ANNO QUINTO & SEXTO

VICTORIÆ REGINÆ.

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C A P. LXXVI.

An Act for the Government of *New South Wales* and *Van Diemen's Land*. [30th *July* 1842.]

WHEREAS it is expedient that further Provision be made for the Government of *New South Wales;* be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That there shall be within the Colony of *New South Wales* a Legislative Council, to be constituted in the Manner and for the Purposes herein-after mentioned, and that the said Legislative Council shall consist of Thirty-six Members, and that Twelve of the Members of the said Council shall from Time to Time, in the Manner herein-after mentioned, be appointed by Her Majesty, and that Twenty-four of the Members of the said Council shall from Time to Time, in the Manner herein-after mentioned, be elected by the Inhabitants of the said Colony.

Legislative Council to be constituted.

II. And be it enacted, That the Legislature now by Law established within the said Colony of *New South Wales* shall, by Ordinances to be for that Purpose made and enacted in the Manner and subject to the Conditions now by Law required in respect of any Ordinances made and enacted by the said Legislature, make all necessary Provisions for

Electoral Districts to be constituted.

for dividing the Parts of the said Colony within the Boundaries of Location into convenient Electoral Districts, and for appointing and declaring the Number of Members to be elected for each such District, and for the Compilation and Revision of Lists of all Persons qualified to vote at the Elections to be holden within such Districts, and for the appointing of Returning Officers, and for the issuing, executing, and returning the necessary Writs for such Elections, and for taking the Poll thereat, and for determining the Validity of all disputed Returns, and otherwise for ensuring the orderly, effective, and impartial Conduct of such Elections: Provided always, that the District of *Port Phillip* and the Towns of *Sydney* and *Melbourne* shall be Electoral Districts; and that the District of *Port Phillip* shall return at least Five Members, the Town of *Sydney* shall return Two Members, and the Town of *Melbourne* shall return One Member: Provided also, that for the Purposes of this Act the Boundary of the District of *Port Phillip* on the North and North-east shall be a straight Line drawn from *Cape How* to the nearest Source of the River *Murray*, and thence the Course of that River to the Eastern Boundary of the Province of *South Australia*.

Boundaries of Cities and Towns to be settled by the Governor.

III. And be it enacted, That, for the Purpose of electing their several Representatives to the said Legislative Council, the Towns of *Sydney* and *Melbourne*, and such other Towns as shall be declared Electoral Districts, shall be deemed to be bounded and limited in such Manner as the Governor of the Colony of *New South Wales*, by Proclamation to be published in the *New South Wales* Government Gazette, or by Letters Patent under the Great Seal of the Colony, shall set forth and describe; and such Parts of any such Town (if any) which shall not be included within the Boundary set forth or described in such Proclamation or Letters Patent, for the Purposes of this Act, shall be taken to be a Part of the adjoining District, for the Purpose of being represented in the said Legislative Council.

Power to alter System of Representation.

IV. And be it enacted, That it shall be lawful for the Governor and the said Legislative Council of the Colony of *New South Wales*, by any Act or Acts to be hereafter passed, to alter the Divisions and Extent of the several Districts and Towns which shall be represented in the Legislative Council, and to establish new and other Divisions of the same, and to alter the Number of Members of the Council to be chosen by the said Districts and Towns respectively, and to increase the whole Number of the Legislative Council, and to alter and regulate the Appointment of Returning Officers in and for the same, and make Provision in such Manner as they may deem expedient for the issuing and Return of Writs for the Election of Members to serve in the said Legislative Council, and the Time and Place for holding such Elections: Provided always, that such Number of the additional Councillors as is equal to One Third Part of the whole Increase, or, if such Increase shall not be exactly divisible by Three, such whole Number as is next greater than One Third of the whole Increase, shall be appointed by Her Majesty, and the remaining additional Members of the Council shall be elected by the Inhabitants of the

the Colony in like Manner as the Elective Members first constituted under this Act.

Qualification of Electors.

V. And be it enacted, That the Elective Members shall be chosen by the Votes of the Electors, each of whom shall be either in his own Right seised of or entitled to an Estate of Freehold in possession in Lands or Tenements situate within the District for which such Vote is to be given, of the clear Value of Two hundred Pounds Sterling Money at the least, above all Charges and Incumbrances in any way affecting the same, or a Householder within such District occupying a Dwelling House of the clear annual Value of Twenty Pounds Sterling Money at the least.

Persons disqualified to vote.

VI. And be it enacted, That no Person shall be entitled to vote at any such Election as aforesaid unless he be of the full Age of Twenty-one Years, and a natural-born Subject of the Queen, or shall have been naturalized, or shall hold Letters of Denization, according to Law; and that no Person shall be entitled to vote at any such Election who shall have been attainted or convicted of any Treason, Felony, or infamous Offence within any Part of Her Majesty's Dominions, unless he shall have received a free Pardon, or one conditional on not leaving the Colony, for such Offence, or shall have undergone the Sentence or Punishment to which he shall have been adjudged for such Offence.

