the seminars, public and other consultation processes involved over 600 people, with 36 hours of recordings of the proceedings and 142 pages were later transcribed. 4000 copies of the consultation paper were distributed and 304 completed questionnaires were received and analysed. A number of schools attended meetings and others indicated to the Commission that constitutional reform had been included in their first seminar 2002 politics and social studies subjects, based on the Commission's published papers. In conclusion the Commission regarded the consultation process as being thorough and useful. It indicated that the numbers participating in the proceedings exceeded those attracted to the House of Lords' reform process in the United Kingdom.⁷

⁶ *A House for our Future*. Report by the Constitutional Commission Victoria, July 2002, p. 40.

⁷ *A House for our Future*. Report by the Constitutional Commission Victoria, July 2002, p. 75.

The Constitution (Parliamentary Reform) Bill 2002

The Government wasted no time in responding to the Commission's report, which the Premier described as laying out a clear and compelling case for change. In indicating that the Government would base its reforms on the recommendations in the report the Premier described the Victorian Upper House as the least representative Chamber of any mainland Parliament, the purpose of which when it was established in 1851 was to protect the interests of wealth and privilege from the democratic excesses of the Lower House.⁸

On 12 September 2002 the Constitution (Parliamentary Reform) Bill was introduced and read a first time in the Legislative Assembly. In the second reading speech given that day, the Premier told the House that the Bill was based 'upon the recommendations of the Constitution Commission which would 'modernize the Parliament so that it is responsive to the needs of all Victorians in the 21st century'.⁹

The principal provisions of the Bill were to:

- recognise the principle of Government mandate;
- provide for the entrenchment of certain legislative provisions;
- provide for a fixed four year parliamentary term, unless dissolution of the Assembly occurs sooner;
- re-constitute the Council to consist of 40 members, elected from 8 regions each region returning 5 members;
- provide for the filling of casual vacancies in the Council;
- remove the ability of the Council to block supply (Annual Appropriation) Bills;
- establish a dispute resolution process for deadlocked Bills;
- provide for proportional representation with optional preferential voting for members of the Council.

The provisions of this Bill, as was the case with the previous reform Bills, were again strongly opposed by the non-government parties. However, the Bill was to fail through an unusual set of circumstances. During the debate one of the Independent Members indicated that two of the Independents wished to split the Bill into two Bills — one with the majority of the provisions in the Government's Bill and the other providing for fixed four-year terms, fixed four-year dates of

⁸ 'Reform Must Come', by Steve Bracks, *Herald-Sun*, 24 July 2002.

⁹ Constitution (Parliamentary Reform) Bill, second reading speech, Legislative Assembly *Hansard* Vol. 456, p. 146.

elections and dispute resolution processes in the Parliament. The main argument advanced in support of this proposition was that although there may not be unanimous agreement in the Parliament on the Government's overall package, consensus on the simple proposition of fixed terms could be achieved and could start the reform process in general.

The Government, however, refused to support the Independent amendment and on 9 October 2002 after a long debate, two of the three Independents refused to support the Bill on the third reading. Although the vote was 44 in favour of the Bill and 42 against, an absolute majority (45 or more) was not obtained as required under the Constitution Act and the Speaker declared the Bill void.

On 5 November 2002, the Legislative Assembly was dissolved and the Legislative Council prorogued by Proclamation of the Governor in preparation for a General Election on 30 November. It is significant to note that the date of the election was the earliest possible date on which an election could be called and the Government signalled its intention to seek a mandate for Upper House reform during the election campaign.

The 2002 Election: A Defining Moment for Constitutional Reform

There is little doubt that the Government chose exactly the right time to hold an election which was to change the landscape dramatically. The Government was returned with a substantial majority of 62 seats out of 88 in the Legislative Assembly and for the first time ever, a majority of seats in the Legislative Council. Although only 24 of the Council's 44 seats were up for election (22 as per usual and two for by-elections) the Government was able to increase its total number of seats from 14 in the previous Parliament to 25 in the new Parliament. Significantly it now had sufficient seats in the Upper House to achieve the absolute majority (23 or more) it needed to implement the Constitutional reforms which it had attempted to achieve in the 54th Parliament.

The 55th Parliament was opened on 25 February 2003 and in his opening speech the Governor, John Landy, indicated that the Government's first action in the first sitting of the new Parliament would be to reintroduce legislation to bring about long-promised parliamentary reforms.

The Constitution (Parliamentary Reform) Bill 2003

Having seen the parliamentary impediment to constitutional reform removed by the election result, the Government moved very quickly to implement the reform package. On 26 February 2003 the Constitution (Parliamentary Reform) Bill was introduced into the Legislative Assembly and given its second reading the following day. The Bill was substantially the same as the 2002 Bill but with some

minor differences. In his second reading speech the Premier described the Bill as the most comprehensive reform of Victoria's parliamentary system since it was established in 1856 and said that the Bill would bring the Victorian constitution into line with the rest of Australia and give Victorian people a stronger, fairer system of democracy.

He went on to say —

This Bill meets the commitment of this Government to create a modern parliamentary democracy by improving our constitution as recommended by the Constitution Commission. This means introducing new rules to make Parliament more accountable; transforming the Legislative Council into a more effective house of review and further improving transparency in government.¹⁰

As a measure of the priority given to it by the Government, the Bill had passed both Houses by 27 March. Not surprisingly the Bill was vigorously opposed by the non-government parties and as an indication of the significance of the debate in the Upper House, the Sessional Orders were suspended to increase the time limit for Members speaking in the debate and for the first time in memory all Members of the House, apart from the President, participated. In unprecedented scenes in the Legislative Council, a packed gallery comprising many Labor Party figures, including the current Premier and two former Premiers, erupted into applause when the Bill passed its final stages. The third reading was carried by 24 votes to 19.

