

No. XLI.

An Act to confer a Constitution on New South Wales and to grant a Civil List to Her Majesty. [Reserved—22nd December, 1853.]

NEW CONSTITUTION.

WHIEREAS by the thirty-second clause of the Imperial Act passed in the Session holden in the thirteenth and fourteenth years of the reign of Her present Majesty intituled “*An Act for the better Government of Her Majesty’s Australian Colonies*” it was among other things enacted that notwithstanding anything therein before contained it should be lawful for the Governor and Legislative Council of this Colony from time to time by any Act or Acts to alter the provisions or laws for the time being in force under the said Imperial Act or otherwise concerning the Election of the Elective Members of such Legislative Council and the qualification of Electors and Elective Members or to establish in the said Colony instead of the Legislative Council a Council and a House of Representatives or other separate Legislative Houses to consist of such Members to be appointed or elected by such persons and in such manner as by such Act or Acts should be determined and to vest in such Council and House of Representatives or other separate Legislative Houses the powers and functions of the Legislative Council for which the same may be substituted And whereas it is expedient that the powers vested by the said Act in the said Governor and Legislative Council should be exercised and that a Legislative Council and Legislative Assembly as constituted by this Act should be substituted for the present Legislative Council with the increased powers and functions hereinafter contained Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof as follows:—

Recital of 32nd clause of 13 and 14 Vic. cap 39.

1. There shall be in place of the Legislative Council now subsisting one Legislative Council and one Legislative Assembly to be severally constituted and composed in the manner hereinafter prescribed and within the said Colony of New South Wales Her Majesty shall have power by and with the advice and consent of the said Council and Assembly to make laws for the peace welfare and good government of the said Colony in all cases whatsoever and all such laws being passed by the said Council and Assembly and assented to by Her Majesty or assented to in Her Majesty’s name by the Governor of the said Colony shall be valid and binding to all intents and purposes

Parliament of New South Wales.
General powers of the Parliament.
Assent to Bills.

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Taxation and Appropriation Bills to originate in Assembly.

Bills affecting Imperial subjects.

What Bills may be reserved for the signification of Her Majesty's pleasure.

Question as to Governor's right to reserve a Bill or of Her Majesty's right to disallow a Bill to be determined by Judicial Committee of Privy Council.

Appointment of Legislative Councilors.

poses within the said Colony Provided that all Bills for appropriating any part of the Public Revenue or for imposing any new rate tax or impost subject always to the limitation contained in clause sixty-two of this Act shall originate in the Legislative Assembly of the said Colony and further that all Bills affecting any Imperial subject may in the discretion of the Governor for the time being be reserved for the signification of Her Majesty's pleasure thereon and if assented to by such Governor in the first instance on behalf of Her Majesty may be disallowed by Her Majesty in the manner and within the period hereinafter limited.

2. The Bills on Imperial subjects which may be reserved for the signification of Her Majesty's pleasure or which after being assented to by the Governor in Her Majesty's name may be afterwards disallowed by Her Majesty within the period hereinafter specified are as follow that is to say:—

1. Bills touching the Allegiance of the Inhabitants of this Colony to Her Majesty's Crown.
2. Bills touching the Naturalization of Aliens.
3. Bills relating to Treaties between the Crown and any Foreign Power.
4. Bills relating to Political Intercourse and Communications between this Colony and any Officer of a Foreign Power or Dependency.
5. Bills relating to the employment command and discipline of Her Majesty's Sea and Land Forces within this Colony and whatever relates to the defence of the Colony from foreign aggression including the command of the Municipal Militia and Marine.
6. Bills relating to the crime of High Treason.

3. Whenever any question shall arise as to the right of the Governor to reserve any Bill for the signification of Her Majesty's pleasure thereon or as to the right of Her Majesty to disallow any such Bill the same shall be determined by the Judicial Committee of the Privy Council and in no other manner except by the consent of the said Legislature of New South Wales and such question shall be raised by an Address to Her Majesty in Her Privy Council by both Houses of the said Legislature setting forth the question so to be determined Provided that all such Bills shall be absolutely in abeyance pending any such determination and that they shall be afterwards submitted for the signification of Her Majesty's pleasure thereon or remitted to the Colony for the exercise of the Governor's discretion according to the decision of the Judicial Committee in each such case.

4. For the purpose of composing the Legislative Council of New South Wales it shall be lawful for Her Majesty before the time to be appointed for the first meeting of the said Legislative Council and Assembly by an Instrument under the Sign Manual to authorize the Governor with the advice of the Executive Council in Her Majesty's name by an Instrument or Instruments under the Great Seal of the said Colony to summon to the said Legislative Council of the said Colony such persons being not fewer than twenty-one as the said Governor and Executive Council shall think fit and it shall also be lawful for Her Majesty from time to time to authorize the Governor in like manner to summon to the said Legislative Council such other person or persons as the said Governor and Executive Council shall think fit and every person who shall be so summoned shall thereby become a Member of the Legislative Council of the said Colony Provided always that no person shall be summoned to the said Legislative Council who shall not be of the full age of twenty-one years and a natural born subject of Her Majesty or naturalized by an Act of the Imperial Parliament or by an Act of the Legislature of the said Colony
Provided

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Provided also that not less than four-fifths of the Members so summoned to the Legislative Council shall consist of persons not holding any office of emolument under the Crown except Officers of Her Majesty's Sea and Land Forces on full or half-pay or Retired Officers on pensions.

5. The Members of the first Legislative Council of the said Colony who shall be so summoned by the Governor with the advice of the Executive Council shall hold their respective seats therein for five years from the date of the first summonses to the said Legislative Council but all future Members of the said Legislative Council who shall be summoned thereto after the expiration of the said five years by the Governor with the advice of the Executive Council as aforesaid shall hold their seats therein for the term of their natural lives subject nevertheless to the provisions hereinafter contained for vacating the same and for altering and amending the future Constitution of the said Colony as established by this Act.