Possession or Occupancy requisite to Qualification; as also Payment of Rates and Taxes.

VII. And be it enacted, That no Person shall be entitled to vote at any such Election as aforesaid unless he shall have been in possession of the Estate, or in occupancy of the House, by reason of which he is qualified to vote, for at least Six Calendar Months next before the Date of the Writ for such Election, or, in case a Registration of Electors shall be established in the Colony, next before the last Registration of Electors in the District; nor shall any Person be entitled to vote at any such Election unless at the Time of such Election or Registration of Electors (as the Case may be) he shall have paid up all Rates and Taxes which shall have become payable by him as Owner in respect of such Estate, or as Occupier in respect of such Occupancy, except such as shall have become payable during Three Calendar Months next before such Election or Registration respectively.

Qualification of elective Members of Council.

VIII. And be it enacted, That no Person shall be capable of being elected a Member of the Legislative Council who shall not be of the full Age of Twenty-one Years, and a natural-born Subject of the Queen, or naturalized by Law, or who shall not be legally or equitably seised of an Estate of Freehold, for his own Use and Benefit, in Lands and Tenements in *New South Wales* of the yearly Value of One hundred Pounds Sterling Money, or of the Value of Two thousand Pounds Sterling Money, above all Charges and Incumbrances affecting the same.

Declaration by Candidates.

IX. And be it enacted, That every Candidate at such Election, before he shall be capable of being elected, shall, if required by any other

other Candidate, or by any Elector, or by the Returning Officer, make the following Declaration:

'I *A.B.* do declare and testify, That I am duly seised at Law or in 'Equity of an Estate of Freehold, for my own Use and Benefit, 'in Lands or Tenements in the Colony of *New South Wales*, of the 'yearly Value of One hundred Pounds Sterling Money [*or* of the 'Value of Two thousand Pounds Sterling Money, *as the Case may* '*be*], above all Charges and Incumbrances affecting the same; and 'that I have not collusively or colourably obtained a Title to or 'become possessed of the said Lands and Tenements, or any Part 'thereof, for the Purpose of qualifying or enabling me to be returned 'a Member of the Legislative Council of the Colony of *New South* '*Wales*.'

Persons making false Declarations liable to the Penalties of Perjury.

X. And be it enacted, That if any Person shall knowingly and wilfully make a false Declaration respecting his Qualification as a Candidate at any Election as aforesaid, such Person shall be deemed to be guilty of a Misdemeanor, and being thereof lawfully convicted shall suffer the like Pains and Penalties as by Law are incurred in *New South Wales* by Persons guilty of wilful and corrupt Perjury.

Writ for new Election in case of Vacancy.

XI. And be it enacted, That whenever it shall be established, to the Satisfaction of the Governor of the said Colony, that the Seat of any Elective Member of the Legislative Council hath become vacant, the Governor, unless other Provision in that Behalf be made by the Governor and Legislative Council, as herein-before provided, shall forthwith issue a Writ for the Election of a Member to serve in the Place so vacated, during the Remainder of the Term of the Continuance of the said Council, and no longer.

Appointment of Part of the Council.

XII. And be it enacted, That it shall be lawful for Her Majesty, by any Warrant or Warrants to be from Time to Time issued under Her Majesty's Sign Manual, and countersigned by One of Her Majesty's Principal Secretaries of State, to nominate such Part of the said Council as according to this Act is to be appointed by Her Majesty, and to designate such Non-elective Members of the said Council either by their proper Names, or as Holders for the Time being of any public Offices within the said Colony; and it shall also be lawful for Her Majesty, by any such Warrant or Warrants, from Time to Time to delegate to the Governor of the said Colony the Power of nominating and designating such Non-elective Members of the said Council, either by their proper Names, or as Holders for the Time being of any such public Offices as aforesaid, which delegated Power shall nevertheless be exercised by any such Governor provisionally only, and until Her Majesty's Pleasure shall be known, and shall not be exercised until the Return of the Writs for the Election of all the Elective Members: Provided always, that not more than Half the Number of such Non-elective Members shall hold any Office of Emolument under the Crown within the said Colony.

XIII. And

XIII. And be it enacted, That every Appointment which shall be made by the Governor of any Non-elective Member of the said Legislative Council shall be made by Letters Patent to be for that Purpose issued under the Public Seal of the said Colony. Appointment how made.

XIV. And be it enacted, That every Non-elective Member of the Legislative Council of the Colony of *New South Wales* shall hold his Seat therein for Five Years from the Day of his Appointment, or until the Council shall be sooner dissolved, subject nevertheless to the Provisions herein-after contained for vacating the same. Tenure of Office of Non-elective Councillor.