The Act was assented to on 8 April 2003. Key features of the Act are:

(a) Fixed terms

Fixed terms have been introduced for both Houses with elections to be held on the last Saturday in November. The next election will be held on 25 November 2006 and thereafter every four years from that date. The Premier will no longer be able to nominate the date of the election. The fixed four-year term can only be altered in exceptional circumstances which are prescribed in the Constitution such as if the Assembly passes a motion of no confidence in the Government. In either circumstance the Legislative Council is no longer indissoluble and shall exist only until the Legislative Assembly is dissolved, whereupon all of the Legislative Council will face elections.

(b) Electoral system

The Act makes major changes to the electoral system and provides for the reconstitution of the Council to consist of 40 Members, elected from eight regions with each region returning five Members. Legislative Council elections will now be held on the basis of proportional representation with optional preferential voting for

¹⁰ Constitution (Parliamentary Reform) Bill, second reading speech, Legislative Assembly *Hansard* Vol. 457, p. 160.

Members of the Council instead of preferential voting as is currently the case. Thus the membership of the Council will be reduced from 44 to 40. Although the Constitution Commission recommended the introduction of six regions with seven Members, the Government believed that the eight by five model would be more effective in avoiding problems associated with too low a quota, such as single issue candidates being elected and causing Upper House instability. The Government also claimed that as there are more regions under the adopted model the level of representation for country Victoria was improved.

In addition, there will no longer be by-elections to fill vacancies in the Council. Any new Member will be selected by a Joint Sitting of both Houses and where the vacating Member was elected as a Member of a party, the Joint Sitting must select a person nominated by that party. The Act also contains provisions relating to the replacement of Independent Members.

(c) President's deliberative vote

Currently the President cannot vote on a matter before the House, except when the vote is tied and the President can make a casting vote to decide the outcome. Under the Act's provisions the President will have a deliberative vote — the same entitlement as all other Members of the Upper House. As is the case with the Senate, all matters considered by the Council will be determined by a majority of the Members present, including the President. If a vote is tied the matter will fail to pass the Council.

(d) Supply

The Act has explicitly removed the Council's power to block Supply. The House will still be able to scrutinize Appropriation Bills; however, if such a Bill has not been passed by the Council within one month of having passed the Assembly, the Bill must be presented to the Governor for Royal Assent. Under the Constitution as it operated previously it was possible under certain conditions for the Assembly to be dissolved if a Bill dealing exclusively with appropriation was rejected or delayed by the Council.

(e) Deadlocks

One of the long perceived problems in the Constitution has been the lack of a satisfactory mechanism for settling deadlocks between the Houses. The Act provides for the establishment of a new dispute resolution process which will provide greater opportunities to work through a dispute about proposed legislation. Following each election, a Dispute Resolution Committee, consisting of seven Members of the Assembly and five Members of the Council will be established. Where a Bill is passed by the Legislative Assembly and is rejected by the Legislative Council. It will be regarded as a Disputed Bill and referred by the

Assembly to the Dispute Resolution Committee. The committee will attempt to resolve differences regarding the Disputed Bill and must reach a resolution within a specified time. If this process fails the Bill will be regarded as a Deadlocked Bill and can become a ground for a double dissolution or the Bill can be held over until the next General Election.

(f) The principle of government mandate

The Act changes the Constitution to require the Legislative Council to respect the Government's rights and obligations to implement its specific mandate (the promises and policies made during the previous election campaign) and its general mandate (to govern for and on behalf of the Victorian people). These changes are only a statement of principle. The Legislative Council cannot be compelled to comply with the principle of government mandate and no restriction will be placed on the power of the Council to act as it thinks fit.

(g) Entrenchment of certain legislative provisions

Until now the Constitution could simply be altered by the Parliament providing that any amending Bill obtained an absolute majority if required. Under the new Act the Constitution has been changed to protect or entrench important provisions and from now on the Constitution can only be changed in one of three ways — referendum, special majority and absolute majority.

The new Act has established core provisions within the Constitution which can only be changed through a referendum. These provisions include:

- the number of Members and the quorum of both Houses of Parliament;
- the Legislative Council's loss of the right to block Supply;
- the dispute resolution process for Deadlocked Bills;
- recognition of local government as an essential tier of government; and
- continuance of the Auditor-General, Director of Public Prosecutions, Ombudsman and Electoral Commissioner as independent officers of the Parliament.

In addition, a number of procedural provisions of the Constitution can now only be passed through a 'special majority' of Parliament consisting of 60 per cent of the total number of Members of both Houses. These provisions include those related to Parliament's prorogation, dissolution and powers and eligibility requirements for Members and voters.

Provisions in the Constitution relating to the Supreme Court still require an absolute majority.

Conclusion

As can be seen from this paper the road towards achieving constitutional parliamentary reform has been a long and at times a difficult one for the Government. Certainly the Labor Party has been trenchant in its criticism of the Legislative Council for a long time and the Government having finally gained the opportunity to make the changes it had so long desired, moved swiftly to implement its reform program. On the other hand, the non-government parties have been highly critical of the reforms and have argued that the effectiveness of the Legislative Council has been largely reduced, particularly in relation to the representation of country Victoria. That is a political debate upon which I do not propose to enter. The Legislative Council has already begun to change due to a radically different set of Sessional Orders which governs its operations in the current Parliament. However, one thing is for certain. The Legislative Council in the 56th Parliament will be even more different from all of its predecessors. It promises to be an interesting, if not exciting time for those of us who serve it in some capacity. ▲