Tenure of office of
Councillors.

6. It shall be lawful for any Member of the Legislative Council to resign his seat therein by a letter to the Governor and upon the receipt of any such letter by the Governor the seat of such Legislative Councillor shall become vacant.

Resignation of
Councillors.

7. If any Legislative Councillor shall for two successive Sessions of the Legislature of the said Colony fail to give his attendance in the said Legislative Council without the permission of Her Majesty or of the Governor of the Colony signified by the said Governor to the Legislative Council or shall take any oath or make any declaration or acknowledgment of allegiance obedience or adherence to any Foreign Prince or Power or shall do concur in or adopt any act whereby he may become a subject or citizen of any Foreign State or Power or whereby he may become entitled to the rights privileges or immunities of a subject or citizen of any Foreign State or Power or shall become bankrupt or take the benefit of any law relating to insolvent debtors or become a public contractor or defaulter or be attainted of treason or be convicted of felony or of any infamous crime his seat in such Council shall thereby become vacant.

Vacating seat by
absence.

8. Any question which shall arise respecting any vacancy in the Legislative Council on occasion of any of the matters aforesaid shall be referred by the Governor to the said Legislative Council to be by the said Legislative Council heard and determined Provided always that it shall be lawful either for the person respecting whose seat such question shall have arisen or for Her Majesty's Attorney General for the said Colony on Her Majesty's behalf to appeal from the determination of the said Council in such case to Her Majesty and that the judgment of Her Majesty given with the advice of Her Privy Council thereon shall be final and conclusive to all intents and purposes.

Trial of questions of
vacaney.

9. The Governor of the Colony shall have power and authority from time to time by an Instrument under the Great Seal of the said Colony to appoint one Member of the said Legislative Council to be President thereof and to remove him and appoint another in his stead and it shall be at all times lawful for the said President to take part in any debate or discussion which may arise in the said Legislative Council.

Appointment of
President.

President may take
part in debates.

10. The presence of at least one-third of the Members of the said Legislative Council exclusive of the President shall be necessary to constitute a Quorum for the dispatch of business and all questions which shall arise in the said Legislative Council shall be decided by a majority of votes of the Members present other than the President and when the votes shall be equal the President shall have the casting vote Provided always that if the whole number of Members constituting

Quorum division
casting vote.

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tuting the said Legislative Council shall not be exactly divisible by three the Quorum of the said Legislative Council shall consist of such whole number as is next greater than one-third of the Members of the said Legislative Council.

Convoking
Assembly.

11. For the purpose of constituting the Legislative Assembly of the said Colony it shall be lawful for the Governor thereof within the time hereinafter mentioned and thereafter from time to time as occasion shall require in Her Majesty's name by an Instrument or Instruments under the Great Seal of the said Colony to summon and call together a Legislative Assembly in and for the said Colony.

Number of Members
of Assembly.

12. The Legislative Assembly shall for the present consist of fifty-four Members to be elected by the inhabitants of the said Colony having any of the qualifications mentioned in the next succeeding clause of this Act.

Qualification of
Electors.

13. The qualifications for Electors of the Legislative Assembly shall be as follows—Every man of the age of twenty-one years being a natural born or naturalized subject of Her Majesty or legally made a denizen of New South Wales and having a freehold estate in possession situate within the district for which his vote is to be given of the clear value of one hundred pounds sterling money above all charges and incumbrances in any way affecting the same or to which he has been seised or entitled either at Law or in Equity for at least six calendar months next before the last registration of Electors or being a householder within such district occupying any house warehouse counting-house office shop or other building of the clear annual value of ten pounds sterling money and having occupied the same for six calendar months next before such registration as aforesaid or having a leasehold estate in possession situate within such district of the value of ten pounds sterling money per annum held upon a lease which at the time of such registration has not less than three years to run or having a leasehold estate so situate and of such value as aforesaid of which he has been in possession for three years or upwards next before such registration or holding at the time of such registration a license from the Government to depasture lands within the district for which his vote is to be given or having a salary of one hundred pounds a year and having enjoyed the same for six calendar months next before such registration or being the occupant of any room or lodging and paying for his board and lodging forty pounds a year or for his lodging only at the rate of ten pounds a year and having occupied the same room or lodging for six calendar months next before such registration as aforesaid shall be entitled to vote at the election of a Member of the Legislative Assembly Provided always that no man shall be entitled to vote who has been attainted or convicted of treason felony or other infamous offence in any part of Her Majesty's Dominions unless he have received a free or conditional pardon for such offence or have undergone the sentence passed on him for such offence and provided also that no man shall be entitled to vote unless at the time of such registration of Electors he shall have paid up all rates and taxes which shall have become payable by him as owner or leaseholder in respect of such estate or as occupier in respect of such occupancy or as the holder of a license in respect of such license except such as shall have become payable during three calendar months next before such registration.

When joint owners
and occupiers shall
be entitled to be
registered as voters
and to vote.

14. Where any premises are jointly owned occupied or held on lease within the meaning of the last preceding clause by more persons than one each of such joint owners occupiers or leaseholders shall be entitled to be registered as a voter and to vote in respect of the said premises in case the value of his individual interest therein separately considered would under the first four provisions of the said last preceding

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preceding section entitle such owner occupier or leaseholder to be registered as a voter and to vote.

15. Until further provision shall be made by the Legislature of the said Colony all the provisions contained in "the Electoral Act of 1851" passed by the late Legislative Council in the fourteenth year of Her Majesty's reign numbered forty-seven except so much of the first clause thereof as relates to the number and constitution of the present Legislative Council and so much of the third and other clauses thereof as is repugnant to this Act shall be in force and apply to the election of Members to serve in the Legislative Assembly constituted under this Act except as follows:—

Division of the Colony into Electoral Districts and the number of Members to be returned by each.