XV. And be it enacted, That it shall be lawful for any Member of the Legislative Council of the Colony of *New South Wales*, by Writing under his Hand addressed to the Governor, to resign his Seat in the said Legislative Council, and upon such Resignation the Seat of such Legislative Councillor shall become vacant. Resignation of Legislative Councillor.

XVI. And be it enacted, That if any Legislative Councillor of the Colony of *New South Wales* 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 said 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 shall become bankrupt, or take the Benefit of any Law relating to Insolvent Debtors, or become a public Defaulter, or be attainted of Treason, or be convicted of Felony or any infamous Crime, or shall become *non compos mentis*, his Seat in such Council shall thereby become vacant. Causes by which Seat may be vacated.

XVII. And be it enacted, That if any Person who shall have been designated as a Non-elective Member of the Legislative Council as the Holder of a public Office shall cease to hold such Office, his Seat in the Council shall thereupon become vacant. Vacation of the Seat of Official Councillors.

XVIII. And be it enacted, That any Question which shall arise respecting any Vacancy in the Legislative Council of the Colony of *New South Wales*, on occasion of any of the Matters aforesaid, shall be heard and determined by the said Legislative Council, on such Questions being referred to them for that Purpose by the Governor of the said Colony, and not otherwise. Trial of Questions of Vacancy.

XIX. And be it enacted, That in case of the Vacancy of the Seat of any Non-elective Member of the said Council who shall have been designated as the Holder of a public Office, the Seat shall continue vacant until the Appointment of another Person to fill the same Office, and in the Case of the Vacancy of the Seat of any Non-elective Member of the said Council, who shall have been so designated by his proper Name, it shall be lawful for the Governor of the said Colony to designate by Name and appoint some Person to succeed to the Place in the said Council of the Member so vacating his Seat, Vacancy among appointed Members of Council, how supplied.

which Appointment shall be valid and effectual until the same shall be disallowed by Her Majesty, or until a new Appointment, made by a Warrant to be issued as aforesaid under Her Majesty's Sign Manual, and countersigned by One of Her Majesty's Principal Secretaries of State; and in case any such Appointment shall be simply disallowed by Her Majesty, the Governor shall make a new Appointment, subject as aforesaid to Her Majesty's Approval; and every such Appointment, Disallowance, and new Appointment shall take effect from the Time of the Notification thereof by the Governor in the *New South Wales* Government Gazette.

Place and Times of holding Council.

XX. And be it enacted, That it shall be lawful for the Governor of the said Colony for the Time being to fix such Place or Places within any Part of the said Colony, and such Times for holding the first and every other Session of the said Council, 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 Council from Time to Time, and dissolve the same, by Proclamation or otherwise, whenever he shall deem it expedient.

Duration of Council.

XXI. And be it enacted, That there shall be a Session of the said Council once at least in every Year, so that a Period of Twelve Calendar Months shall not intervene between the last Sitting of the Council in one Session and the first Sitting of the Council in the next Session, and that every Council 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.

First calling together of the Council.

XXII. And be it enacted, That the first Writs for the Election of Members of the said Council shall issue at some Period not later than Twelve Calendar Months after the Proclamation of this Act within the said Colony.

Election of Speaker.

XXIII. And be it enacted, That the said Legislative Council shall at its First Meeting, and before proceeding to the Despatch of any other Business, elect some one Member of such Council to be the Speaker thereof, and as often as the Place of the said Speaker shall become vacant by the Death, Resignation, or Removal by a Vote of the said Council, shall again elect some other Member to be Speaker thereof, and the Speaker so elected shall preside at all Meetings of the said Council: Provided nevertheless, that it shall be lawful for the Governor for the Time being of the said Colony to disallow the Choice of any such Speaker, and upon such Disallowance being signified by the said Governor to the Legislative Council such Appointment shall become and be absolutely null and void, and the said Legislative Council shall forthwith proceed to the Choice of some other Member of the same to be Speaker thereof, and so from Time to Time until the Choice of a Speaker who shall be allowed by the Governor for the Time being.

XXIV. And

Number necessarily present for Transaction of Business.

XXIV. And be it enacted, That the said Legislative Council shall not be competent to the Despatch of Business unless there be present, exclusive of the Speaker, One Third Part at least of the Members of the said Council; and that all Questions which shall arise in the said Council shall be decided by the Majority of Votes of those Members of the Council who shall be present other than the Speaker, and in all Cases where the Votes shall be equal the Speaker shall have a casting Vote.

Members to take the Oath of Allegiance.

