An Act to Consolidate the Laws relating to the Constitution of the Colony of Queensland.

[28th December, 1867.]

WHEREAS by an Order in Council empowering the Government of Queensland to make laws and to provide for the administration of justice in the said colony dated at the Court at Buckingham Palace the sixth day of June one thousand eight hundred and fifty-nine it was declared and ordered by the Queen's Most Excellent Majesty in Council that the Legislature of the Colony of Queensland should have full power and authority from time to time to make laws altering or repealing all or any of the provisions of the said Order in Council in the same manner as any other laws for the good government of the colony except so much of the same as incorporates the enactments of the fourteenth year of Her Majesty chapter fifty-nine and of the sixth year of Her Majesty chapter seventy-six relating to the giving and withholding of Her Majesty's assent to Bills and the reservation of Bills for the signification of Her Majesty's pleasure and the instructions to be conveyed to Governors for their guidance in relation to the matters aforesaid and the disallowance of Bills by Her Majesty Provided that every Bill by which any alteration should be made in the constitution of the Legislative Council so as to render the whole or any portion thereof elective should be reserved for the signification of Her Majesty's pleasure thereon and a copy of such Bill should be laid before both Houses of the Imperial Parliament for the period of thirty days at least before Her Majesty's pleasure thereon should be signified And whereas by the thirty-first clause of an Act of the sixth year of Her Majesty chapter seventy-six entitled "An Act for the Government of New South Wales and Van Diemen's Land" it was enacted as follows—"That every Bill which has been passed by the said council and also every law proposed by the Governor which shall have been passed by the said council whether with or without amendments shall be presented for Her Majesty's assent to the Governor of the said colony and that the Governor shall..."
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 and all Bills
altering or affecting the divisions and extent of the several districts
and towns which shall be represented in the Legislative Council or
establishing new and other divisions of the same or altering the num-
ber of the members of the Council to be chosen by the said districts
and towns respectively or increasing the whole number of the
"Legislative Council or altering the salaries of the Governor superinten-
dent or judges or any of them and also all Bills altering or affecting
"the duties of customs upon any goods wares or merchandise imported
to or exported from the said colony shall in every case be so reserved
"except such Bills for temporary laws as the Governor shall expressly
"declare necessary to be forthwith assented to by reason of some public
"and pressing emergency" And by the thirty-third clause of the
said last-mentioned Act it was enacted as follows—"That whenever
any Bill which shall have been presented for Her Majesty's assent to
the Governor of the said 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 that it shall be lawful at any time within two years 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 that 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 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" And by the thirty-third clause of the same
Act it was enacted as follows—"That no Bill which shall be so reserved
for the signification of Her Majesty's pleasure thereon shall have any
force or authority within the Colony of New South Wales until the
"Governor of the said colony shall signify either by speech or
"message to the Legislative Council of the said colony or by proclama-
tion as aforesaid that such Bill has been laid before Her Majesty
in Council and that Her Majesty has been pleased to assent to the
same and that an entry shall be made in the journals of the said
"Legislative Council 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 and that 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 two years from the day on which
"such Bill shall have been presented for Her Majesty's assent
CONSTITUTION.

"to the Governor as aforesaid" And by the fortieth clause of the same Act it was declared and enacted as follows—"That it shall be lawful for Her said Majesty with the advice of Her Privy Council or under Principal Secretaries of State from time to time to convey to the Governor of the said Colony of New South Wales such instructions as to Her Majesty shall seem meet for the guidance of such Governor for 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 council and it shall be the duty of such Governor to act in obedience to such instructions" And whereas by the Act of the eighth year of Her Majesty chapter seventy-four entitled An Act to Explain and Amend the Act for the Government of New South Wales and Van Diemen's Land and by the seventh section thereof after reciting that "it is provided that certain Bills shall in every case be reserved by the Governor for the signification of Her Majesty's pleasure thereon and the intent of such provision was to ensure that such Bills as aforesaid should not be assented to by the Governor without due consideration" it was enacted "That it shall not be necessary for the Governor to reserve any such Bill for the signification of Her Majesty's pleasure thereon from which in the exercise holding the Royal assent of his discretion as limited in the said recited Act he shall declare that he withholds Her Majesty's assent or to which he shall have previously received instructions on the part of Her Majesty to assent and to which he shall assent accordingly" And whereas by the Act of the fourteenth year of Her Majesty chapter fifty-nine intituled An Act for the Better Government of Her Majesty's Australian Colonies it was provided and enacted that the provisions of the said Act of the sixth year of the reign of Her Majesty as explained and amended by the said Act of the eighth year of the reign of Her Majesty concerning Bills reserved for the signification of Her Majesty's pleasure thereon shall be applicable to every Bill so reserved under the provisions of the said Act of the fourteenth year of Her Majesty chapter fifty-nine And whereas it is expedient to consolidate the laws relating to the constitution of Her Majesty's said Colony of Queensland Now therefore be it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled and by the authority of the same as follows—