The Electoral Districts of East Camden and West Camden shall each return two Members instead of one Member to serve in the said Legislative Assembly the Electoral District of the United Counties of Cook and Westmoreland shall return two Members the Counties of Murray Saint Vincent Roxburgh and Wellington shall each form an Electoral District and each return one Member the County of Cumberland shall be divided into two Ridings to be called the North and South Ridings the North Riding commencing where the Great Western Road crosses Johnstone's Creek and bounded on the south by the centre of that road bearing westerly to where it crosses the southern boundary of the Electoral District of Parramatta near Beckett's Bridge thence by part of the southern by the eastern northern and western boundaries of the said Electoral District to the Great Western Road near the Toll-bar thence again by the centre of that road bearing westerly to Emu Ferry on the Nepean River on the west and north by the Nepean and Hawkesbury Rivers to Broken Bay and on the east by the sea coast and the southern shores of Port Jackson to Johnstone's Creek and by Johnstone's Creek to the point of commencement exclusive of the Hamlets of Saint Leonard's and Balmain and also excluding so much of the Cumberland Boroughs as is embraced by the Towns of Windsor and Richmond and also so much of the Borough of Penrith as is situated on the north side of the Western Road and the South Riding commencing where the Great Western Road crosses Johnstone's Creek and bounded on the north by the centre of that road bearing westerly to where it crosses the southern boundary of the Electoral District of the Town of Parramatta near Beckett's Bridge thence by part of the southern boundary of the said Electoral District bearing westerly to the Great Western Road near the Toll-bar thence again by the centre of that road bearing westerly to Emu Ferry on the Nepean River on the west by that river upwards to the confluence of the Cataract River on the south by that river upwards to its source and thence by a line bearing east twenty degrees south to the coast at Bulli being the southern boundary of the County of Cumberland on the east by the sea coast to Port Jackson and again on the north by the southern shores of Port Jackson to Johnstone's Creek and by Johnstone's Creek to the point of commencement exclusive of the City of Sydney and the Hamlets of Paddington Surry Hills Redfern Chippendale O'Connell Town Camperdown and Glebe and also excluding so much of the Cumberland Boroughs as is embraced by the Towns of Liverpool and Campbell Town and also so much of the Borough of Penrith

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Penrith as is situated on the south side of the Western Road and each of the said Ridings shall return two Members the United Counties of Northumberland and Hunter shall return three Members instead of two the County of Durham shall return three Members instead of two the City of Sydney shall return four Members instead of three the Sydney Hamlets the Town of Parramatta the Northumberland Boroughs and the Stanley Boroughs shall each return two Members instead of one Member the Electoral Districts of the Pastoral Districts of the Murrumbidgee of the Lachlan and Lower Darling of Liverpool Plains and the Gwydir and of New England and the M'Leay shall each return two Members instead of one Member to serve in the said Legislative Assembly as aforesaid.

Electoral Lists.

16. The new classes of Electors entitled to vote by this Act at the election of Members of the Legislative Assembly shall be inserted in the Electoral Lists appointed to be made by "the Electoral Act of 1851" in the Electoral Districts in which they shall be respectively resident and all such lists shall specify the Christian and surnames of all such Electors the nature of the qualification and the place where they respectively reside and all such lists shall be signed delivered printed and hung up for public inspection by the persons and in the way in the said Act prescribed and shall be subject to the like claims and notice from any person whose name shall have been omitted therein and to the like objections and notice as to the names of any person inserted therein and to the like modes of altering amending or continuing any such lists as are in these said several respects provided for in the said "Electoral Act of 1851" as nearly as may be consistently with the rights of such new Electors.

Power to alter system of representation.

17. It shall be lawful for the Legislature of the Colony by any Act or Acts to be hereafter passed to alter the divisions and extent of the several Counties Districts Cities Towns Boroughs and Hamlets which shall be represented in the Legislative Assembly and to establish new and other divisions of the same and to alter the apportionment of Representatives to be chosen by the said Counties Districts Cities Towns Boroughs and Hamlets respectively and to alter the number of Representatives to be chosen in and for the Colony and in and for the several Electoral Districts in the same and to alter and regulate the appointment of Returning Officers and make such new and other provision as they may deem expedient for the issuing and return of Writs for the election of Members to serve in the said Legislative Assembly and the time and place of holding such Elections Provided always that it shall not be lawful to present to the Governor of the Colony for Her Majesty's Assent any Bill by which the number or apportionment of Representatives in the Legislative Assembly may be altered unless the second and third readings of such Bill in the Legislative Council and the Legislative Assembly respectively shall have been passed with the concurrence of a majority of the Members for the time being of the said Legislative Council and of two-thirds of the Members for the time being of the said Legislative Assembly and the Assent of Her Majesty shall not be given to any such Bill unless an Address shall have been presented by the Legislative Assembly to the Governor stating that such Bill has been so passed.

Qualification of Members of Assembly.

18. Any person absolutely free (except as is hereinafter excepted) who shall be qualified and registered as a voter in and for any Electoral District within the said Colony shall be qualified to be elected a Member

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Member of the Legislative Assembly for any Electoral District within the said Colony.

19. No person being a Member of the Legislative Council shall be capable of being elected or of sitting or voting as a Member of the Legislative Assembly.

Members of Legislative Council incapable of being Members of Legislative Assembly.

20. Any person holding any office of profit under the Crown or having a pension from the Crown during pleasure or for term of years shall be incapable of being elected or of sitting or voting as a Member of the Legislative Assembly unless he be one of the following Official Members of the Government that is to say the Colonial Secretary Colonial Treasurer Auditor General Attorney General and Solicitor General or one of such additional Officers not being more than five as the Governor with the advice of the Executive Council may from time by a notice in the *Government Gazette* declare capable of being elected a Member of the said Assembly.

Disqualifying clause of Members of Assembly.

21. If any Member of the said Assembly shall accept of 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 Act 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 Official Members of the Government or other Officers referred to in the last preceding clause of this Act who may accept any other office.

Further disqualifying clause of Members of Assembly.

Pensions of Officers of the Navy and Army.