XXV. And be it enacted, That no Member of the said Legislative Council shall be permitted to sit or vote therein until he shall have taken and subscribed the following Oath before the Governor of the said Colony, or before some Person or Persons authorized 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 *New South Wales*, dependent on and belonging 'to the said United Kingdom; and that I will defend Her, to the 'utmost of my Power, against all traitorous Conspiracies and Attempts 'whatever which shall be made against Her Person, Crown, and 'Dignity; and that I will do my utmost Endeavour to disclose and 'make known to Her Majesty, Her Heirs and Successors, all Trea-'sons and traitorous Conspiracies and Attempts which I shall know to 'be against Her or any of them; and all this I do swear without any 'Equivocation, mental Evasion, or secret Reservation, and renouncing 'all Pardons and Dispensations from any Person or Persons whatever 'to the contrary. So help me GOD.'

Affirmation.

XXVI. And be it declared and enacted, 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 herein-before required to be taken.

Standing Orders to be adopted.

XXVII. And be it enacted, That the said Council at its First Meeting, 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 best adapted for the orderly Conduct of the Business of such Council, which Rules and Orders shall by such Council be laid before the Governor of the Colony, and, being by him approved, shall become binding and in force, subject nevertheless to the Confirmation or Disallowance of Her Majesty in manner hereinafter provided respecting the Ordinances to be made by the Governor and Council of the said Colony.

Re-election and Re-appointment of Council.

XXVIII. And be it enacted, That upon any Dissolution or other Determination of the said Council it shall be lawful for the Governor of the said Colony to issue new Writs for the General Election of Elective Members to serve in the Legislative Council; and after the Return of such Writs it shall be lawful for the Governor, in the Name and on the Behalf of Her Majesty, to nominate and appoint the Non-elective Members to serve in the Legislative Council, which

Appoint-

Appointments shall be valid and effectual until the same shall be disallowed by Her Majesty, or until new Appointments made by a Warrant or Warrants to be issued under Her Majesty's Sign Manual, and countersigned by One of Her Majesty's Principal Secretaries of State, which new Appointments shall be taken as a Disallowance of the Appointments by the Governor in respect of which they are made; and in case any such Appointment by the Governor shall be simply disallowed by Her Majesty, the Governor shall make a new Appointment, subject as aforesaid to be disallowed by Her Majesty; and every such Appointment, Disallowance, and new Appointment shall take effect from the Time of the Notification thereof by the Governor in the *New South Wales* Government Gazette.

Governor and Legislative Council authorized to make Laws.

XXIX. And be it enacted, That the Governor of the said Colony of *New South Wales*, with the Advice and Consent of the said Legislative Council, shall have Authority to make Laws for the Peace, Welfare, and good Government of the said Colony: Provided always, that no such Law shall be repugnant to the Law of *England*, or interfere in any Manner with the Sale or other Appropriation of the Lands belonging to the Crown within the said Colony, or with the Revenue thence arising.

Governor may propose Laws and Amendments, and may return Bills amended.

XXX. And be it enacted, That it shall be lawful for the Governor of the said Colony of *New South Wales* to transmit to the said Council for its Consideration the Drafts of any such Laws which it may appear to such Governor desirable to introduce, and any Amendments which he shall desire to be made in any Bill presented to him for Her Majesty's Assent, and such proposed Laws shall thereupon be considered by the Council in like Manner as if the same were Bills which had originated therein; and it shall be lawful for the Council to return any Bill in which the Governor shall have so made any Amendments, with a Message signifying to which of the Amendments the Council agree, and those to which they disagree, and thereupon the Bill shall be taken to be presented for Her Majesty's Assent, with the Amendments so agreed to.

Giving or withholding Assent to Bills.

XXXI. And be it enacted, 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 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 Number of the Members of the Council

to

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, Superintendent, or Judges, or any of them, and also all Bills altering or affecting the Duties of Customs upon any Goods, Wares or Merchandize 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.

Disallowance of Bills assented to.

XXXII. And be it enacted, 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.

Assent to Bills reserved.

XXXIII. And be it enacted, 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 Proclamation, 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 to the Governor as aforesaid.

Appropriation of Taxes and Duties.

XXXIV. And be it enacted, That, with the Deductions and subject to the Provisions herein-after contained, the whole of Her Majesty's Revenue within the said Colony, arising from Taxes, Duties, Rates, and Imposts levied on Her Majesty's Subjects within the said Colony, shall be appropriated to the public Service within the said Colony, by Ordinances to be for that Purpose enacted by the Governor, with the Advice and Consent of the Legislative Council of the said Colony,

and in no other Manner: Provided always, that it shall not be lawful for the said Council to pass, or for the said Governor to assent to, any Bill appropriating to the public Service any Sums or Sum of Money arising from the Sources aforesaid, unless the Governor, on Her Majesty's Behalf, shall first have recommended to the Council to make Provision for the specific public Service towards which such Money is to be appropriated.

Issue of Money under Warrant.

XXXV. And be it enacted, That no Part of Her Majesty's Revenue in the said Colony, arising from the Sources aforesaid, shall be issued or shall be made by any such Law issuable, except in pursuance of Warrants under the Hand of the Governor of the Colony, directed to the public Treasurer thereof.