The Legislature.

1. There shall be within the said Colony of Queensland a Legislative Council and a Legislative Assembly.

2. Within the said Colony of Queensland 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 colony in all cases whatsoever. Provided that all Bills for appropriating
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"to the Governor as aforesaid" And by the fortieth clause of the same Act it was declared and enacted as follows—"That it shall be lawful for Her said Majesty with the advice of Her Privy Council or under Principal Secretaries of State from time to time to convey to the Governor of the said Colony of New South Wales such instructions as to Her Majesty shall seem meet for the guidance of such Governor for 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 council and it shall be the duty of such Governor to act in obedience to such instructions And whereas by the Act of the eighth year of Her Majesty chapter seventy-four entitled 'An Act to Explain and Amend the Act for the Government of New South Wales and Van Diemen's Land' and by the seventh section thereof after reciting that "by the said recited Act" (to wit the said hereinbefore mentioned Act of the sixth year of Her Majesty chapter seventy-six) "it is provided that certain Bills shall in every case be reserved by the Governor for the signification of Her Majesty's pleasure thereon and the intent of such provision was to ensure that such Bills as aforesaid should not be assented to by the Governor without due consideration" it was enacted "That it shall not be necessary for the Governor to reserve any such Bill for the signification of Her Majesty's pleasure thereon from which in the exercise of his discretion as limited in the said recited Act he shall declare that he withholds Her Majesty's assent or to which he shall have previously received instructions on the part of Her Majesty to assent and to which he shall assent accordingly" And whereas by the Act of the fourteenth year of Her Majesty chapter fifty-nine intituled "An Act for the Better Government of Her Majesty's Australian Colonies" it was provided and enacted that the provisions of the said Act of the sixth year of the reign of Her Majesty as explained and amended by the said Act of the eighth year of the reign of Her Majesty concerning Bills reserved for the signification of Her Majesty's pleasure thereon shall be applicable to every Bill so reserved under the provisions of the said Act of the fourteenth year of Her Majesty chapter fifty-nine And whereas it is expedient to consolidate the laws relating to the constitution of Her Majesty's said Colony of Queensland Now therefore be it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled and by the authority of the same as follows—

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31 VICTORIAE No. 38.
Schedule to 18 & 19
Vic. c. 54.
17 Vic. No. 41 s. 1.
1 Pring 228.

One session of
Parliament to be
held each year.
Order in Council s. 9.
1 Pring 240.
Schedule to 18 & 19
Vic. c. 54.
17 Vic. No. 41 s. 31.
1 Pring 228.
No member to sit or
vote until he has
taken the following
oath of allegiance.
Order in Council
s. 11.
1 Pring 240.
Schedule to 18 & 19
Vic. c. 54.
17 Vic. No. 41 s. 33.
1 Pring 228.

Affirmation may be
made instead of oath.
Order in Council
s. 12.
1 Pring 240.
Schedule to 18 & 19
Vic. c. 54.
17 Vic. No. 41 s. 34.
1 Pring 228.

Disqualifying
contractors and
persons interested
in contracts.
Order in Council
s. 12.
1 Pring 240.
Schedule to 18 & 19
Vic. c. 54 s. 28.
17 Vic. No. 41 s. 35.
1 Pring 228.

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

appropriating any part of the public revenue for imposing any new
rate tax or impost subject always to the limitations hereinafter pro-
vided shall originate in the Legislative Assembly of the said colony.

3. 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 Legis-
lative Council and Assembly in the next session.

4. No member either of the Legislative Council or of the Legis-
lative 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 authorised by such
Governor to administer such oath—

"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 Queensland dependent on and
belonging to the said United Kingdom. So help me God."