22. No person shall be capable of being elected a Member to serve in the said Assembly and of sitting and voting therein who shall be a Minister of the Church of England or a Minister Priest or Ecclesiastic either according to the rites of the Church of Rome or under any other form or profession of religious faith or worship.

Disqualifying Ministers of Religion.

23. Every Legislative Assembly of the said Colony hereafter to be summoned and chosen shall continue for five years from the day of the return of the Writs for choosing the same and no longer subject nevertheless to be sooner prorogued or dissolved by the Governor of the said Colony.

Duration of Assembly.

24. The Members of the Legislative Assembly shall upon the first assembling after every General Election proceed forthwith to elect one of their number to be Speaker and in case of his death resignation or removal by a vote of the said Legislative Assembly the said Members shall forthwith proceed to elect another of such Members to be such Speaker and the Speaker so elected shall preside at all meetings of the said Legislative Assembly except as may be provided by the Standing Rules and Orders hereinafter authorized to be made.

Election of the Speaker.

25. The presence of at least twenty Members of the Legislative Assembly exclusive of the Speaker shall be necessary to constitute a meeting of the said Legislative Assembly for the dispatch of business and all questions (except as herein is excepted) which shall arise in the said Assembly shall be decided by the majority of votes of such Members as shall be present other than the Speaker and when the votes shall be equal the Speaker shall have the casting vote.

Quorum division casting vote.

26. Upon any General Election the Legislative Assembly shall be competent to proceed to the dispatch of business at the time appointed by the Governor for that purpose notwithstanding that any of the Writs of Election (not exceeding five) shall not have been returned or that in any of the Electoral Districts the Electors shall have failed to elect a Member to serve in the said Assembly.

Assembly may proceed to business although Writs not exceeding five shall not have been returned.

27. It shall be lawful for any Member of the Assembly by writing under his hand addressed to the Speaker of the said House to resign

Resignation of seats in the Assembly.

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resign his seat therein and upon the receipt of such resignation by the Speaker the seat of such Member shall become vacant.

Vacating seats of Members of Assembly in certain cases.

28. If any Member of the Assembly shall for one whole Session of the Legislature without the permission of the Assembly entered upon its Journals fail to give his attendance in the said House or shall take any oath or make any declaration or acknowledgement of allegiance obedience or adherence to any Foreign Prince or Power or do or concur in or adopt any act whereby he may become a subject or citizen of any Foreign State or Power or become entitled to the rights privileges or immunities of a subject of any Foreign State or Power or shall become bankrupt or an insolvent debtor within the meaning of the laws in force within the said Colony relating to bankrupts or insolvent debtors or shall become a public defaulter or be attainted of treason or be convicted of felony or any infamous crime his seat in such Assembly shall thereby become vacant.

Election to take place on vacancies.

29. When and so often as a vacancy shall occur as aforesaid upon a Resolution by the Assembly declaring such vacancy and the causes thereof the Speaker shall cause a Writ to be issued for supplying such vacancy Provided that the Speaker may issue such Writ without such preceding Resolution when the Assembly is not in Session.

Disqualifying contractors and persons interested in contracts from being Members of either House.

30. Any person who shall directly or indirectly himself or by any person whatsoever in trust for him or for his use or benefit or on his account undertake execute hold or enjoy in the whole or in part any contract or agreement for or on account of the public service shall be incapable of being summoned or elected or of sitting or voting as a Member of the Legislative Council or Legislative Assembly during the time he shall execute hold or enjoy any such contract or any part or share thereof or any benefit or emolument arising from the same and if any person being a Member of such Council or Assembly shall enter into any such contract or agreement or having entered into it shall continue to hold it his seat shall be declared by the said Legislative Council or Legislative Assembly as the case may require to be void and thereupon the same shall become and be void accordingly Provided always that nothing herein contained shall extend to any contract or agreement made entered into or accepted by any incorporated company or any trading company consisting of more than twenty persons where such contract or agreement shall be made entered into or accepted for the general benefit of such incorporated or trading company.

Proviso exempting from disqualification members of companies exceeding twenty in number.

Election of disqualified persons void.

31. If any person by this Act disabled or declared to be incapable to sit or vote in the Legislative Council or Legislative Assembly shall nevertheless be summoned to the said Council or elected and returned as a Member to serve in the said Assembly for any Electoral District such summons or election and return shall and may be declared by the said Council or Assembly as the case may require to be void and thereupon the same shall become and be void to all intents and purposes whatsoever and if any person under any of the disqualifications mentioned in the last preceding section shall whilst so disqualified presume to sit or vote as a Member of the said Council or Assembly such person shall forfeit the sum of five hundred pounds to be recovered by any person who shall sue for the same in the Supreme Court of New South Wales.

Penalty on their sitting or voting.

Place and time of holding Parliament.

32. It shall be lawful for the Governor of the Colony for the time being to fix such place or places within any part of the Colony and such times for holding the first and every other Session of the Legislative Council and Assembly of the said Colony as he may think fit such times and places to be afterwards changed or varied as the Governor may judge advisable and most consistent with general convenience

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venience and the public welfare giving sufficient notice thereof and also to prorogue the said Legislative Council and Assembly from time to time and to dissolve the said Assembly by Proclamation or otherwise whenever he shall deem it expedient.

33. There shall be a Session of the Legislative Council and Assembly once at least in every year so that a period of twelve calendar months shall not intervene between the last sitting of the Legislative Council and Assembly in one Session and the first sitting of the Legislative Council and Assembly in the next Session.

One Session of Parliament to be held in each year.

34. The Legislative Council and Assembly shall be called together for the first time at some period not later than six calendar months next after the Proclamation of this Act by the Governor of the said Colony.

First calling together of Parliament.

35. No Member either of the Legislative Council or of the Legislative Assembly shall be permitted to sit or vote therein until he shall have taken and subscribed the following oath before the Governor of the Colony or before some person or persons authorized by such Governor to administer such oath :—

No Member to sit or vote until he has taken the following oath of allegiance.