Revenue to be charged with the Expence of Collection and Management.

XXXVI. And be it enacted, That the said Revenue of the Colony of *New South Wales* shall be permanently charged with all the Costs, Charges, and Expences incident to the Collection, Management, and Receipt thereof, such Costs, Charges, and Expences being subject nevertheless to be regulated and audited in such Manner as shall be directed by any Law of the Governor and Legislative Council.

Grants for Civil and Judicial Services.

XXXVII. And be it enacted, That out of the said Revenue Fund there shall be payable every Year to Her Majesty, Her Heirs and Successors, the Sum of Thirty-three thousand Pounds, for defraying the Expences of the several Services and Purposes in the Schedule marked (A.) annexed to this Act, and a further Sum of Eighteen thousand six hundred Pounds for defraying the Expences of the several Services and Purposes named in the Schedule marked (B.) annexed to this Act, and a further Sum of Thirty thousand Pounds for defraying the Expences of the several Services and Purposes named in the Schedule marked (C.) annexed to this Act, the said Sums of Thirty-three thousand Pounds, Eighteen thousand six hundred Pounds, and Thirty thousand Pounds, to be issued by the Treasurer of the said Colony in discharge of such Warrant or Warrants as shall be from Time to Time directed to him under the Hand and Seal of the Governor; and the said Treasurer shall account to Her Majesty for the same through the Lord High Treasurer or the Commissioners of Her Majesty's Treasury of the United Kingdom of *Great Britain* and *Ireland*, in such Manner and Form as Her Majesty shall be graciously pleased to direct.

How the Appropriation of Sums granted may be varied.

XXXVIII. And be it enacted, That, until altered by any Bill passed by the said Legislative Council, and assented to by Her Majesty, the Salaries of the Governor, Superintendent, and Judges shall be those respectively set against their several Offices in the said Schedule marked (A.); but that it shall be lawful for the Governor to vary the Sums appropriated to any of the Services or Purposes named in the said Schedule (B.); and that the Amount of Saving which may accrue from any such Alterations in either of the said Schedules shall be appropriated to such Purposes connected with the Administration of the Government of the said Colony as to Her

Majesty shall seem fit; and that Accounts in detail of the Expenditure of the several Sums of Thirty-three thousand Pounds, Eighteen thousand six hundred Pounds, and Thirty thousand Pounds, herein-before granted, and of every Part thereof, shall be laid before the Legislative Council of the said Colony within Thirty Days next after the Beginning of the Session after such Expenditure shall have been made.

Governor to intimate intended Appropriation of the Sum of 18,600*l.*

XXXIX. And be it enacted, That within Thirty Days after the Beginning of the First Session of the Legislative Council in each Year the Governor shall make known by Message to the Legislative Council the Amount of the Sums intended to be appropriated out of the said Sum of Eighteen thousand six hundred Pounds to the several Services and Purposes named in the said Schedule (B.) for the Service of the Year then next ensuing.

Governor to conform to Instructions.

XL. And be it declared and enacted, That it shall be lawful for Her Majesty, with the Advice of Her Privy Council, or under Her Majesty's Signet and Sign Manual, or through One of Her 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.

District Councils to be established.

XLI. And whereas it is expedient that Provision be made for the local Government of the different Parts of the said Colony; be it enacted, That it shall be lawful for the Governor, by Letters Patent under the Great Seal of the Colony of *New South Wales*, to incorporate the Inhabitants of every County within the said Colony, or of such Parts of Counties or other Divisions as to him shall seem fit, to form Districts for the Purposes of this Act, and by such several Letters Patent to establish a Council in every such District for the local Government thereof, subject to the following Provisions; (that is to say,) it shall be provided,

1. That every such District Council shall be elective, after the First Nomination thereof, as herein-after mentioned, the Elections being made in the several Districts or other fit Divisions, to be defined by the Charter, within the District, so that, until further Provision be made in this Behalf by the Governor and Legislative Council of the Colony of *New South Wales*, if the Population in such District, according to the last Census taken before the Charter, be less than Seven thousand Souls, the Number of Councillors for such District shall not be more than Nine; if the Population be Seven thousand and less than Ten thousand, the Number of Councillors shall not be more than Twelve; if the Population be Ten thousand and less than Twenty thousand, the Number of Councillors shall not be more than Fifteen; if the Population be Twenty thousand

thousand and upward, the Number of Councillors shall not be more than Twenty-one:

2. That, until further Provision be made in this Behalf by the Governor and Legislative Council of the Colony of *New South Wales*, the District Councillors shall be Persons qualified to be elected Members of the Legislative Council, and shall be elected to such Office by the Persons qualified to vote in the Election of Members of the Legislative Council within the District in which the Election is made:
3. That no District Councillor shall hold any lucrative Office or Appointment under such District Council, or enter into or be concerned or interested in any Contract or any pecuniary Dealings with such District Council, under a Penalty or Penalties to be fixed in such Letters Patent of Incorporation:
4. That no District Councillor shall continue in Office for more than Three Years, unless re-elected:
5. That the District Council shall be presided over by a Warden, to be appointed and be removeable by Her Majesty, or by the Governor in the Name of Her Majesty:
6. That a District Surveyor who shall have passed an Examination before a competent Tribunal, approved by the Governor, shall be appointed in each District for superintending the Construction of Roads and other public Works undertaken by Authority of the District Council; and that the District Surveyor and all other Officers needed for the Exercise of the Powers of the District Council shall be appointed and be removeable by the District Council, subject to the Approval of the Governor:
7. That Accounts in detail of all Monies expended in every Year by or under the Authority of the District Councils be laid before the Governor, and otherwise published in such Manner as may be directed by the Charter, or provided by any Law of the Governor and Legislative Council of the Colony of *New South Wales*.

For what Purposes the Council may make Bye Laws.

XLII. And be it enacted, That it shall be lawful for each of the said Councils in the said Districts respectively to make Orders and Bye Laws for all or any of the following Purposes; (that is to say,)

For making, maintaining, or improving any new or existing Road, Street, Bridge, or other convenient Communication and Means of Passage through the District, or for stopping up, altering, or diverting any Road, Street, or Communication within the Limits of the District:

For building, repairing, and furnishing public Buildings:

For the Purchase of such Real and Personal Property situate within the District as shall be required, in the Opinion of the Council, for the Use of the Inhabitants thereof:

For the Sale of such Part of the Real and Personal Property belonging to the District as shall have ceased, in the Opinion of the Council, to be useful to the Inhabitants:

For

For the Management of all Property belonging to the District:
For providing the Means of defraying such Expences of or connected with the Administration of Justice and Police within the District as are or shall be herein-after by Law directed to be defrayed by the District, or out of the District Funds:
For providing for the Establishment and Support of Schools:
For raising, assessing, levying, and appropriating such Monies as shall be required for the Purpose of carrying into effect all or any of the Objects for which the said District Councils respectively shall be empowered to make Orders and Bye Laws, which Monies shall be raised, either by means of Tolls to be paid in respect of any public Work within the District, or by means of Rates and Assessments to be assessed and levied on Real or Personal Property, or both, within the District, or in respect of such Property upon the Owners and Occupiers thereof:
For the collecting and accounting for all Tolls, Rates, and Assessments imposed or raised under the Authority of any such Council, and of the Revenues belonging to the District:
For imposing and determining reasonable Penalties to be recovered from such Persons as, having been elected to Offices as herein-before provided, shall refuse to serve the same, or refuse or neglect to take and subscribe such Oaths of Office as shall by Law be required to be taken by such Officers respectively:
For determining the Amount and Time of Payment of all Salaries or other Remuneration of District Officers to be appointed under the Authority of this Act:
For providing for any other Matters which shall be specially subjected to the Direction and Control of the said District Councils respectively by any Law of the Governor and Legislative Council of the Colony:
Provided always, that no such Bye Law shall impose any Punishment of Imprisonment, or any Penalty exceeding Ten Pounds.

No Tax to be laid on Property belonging to the Crown.

XLIII. Provided always, and be it enacted, That it shall not be lawful for any such District Council as aforesaid to levy any Rate or Assessment whatever on any Lands or Tenements, Goods or Chattels, Real or Personal Estates, belonging to Her Majesty, Her Heirs and Successors.

Transmission of Bye Laws of District Councils to the Governor, for Assent.

XLIV. And be it enacted, That a Copy of every Bye Law made by any District Council under the Authority of this Act shall be transmitted by the Warden of the District, within Fourteen Days after the making thereof, to the Governor of the Colony of *New South Wales*; and it shall be lawful for the said Governor, with the Advice of his Executive Council, at any Time within Two Calendar Months after the Receipt of such Copy, to disallow such Bye Law, and such Disallowance shall without Delay be signified to the Warden of the District where such Bye Law shall have been passed, and thenceforward such Bye Law shall be void and of no Effect; and no such Bye Law shall have effect until the Expiration of the said Period

of Two Calendar Months, unless the said Governor shall have given his Assent thereto before the Expiration of that Period.

Provision for further Definition of Powers of District Councils.