And whenever the demise of Her present Majesty 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 sub-
scribe the like oath of allegiance to the Successor for the time being
to the said Crown.

5. Provided that every person authorised 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.

6. 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 Legis-
lative 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 incor-
porated 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.

7. If
7. 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 and 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 Queensland.

8. The said Legislative Council and Assembly from time to time hereafter as there may 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 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.

9. 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 and to provide for 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 thirty days at the least before Her Majesty’s pleasure thereon shall be signified.

10. It
10. 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.

11. Nothing herein contained shall affect the power or authority of any legislature duly constituted before this Act comes into operation.

The Governor.

12. It shall be lawful for the Governor to fix such place or places within any part of the colony and such times for holding every 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 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.

13. The provisions of the before-mentioned Act of the fourteenth year of Her Majesty chapter fifty-nine and of the Act of the sixth year of Her Majesty chapter seventy-six entitled "An Act for the Government of New South Wales and Van Diemen's Land" which relate to the giving and withholding of Her Majesty's assent to Bills and the reservation of Bills for the signification of Her Majesty's pleasure thereon and the instructions to be conveyed to Governors for their guidance in relation to the matters aforesaid and the disallowance of Bills by Her Majesty shall apply to Bills to be passed by the Legislative Council and Assembly constituted under this Act and the said Order in Council and by any other legislative body or bodies which may at any time hereafter be substituted for the present Legislative Council and Assembly.

14. The appointment of 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 in Council with the exception of the appointments of the officers liable to retire from office on political grounds 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 in Council may be vested in heads of departments or other officers or persons within the colony.

15. The
15. 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 behavior 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.

16. It shall be lawful nevertheless for Her Majesty her heirs or successors to remove any such judge or judges upon the address of both Houses of the Legislature of this colony.

17. Such salaries as are settled upon the judges for the time being by Act of Parliament or otherwise and all 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.

18. 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 first have been 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.

19. No part of Her Majesty's revenue in the said colony arising from any of the sources hereinafter mentioned 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.

20. For the purpose of composing the Legislative Council of Queensland the Governor is hereby authorised to summon in Her Majesty's name by an instrument or instruments under the Great Seal of the said colony from time to time to the said Legislative Council such person or persons as he 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 New South Wales before the separation or by an Act of this colony 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.

21. The members of the said Legislative Council who shall be summoned thereto by the Governor shall hold their seats therein for the term of their natural lives subject nevertheless to the provisions hereinbefore referred to and hereinafter contained for vacating the same and for altering and amending the constitution of the said colony as established by this Act.

22. It
22. 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.

23. 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.

24. 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.

25. 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.

26. 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 despatch 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.

27. For the purpose of constituting the Legislative Assembly it shall be lawful for the Governor from time to time as occasion shall require in Her Majesty's name by an instrument or instruments under the Great Seal of the colony to summon and call together a Legislative Assembly in and for the said colony.
28. The Legislative Assembly shall consist of members duly qualified according to the Legislative Assembly Act for the time being to be elected by the inhabitants of the said colony having any of the qualifications mentioned in the Electoral Act for the time being.

29. 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.

General Provisions.

30. Subject to the provisions contained in the Imperial Act of the eighteenth and nineteenth Victoria chapter fifty-four and of an Act of the eighteenth and nineteenth years of Her Majesty entitled "An Act to Repeal the Acts of Parliament now in force respecting the Disposal of the Waste Lands of the Crown in Her Majesty's Australian Colonies and to make other provision in lieu thereof" which concern the maintenance of existing contracts it shall be lawful for the legislature of this colony to make laws for regulating the sale letting disposal and occupation of the waste lands of the Crown within the said colony.

31. It shall not be lawful for the legislature of the colony to levy any duty upon articles imported bond 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.

32. 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.

33. All laws statutes and ordinances which at the time when this Act shall come into operation shall be in force within the said colony shall remain and continue to be of the same authority as if this Act had not been made except in so far as the same are repealed and varied hereby and all the courts of civil and criminal jurisdiction within the said colony and all charters legal commissions powers and authorities and all offices judicial administrative or ministerial within the said colony respectively except so far as the same may be abolished altered or varied by or may be inconsistent with the provisions of this Act shall continue to subsist as if this Act had not been made.