“ I A. B. do sincerely promise and swear that I will be faithful
 “ and bear true Allegiance to Her Majesty Queen Victoria
 “ as lawful Sovereign of the United Kingdom of Great
 “ Britain and Ireland and of this Colony of New South
 “ Wales dependent on and belonging to the said United
 “ Kingdom So help me God”

And whensoever the demise of Her present Majesty (whom may God long preserve) or of any of Her Successors to the Crown of the said United Kingdom shall be notified by the Governor of the Colony to the said Council and Assembly respectively the Members of the said Council and Assembly shall before they shall be permitted to sit and vote therein take and subscribe the like oath of allegiance to the Successor for the time being to the said Crown.

36. Provided that every person authorized by law to make an affirmation instead of taking an oath may make such affirmation in every case in which an oath is hereinbefore required to be taken.

Affirmation may be made instead of oath.

37. The said Legislative Council and Assembly in the first Session of each respectively and from time to time afterwards as there shall be occasion shall prepare and adopt such Standing Rules and Orders as shall appear to the said Council and Assembly respectively best adapted for the orderly conduct of such Council and Assembly respectively and for the manner in which such Council and Assembly shall be presided over in case of the absence of the President or the Speaker and for the mode in which such Council and Assembly shall confer correspond and communicate with each other relative to Votes or Bills passed by or pending in such Council and Assembly respectively and for the manner in which notices of Bills Resolutions and other business intended to be submitted to such Council and Assembly respectively at any Session thereof may be published for general information and for the proper passing entitling and numbering of the Bills to be introduced into and passed by the said Council and Assembly and for the proper presentation of the same to the Governor for the time being for Her Majesty's Assent all of which Rules and Orders shall by such Council and Assembly respectively be laid before the Governor and being by him approved shall become binding and of force.

Standing Rules and Orders to be made.

38. Every Bill which has been passed by the Legislative Council and Assembly shall be presented for Her Majesty's Assent to the Governor of the said Colony and the Governor in all Bills relating to the local or municipal affairs of the said Colony shall declare at once according to his discretion that he assents to such Bill in Her Majesty's name

Bills presented to the Governor for Assent.

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or that he withholds Her Majesty's Assent and in all Bills touching or affecting any Imperial subject the Governor shall declare according to his discretion but subject nevertheless to the provisions contained in this Act and to such Instructions as may from time to time be given in that behalf by Her Majesty Her Heirs or Successors that he assents to such Bill in Her Majesty's name or that he withholds Her Majesty's Assent or that he reserves such Bill for the signification of Her Majesty's pleasure thereon.

Disallowance of Bills assented to.

39. Whenever any Bill affecting any Imperial subject which shall have been presented for Her Majesty's Assent to the Governor of the Colony shall by such Governor have been assented to in Her Majesty's name the Governor shall by the first convenient opportunity transmit to one of Her Majesty's Principal Secretaries of State an authentic copy of such Bill so assented to and it shall be lawful at any time within six calendar months after such Bill shall have been so received by the Secretary of State for Her Majesty by Order in Council to declare Her disallowance of such Bill and such disallowance together with a certificate under the hand and seal of the Secretary of State certifying the day on which such Bill was received as aforesaid being signified by the Governor to the Legislative Council and Assembly of the said Colony by Speech or Message to the said Council or by Proclamation in the *New South Wales Government Gazette* shall make void and annul the same from and after the day of such signification.

Reserved Bill not to have force until Governor shall signify Her Majesty's Assent thereto.

40. No Bill which shall be so reserved for the signification of Her Majesty's pleasure thereon shall have any force or authority within the said Colony until the Governor shall signify either by Speech or Message to the said Legislative Council and Assembly or by Proclamation that such Bill has been laid before Her Majesty in Council and that Her Majesty has been pleased to assent to the said Bill and no Bill which shall be so reserved as aforesaid shall have any force or authority in the said Colony unless Her Majesty's Assent thereto shall have been so signified as aforesaid within the space of eighteen calendar months from the day on which such Bill shall have been presented for Her Majesty's Assent to the Governor as aforesaid.

Entry of Message or Proclamation notifying disallowance of Bills or Assent to reserved Bills to be made in Journals.

41. In either of the cases mentioned in the last two preceding clauses an entry shall be made in the Journals of the said Legislative Council and Assembly of every such Speech Message or Proclamation and a duplicate thereof duly attested shall be delivered to the Registrar of the Supreme Court or other proper officer to be kept among the records of the said Colony.

Legislature as constructed by this Act empowered to alter any of its provisions.

42. Notwithstanding anything hereinbefore contained the Legislature of the said Colony as constituted by this Act shall have full power and authority from time to time by any Act or Acts to alter the provisions or laws for the time being in force under this Act or otherwise concerning the Legislative Council the nomination or election of another Legislative Council to consist respectively of such Members to be appointed or elected respectively by such person or persons and in such manner as by such Act or Acts shall be determined Provided always that it shall not be lawful to present to the Governor of the said Colony for Her Majesty's Assent any Bill by which any such alteration in the Constitution of the said Colony may be made unless the second and third readings of such Bill shall have been passed with the concurrence of two-thirds of the Members for the time being of the said Legislative Council and of the said Legislative Assembly respectively Provided also that every Bill which shall be so passed for any of such purposes shall be reserved for the signification of Her Majesty's pleasure thereon and a copy of such Bill shall be laid before both Houses of the Imperial Parliament for the period of

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of thirty days at the least before Her Majesty's pleasure thereon shall be signified.

43. It shall be lawful for Her Majesty with the advice of Her Privy Council or under Her Majesty's Signet and Sign Manual through one of Her Principal Secretaries of State from time to time to convey to the Governor of New South Wales such Instructions as to Her Majesty shall seem meet for the guidance of such Governor in the exercise of the powers hereby vested in him of assenting to or dissenting from or for reserving for the signification of Her Majesty's pleasure Bills to be passed by the said Legislative Council and Assembly affecting any Imperial subject and so that such Instructions do not in any way fetter the Governor's discretion in giving or refusing Her Majesty's Assent to Bills of mere local or municipal concernment.