XLV. And be it enacted, That, subject to the Provisions herein contained, it shall be lawful for the said Governor to specify in Writing, and by the said several Charters of Incorporation, the Metes and Bounds of the said several Districts, and the Number of Councillors which shall be for every District, and the Time and Manner of their Election, and to fix the Qualification of the Councillors, and to nominate, among the Persons qualified to vote in the Election of Councillors, the Councillors, being duly qualified, who shall form the First Council in every such District, and to appoint the Order and Manner in which they shall go out of Office, and to fix Penalties for qualified Persons refusing to take Office in the Council, and to make all other necessary Provisions for establishing such District Councils, for defining their Powers, and enabling them to exercise their Functions: Provided always, that, notwithstanding any such Charter, it shall be lawful for the Governor and Legislative Council of the Colony of *New South Wales* to make further or other Provisions respecting the Constitution of the said Councils, and to extend or limit the Powers of such Councils in any way which may be found expedient, so that it be not repugnant to this Act or to the Law of *England*, and to alter the Number and Boundaries of the Districts, and to establish a Council in each of such new Districts.

If no Election, Governor to appoint.

XLVI. And be it enacted, That in every Case of Vacancy of the Office of District Councillor if a new Election shall not be made within the Time prescribed by the Charter of Incorporation, or by any Law of the Governor and Legislative Council of the Colony respecting the Constitution of such District Council, the Governor shall nominate a Person duly qualified to fill the Vacancy.

Police Expenditure.

XLVII. And be it enacted, That One Half of the Expence of the Police Establishment of the said Colony (exclusive of the Convict Establishment) shall be defrayed out of the general Revenue arising from Taxes, Duties, Rates, and Imposts within the said Colony, and the other Half shall be defrayed by Assessment upon the several Districts of the Colony, in such Proportions as shall be from Time to Time fixed by the Governor and Legislative Council; and as soon as any Bill shall have passed the Legislative Council, and shall have been assented to by the Governor, for appropriating any Sum to the Service of the Police for the Year then next ensuing, and for apportioning an equal Sum among the several Districts of the said Colony, it shall be lawful for the Governor to issue Warrants under his Hand, directed to the Treasurers of the several District Councils, requiring them within Two Calendar Months from the Receipt of the Warrant to pay an Amount equal to the Sum assessed upon that District to such Person as the Governor shall appoint to receive the same, out of any Monies in their Hands belonging to the District.

XLVIII. And

Assessments to be levied by local Rate.

XLVIII. And be it enacted, That the Treasurer of each District Council to whom any such Warrant shall come shall pay the Amount mentioned in the Warrant out of any Monies in his Hands belonging to the District, or if there be no Monies or an insufficient Sum in his Hands, the District Council shall assess and levy the Amount by a fair and equal Rate upon all Property within the District, which the Legislative Council, or, until a Bill for that Purpose shall have been passed by the Legislative Council, and assented to by the Governor, with the Advice of his Executive Council, shall declare to be liable thereunto.

Power of Distress and Sale.

XLIX. And be it enacted, That if the Amount ordered by such Warrant to be paid by the Treasurer of any District shall not be paid, within Two Calendar Months after the Receipt of the Warrant, to such Person as the Governor shall appoint to receive the same, it shall be lawful for the public Treasurer of the said Colony, or other proper Officer appointed by the Governor for such Purpose, to issue his Warrant for levying the Amount, or so much thereof as shall be in arrear, with all Costs and Charges of such Proceeding, by Distress and Sale of the Goods of the said Treasurer of the District, and of all or any of the Members of the said District Council, and if no sufficient Distress can be thereby made, then by Distress and Sale of the Goods of any of the Inhabitants of the said District.

Amount to be expended for District Police by the Governor.

L. And be it enacted, That the Amount so contributed from each District, and an equal Sum out of the Amount appropriated out of the general Revenue for the Service of the Police, shall be expended for the Service of the Police in that District, under the Direction of the Governor; and the Surplus, if any, remaining over and above the Expenditure in each Year, shall be carried forward in diminution of the Charge for the next Year.

Provision for Constitution of new Colonies.

LI. And whereas the said Colony of *New South Wales* is of great Extent, and it may be fit that the Territories now comprised within the said Colony should be divided into separate Colonies, and Provision should be made for the temporary Administration of the Government of any such newly erected Colony as, not being comprised within the Limits herein-after mentioned, may not possess a sufficient Population for the immediate Establishment therein of the Form of Government herein-before provided; be it therefore enacted, That, any thing herein-before contained to the contrary notwithstanding, it shall be lawful for Her Majesty, by Letters Patent, to be from Time to Time issued under the Great Seal of the United Kingdom of *Great Britain* and *Ireland*, to define, as to Her Majesty shall seem meet, the Limits of the Colony of *New South Wales*, and to erect into a separate Colony or Colonies any Territories which now are, or are reputed to be, or hereafter may be comprised within the said Colony of *New South Wales*: Provided always, that no Part of the Territories lying Southward of the Twenty-sixth Degree of South Latitude in the said Colony of *New South Wales* shall by any such Letters Patent as aforesaid be detached from the said Colony.

LII. And

Form of Government in any such new Colony.