Governor in certain cases to conform to Her Majesty's Instructions.

44. The appointment to all public offices under the Government of the Colony hereafter to become vacant or to be created whether such offices be salaried or not shall be vested in the Governor with the advice of the Executive Council with the exception of the appointments of the Officers liable to retire from office on political grounds as hereinafter mentioned which appointments shall be vested in the Governor alone Provided always that this enactment shall not extend to minor appointments which by Act of the Legislature or by order of the Governor and Executive Council may be vested in heads of Departments or other officers or persons within the Colony.

Appointment to offices under the Government of the Colony to be vested in the Governor.

45. The Commissions of the present Judges of the Supreme Court of the said Colony and of all future Judges thereof shall be continue and remain in full force during their good behaviour notwithstanding the demise of Her Majesty (whom may God long preserve) or of Her Heirs and Successors any law usage or practice to the contrary thereof in anywise notwithstanding.

Judges continued in the enjoyment of their offices during their good behaviour notwithstanding any demise of the Crown.

46. It shall be lawful nevertheless for Her Majesty Her Heirs and Successors to remove any such Judge or Judges upon the Address of both Houses of the Legislature of this Colony.

But they may be removed by the Crown on the Address of Parliament.

47. Such salaries as are settled upon the Judges for the time being by Act of Parliament or otherwise and also such salaries as shall or may be in future granted by Her Majesty Her Heirs and Successors or otherwise to any future Judge or Judges of the said Supreme Court shall in all time coming be paid and payable to every such Judge and Judges for the time being so long as the Patents or Commissions of them or any of them respectively shall continue and remain in force.

Their salaries secured during the continuance of their Commissions.

48. All Laws Statutes and Ordinances which at the time of the passing of this Act shall be in force within the said Colony shall remain and continue to be of the same force authority and effect as if this Act had not been made except in so far as the same are repealed or varied by this Act or in so far as the same shall or may hereafter by virtue and under the authority of this Act be repealed or varied by any Act or Acts of the Legislature of the said Colony.

Existing laws saved.

49. All the Courts of Civil and Criminal Jurisdiction within the said Colony and all Charters legal Commissions Powers and Authorities and all Officers judicial administrative or ministerial within the said Colony respectively except in so far as the same may be abolished altered or varied by or may be inconsistent with the provisions of this Act or shall be abolished altered or varied by any Act or Acts of the Legislature of the Colony or other competent authority shall continue to subsist in the same form and with the same effect as if this Act had not been made.

Courts of Justice Commissions Officers &c.

50. Subject to the provisions herein contained it shall be lawful for the Legislature of this Colony to make laws for regulating the sale

Legislature empowered to make laws regulating sale

New Constitution.

and other disposal of Waste Lands. of sale letting disposal and occupation of the Waste Lands of the Crown within the said Colony.

Duties not to be levied on supplies for troops nor any duties inconsistent with treaties.

51. It shall not be lawful for the Legislature of the Colony to levy any duty upon articles imported *bonâ fide* for the supply of Her Majesty's Land or Sea Forces nor to levy any duty impose any prohibition or restriction or grant any exemption from any drawback or other privilege upon the importation or exportation of any articles nor to enforce any dues or charges upon shipping contrary to or at variance with any treaty or treaties concluded by Her Majesty with any Foreign Power.

Customs duties may be imposed not differential though contrary to existing Acts of Parliament.

52. Subject to the provisions of this Act and notwithstanding any Act or Acts of the Imperial Parliament now in force to the contrary it shall be lawful for the Legislature of the Colony to impose and levy such duties of Customs as to them may seem fit on the importation into the Colony of any goods wares and merchandise whatsoever whether the produce of or exported from the United Kingdom or any of the Colonies or Dependencies of the United Kingdom or any Foreign Country Provided always that no new duty shall be so imposed upon the importation into the said Colony of any article the produce or manufacture of or imported from any particular country or place which shall not be equally imposed on the importation into the said Colony of the like article the produce or manufacture of or exported from all other countries and places whatsoever.

Boundaries of the Colony.

53. For the purpose of this Act the boundaries of the Colony of New South Wales shall except as hereinafter excepted comprise all that portion of Her Majesty's Territory of Australia or New Holland lying between the one hundred and twenty-ninth and one hundred and fifty-fourth degrees of East longitude reckoning from the meridian of Greenwich and northward of the fortieth degree of South latitude including all the Islands adjacent in the Pacific Ocean within the latitude aforesaid and also including Lord Howe Island being in or about the latitude of thirty-one degrees thirty minutes South and the one hundred and fifty-ninth degree of East longitude reckoning from the said meridian of Greenwich save and except the Territories comprised within the boundaries of the Province of South Australia and the Colony of Victoria as at present established Provided always that nothing herein contained shall be deemed to prevent Her Majesty from altering the boundary of the Colony of New South Wales on the North in such manner as to Her Majesty may seem fit nor from detaching from the said Colony that portion of the same which lies between the Western boundary of South Australia and the one hundred and twenty-ninth degree of East longitude reckoning from the said meridian of Greenwich.

Boundaries of the Colonies of N. S. Wales Victoria and South Australia not to be altered without Legislative sanction of the Colony parting with its territory.
Preamble to Civil List Clauses.

44. No alteration except as is provided in the last preceding clause shall take place in the boundaries of the respective Colonies of New South Wales Victoria or South Australia unless the Assent of the Colony losing any portion of its territory by such alienation shall be expressed in some Legislative provision of such Colony.

And whereas the Legislative Council of New South Wales constituted under the Imperial Act passed in the Session holden in the thirteenth and fourteenth years of the reign of Her present Majesty intituled "*An Act for the better Government of Her Majesty's Australian Colonies*" are desirous that Her Majesty should owe to the spontaneous liberality of Her people in this Colony such grant by way of Civil List in lieu of the provision contained in the Schedule to that Act as shall be sufficient to give stability and security to the Civil Institutions of the Colony and to provide for the adequate remuneration of able and efficient Officers in the Executive Judicial and other Departments of Her Majesty's Colonial Service the granting of which
Civil

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Civil List belongs constitutionally only to Her Majesty's faithful people through their Representatives in the said Legislative Council and Her Majesty's most dutiful and loyal subjects the Members of the said Legislative Council in Council assembled being desirous that a certain competent revenue for the purpose may be settled upon Her Majesty (to whom may God grant a long and happy reign) as a testimony of their unfeigned affection to Her Majesty's person and Government have accordingly freely resolved in lieu of the aforesaid statutable provision for the like purpose to grant to Her Majesty Her Heirs and Successors a certain revenue payable out of the Consolidated Revenue Fund of this Colony Be it therefore further enacted as follows:—

55. All taxes imposts rates and duties and all territorial casual and other revenues of the Crown (including royalties) from whatever source arising within this Colony and over which the present or future Legislature has or may have power of appropriation shall form one Consolidated Revenue Fund to be appropriated for the public service of this Colony in the manner and subject to the charges hereinafter mentioned.

All duties and revenues to form Consolidated Revenue Fund.

56. The Consolidated Revenue Fund of this Colony shall be permanently charged with all the costs charges and expenses incident to the collection management and receipt thereof such costs charges and expenses being subject nevertheless to be reviewed and audited in such manner as shall be directed by any Act of the Legislature.

Such fund permanently charged with expenses of collection.

57. There shall be payable in every year to Her Majesty Her Heirs and Successors out of the Consolidated Revenue Fund of this Colony the several sums not exceeding in the whole the sum of sixty-four thousand and three hundred pounds for defraying the expense of the several services and purposes named in the Schedules A B and C to this Act annexed the said several sums to be issued by the Colonial Treasurer in discharge of such Warrant or Warrants as shall be from time to time directed under the hand of the Governor and the said Treasurer shall account to Her Majesty for the same through the Lords Commissioners of Her Majesty's Treasury in such manner and form as Her Majesty shall be graciously pleased to direct.

Civil List of £64,300 payable to Her Majesty.

58. The said several sums mentioned in Schedules A B and C shall be accepted and taken by Her Majesty Her Heirs and Successors by way of Civil List instead of all territorial casual and other revenues of the Crown (including all royalties) from whatever source arising within the said Colony and to the disposal of which the Crown may be entitled either absolutely or conditionally or otherwise howsoever.

Civil List to be accompanied by surrender of all revenues of the Crown.

59. Not more than four thousand five hundred and fifty pounds in each year shall be payable for pensions to the Judges of the Supreme Court out of the sum set apart for pensions in the said Schedule B and not more than five thousand nine hundred pounds in each year shall be payable by way of pension or retiring allowance for the present incumbents of any office or department mentioned in the said Schedule B who on political grounds may retire or be released from any such office or department Provided always that pensions shall be demandable by such Judges to the amount of seven-tenths of their actual salaries on permanent disability or infirmity or after fifteen years service as such Judge in this Colony and that so far as the present Judges are concerned every three years service in any Judicial Office in this Colony other than the office of a Judge of the Supreme Court shall be equivalent to one year's service as such Judge of the Supreme Court Provided also that the Officers so liable to retire or be released shall be the Attorney General and Solicitor General the Colonial Secretary Colonial Treasurer and Auditor

Pensions payable to Judges of Supreme Court.

Pensions payable to certain officers liable to removal from office on political grounds.

Provisoes in reference to Judges and such Officers.

New Constitution.

Auditor General and upon the retirement or release from office of any of the present Officers they shall be entitled by way of pension or retiring allowance to the full amount of the salaries respectively received by them at the time of the passing of this Act. Provided also that if after the assignment of any such pension or retiring allowance any of such Judges or Officers shall accept any new appointment under the Crown then and in every such case the pension or retiring allowance of any such Judge or Officer shall merge or be reduced *pro tanto* during the tenure of such appointment according as the salary or emoluments of any such new appointment are of greater or less amount than the pension or retiring allowance of such Judge or Officer.

Superannuation pensions to certain other Officers not liable to removal upon political grounds.

To be regulated by Superannuation Act 4 & 5 William IV. cap. 24.

60. Not more than three thousand five hundred pounds in each year shall be payable for pensions to superannuated Officers. Provided always that the amount of all such pensions for such superannuated Officers shall be according to the several scales and rates fixed by the Superannuation Act of the Parliament of Great Britain and Ireland passed in the Session of the fourth and fifth years of the reign of His late Majesty King William the Fourth and that a list of all pensions granted under this Act and of the persons to whom the same shall have been granted shall be laid in every year before both Houses of the Legislature of the Colony.

Consolidated Revenue to be appropriated by Act of the Legislature.

Debentures or any other charges on Consolidated Revenue Fund not to be affected by such consolidation.

61. After and subject to the payments to be made under the provisions hereinbefore contained all the Consolidated Revenue Fund hereinbefore mentioned shall be subject to be appropriated to such specific purposes as by any Act of the Legislature of the Colony shall be prescribed in that behalf. Provided that the consolidation of the Revenues of this Colony shall not affect the payment of the annual interest or the principal sums mentioned in any outstanding debentures or other charge upon the Territorial Revenue as such interest principal or other charge severally becomes due nor shall such consolidation affect the payment of any sum or sums heretofore charged upon the taxes duties rates and imposts now raised levied and collected or to be raised levied and collected to and for the use of this Colony for such time as shall have been appointed by any Acts of the said Legislature by which any such charge was authorized.

No Money Vote or Bill lawful unless recommended by Governor.