LII. And be it enacted, That in case Her Majesty shall, by any such Letters Patent as aforesaid, establish any such new Colony or Colonies as aforesaid, it shall be lawful for Her Majesty, by any such Letters Patent, to authorize any Number of Persons not less than Seven, including the Governor or Lieutenant Governor of any such new Colony or Colonies, to constitute a Legislative Council or Legislative Councils for the same; and that every such Legislative Council shall be composed of such Persons as shall from Time to Time be named or designated by Her Majesty for that Purpose, and shall hold their Places therein at Her Majesty's Pleasure; and that it shall be lawful for such Legislative Council to make and ordain all such Ordinances as may be required for the Peace, Order, and good Government of any such Colony as aforesaid, for which such Legislative Council may be so appointed; and that in the making all such Ordinances the said Legislative Council shall conform to and observe all such Instructions as Her Majesty, with the Advice of Her Privy Council, shall from Time to Time make for their Guidance therein: Provided always, that no such Instructions, and that no such Ordinances as aforesaid, shall be repugnant to the Law of *England*, but consistent therewith, so far as the Circumstances of any such Colony may admit: Provided also, that all such Ordinances shall be subject to Her Majesty's Confirmation or Disallowance, in such Manner and according to such Regulations as Her Majesty, by any such Instructions as aforesaid, shall from Time to Time see fit to prescribe: Provided also, that all Instructions which shall in pursuance hereof be made by Her Majesty, with the Advice of Her Privy Council, and that all Ordinances which shall be made in pursuance hereof by any such Legislative Council of any such newly-erected Colony as last aforesaid, shall be laid before both Houses of Parliament within One Calendar Month from the Date of any such Instructions, or from the Arrival in this Kingdom of the Transcripts of any such Ordinances, if Parliament shall then be sitting, or if not, then within One Calendar Month from the Commencement of the next ensuing Session of Parliament,

Repealing Part and continuing other Parts of 9 G. 4. c. 83. as continued by 6 & 7 W. 4. c. 46.; 7 W. 4. & 1 Vict. c. 42.; 1 & 2 Vict. c. 50.; 2 & 3 Vict. c. 70.; and by 3 & 4 Vict. c. 62.

LIII. And whereas an Act was 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*, which Act was continued by Three Acts passed successively in the Seventh Year of the Reign of His late Majesty, in the First and in the Second Years of the Reign of Her Majesty, and was afterwards continued, with Amendments, by Two Acts passed in the Third and in the Fourth Years of the Reign of Her Majesty: And whereas so much of the said first-recited Act as relates to the Constitution of a Council in *New South Wales* will be superseded by this Act; be it enacted, That so much of the said Acts or any of them as relates to the Constitution, Appointment, and Powers of a Council in *New South Wales*, therein mentioned, shall continue until the First Writs shall issue for the Election of Members of the Legislative Council under this Act, and from and after the Issue of such Writs shall be repealed, and that, subject to the Provision herein-after contained, the other Parts of the said recited Acts

which, but for the passing of this Act, would expire at the End of this Session of Parliament, shall become permanent, both with respect to the said Colony of *New South Wales* and the said Colony of *Van Diemen's Land*: Provided always, that nothing herein contained shall extend or be construed to extend to repeal or abrogate any Law or Ordinance made in pursuance of the said recited Acts or any of them, but that every such Law or Ordinance shall hereafter be as valid and effectual as if every Part of the said recited Acts had been hereby made permanent: Provided also, that it shall be lawful for the Governor and Legislative Council of the said Colony, in exercise of the Powers to them respectively granted by this present Act, and in the Manner and subject to the Rules hereinbefore prescribed, to repeal, vary, or alter all or any Part of the said recited Acts or any of them, or any Law or Ordinance made in pursuance thereof.

Interpretation of "Governor."

LIV. And be it enacted, That by the Word "Governor," as employed in this Act, shall be understood the Person for the Time being lawfully administering the Government of the said Colony of *New South Wales*.

Commencement of Act.

LV. And be it enacted, That this Act shall be proclaimed by the Governor of *New South Wales* within Six Weeks after a Copy of it shall have been received by him, and shall take effect within the said Colony from the Day of the Proclamation thereof.

Act may be amended or repealed.

LVI. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

SCHEDULES referred to in the foregoing Act.

SCHEDULE (A.)

	£
Governor	5,000
Superintendent at Port Philip	1,500
Chief Justice	2,000
Three Puisne Judges	4,500
Salaries of the Attorney and Solicitor General, Crown Solicitors, and contingent and miscellaneous Expences of Administration of Justice throughout the Colony	20,000
	£ 33,000

SCHEDULE (B.)

	£
Colonial Secretary and his Department	7,000
Colonial Treasurer and his Department	5,000
Auditor General and his Department	3,000
Salary of Clerk, and miscellaneous Expences of Executive Council	600
Pensions	3,000
	£ 18,600

SCHEDULE (C.)

	£
Public Worship	30,000

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