62. It shall not be lawful for the Legislative Assembly to originate or pass any Vote Resolution or Bill for the appropriation of any part of the said Consolidated Revenue Fund or of any other tax or impost to any purpose which shall not have been first recommended by a Message of the Governor to the said Legislative Assembly during the Session in which such Vote Resolution or Bill shall be passed.

No part of Public Revenue to be issued except on Warrants from Governor.

63. No part of Her Majesty's Revenue in the said Colony arising from any of the sources aforesaid shall be issued or shall be made issuable except in pursuance of Warrants under the hand of the Governor of the Colony directed to the public Treasurer thereof.

Proclamation and commencement of Act.

64. This Act shall be proclaimed in New South Wales by the Governor thereof within one calendar month after official information of the Royal Assent thereto shall have been received by such Governor and shall take effect within the said Colony from the day of the Proclamation thereof.

Interpretation of term "Governor."

65. In the construction of this Act the term "Governor" shall mean the person for the time being lawfully administering the Government of the Colony of New South Wales.

Provisions of this Act to have no force until so much of 13 & 14 Vic. cap. 59

66. The foregoing provisions of this Act shall have no force or effect until so much and such parts of the Act of the Parliament of the

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the United Kingdom of Great Britain and Ireland passed in the thirteenth and fourteenth years of Her Majesty's reign intituled "*An Act for the better Government of the Australian Colonies*" and the first second and third parts of the Schedule A therein referred to and of another Act passed in the fifth and sixth years of Her Majesty's reign intituled "*An Act for the Government of New South Wales and Van Diemen's Land*" and of another Act passed in the said fifth and sixth years of Her Majesty's reign intituled "*An Act for regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies*" and of another Act passed in the eighth year of Her Majesty's reign intituled "*An Act to clear up doubts as to the regulation and audit of the Customs of New South Wales*" and of another Act passed in the same year intituled "*An Act to explain and amend the Act for the Government of New South Wales and Van Diemen's Land*" and of another Act passed in the ninth year of the reign of His late Majesty King George the Fourth intituled "*An Act to provide for the Administration of Justice in New South Wales and Van Diemen's Land and for the more effectual Government thereof and for other purposes relating thereto*" and of another Act passed in the ninth and tenth years of Her Majesty's reign intituled "*An Act to amend an Act for regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies and to make further provision for the management thereof*" as severally relate to the Colony of New South Wales and as are repugnant to this Act shall have been repealed and the entire management and control of the Waste Lands belonging to the Crown in the said Colony of New South Wales and also the appropriation of the gross proceeds of the sales of any such lands and of all other proceeds and revenues of the same from whatever source arising within the said Colony including all royalties mines and minerals shall be vested in the Legislature of the said Colony Provided that nothing herein contained shall affect or be construed to affect any contract or to prevent the fulfilment of any promise or engagement made by or on behalf of Her Majesty with respect to any lands situate within the said Colony in cases where such contracts promises or engagements shall have been lawfully made before the time at which this Act shall take effect within this Colony nor to disturb or in any way interfere with or prejudice any vested or other rights which have accrued or belong to the licensed occupants or lessees of any Crown Lands within or without the Settled Districts under and by virtue of the aforesaid Act of Parliament passed in the ninth and tenth year of Her Majesty's reign or of any Order or Orders of Her Majesty in Council issued in pursuance thereof.

and so much also of
5 & 6 Vic. cap. 76

5 & 6 Vic. cap. 36

and of 7 & 8 Vic.
cap. 72

7 & 8 Vic. cap. 74

9 Geo. IV. cap. 83

and 9 & 10 Vic. cap.
104

as relates to this
Colony and is
repugnant to
reserved Bills be
repealed.
And the entire man-
agement of Crown
Lands and all
revenues thence
arising be vested in
the Local Legisla-
ture.

This provision not
to affect any pre-
vious contracts of
Her Majesty
respecting any such
lands nor any vested
rights which have
arisen under 9 & 10
Vic. cap. 104 nor
any vested right or
interest which has
accrued under any
Order of Council
issued by Her
Majesty in Council
in pursuance thereof.

New Constitution.

SCHEDULE A.

	Salaries payable whilst the present Incumbents are in office.			Salaries to be paid in future as vacancies occur.		
	£	s.	d.	£	s.	d.
To be placed at the disposal of Her Majesty for the Salary of the Governor General if Her Majesty see fit otherwise to revert to the Consolidated Revenue Fund	7,000	0	0	7,000	0	0
One Chief Justice	2,000	0	0	2,000	0	0
Three Judges including one for Moreton Bay	4,500	0	0	4,500	0	0
Colonial Secretary	2,000	0	0	2,000	0	0
Colonial Treasurer	1,250	0	0	1,250	0	0
Auditor General	900	0	0	900	0	0
Attorney General	1,500	0	0	1,500	0	0
Solicitor General	1,000	0	0	1,000	0	0
Governor's Private Secretary	400	0	0	400	0	0
Master in Equity and Curator of Intestate Estates and Chief Commissioner of Insolvent Estates	1,000	0	0			
Chairman of Quarter Sessions and Commissioner of Court of Requests	800	0	0			
	22,350	0	0	20,550	0	0

SCHEDULE B.

Pensions to Judges on their ceasing to hold office (Until demandable and claimed this amount or any unclaimed portion of it to revert to the Consolidated Revenue Fund)	4,550	0	0
Pensions to existing Officers of the Government liable on political grounds to retire or be released from office upon their retirement or release (Upon the demise of these Officers or until their retirement or release their respective pensions or this amount (as the case may be) to revert to the Consolidated Revenue Fund)	5,900	0	0
Pensions to Officers of Government not liable on political grounds to retire or be released from office according to the Scales and Rates fixed by the Superannuation Act of the Imperial Parliament 4th and 5th Wm. IV. c. 24. (Any portion of this fund which may not be drawn during any year to revert to the Consolidated Revenue Fund)	3,500	0	0
	13,950	0	0

SCHEDULE C.

Public Worship	28,000	0	0
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