

[Fair Drafts]

[Queensland]

[Dated 5 June 1859]

[Gazetted 3 June 1859]

[Entered - order to]

[warrant 5]

[instructions 28]

**ORDER IN COUNCIL empowering the Governor of Queensland to make laws,  
and to provide for the Administration of Justice in the said Colony.**

At the Court at Buckingham Palace, the 6<sup>th</sup> day of June, 1859.

Present:

The Queen's Most Excellent Majesty in Council.

I. WHEREAS by an Act passed in the session of Parliament holden in the eighteenth and nineteenth years of the reign of Her Majesty, entitled "An Act to enable Her Majesty to assent to a Bill, as amended, of the Legislature of New South Wales, 'to confer a Constitution on New South Wales, and to grant a Civil List to Her Majesty.' " it was amongst other things enacted that it should 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 erect into a separate Colony or Colonies any territories which might be separated from New South Wales by such alteration, as therein was mentioned, of the northern boundary thereof; and in and by such Letters-Patent, or by Order in Council, to make provision for the government of any such Colony, and for the establishment of a Legislature therein, in manner as nearly resembling the form of Government and legislature which should be at such time established in New South Wales, as the circumstances of such Colony will allow; and that full power should be given in and by such Letters-Patent or Order in Council, to the Legislature of the said Colony, to make further provision in that behalf.

And whereas Her Majesty hath, by an Order in Council bearing date the thirteenth day of May, one thousand eight hundred and fifty-nine, approved the draft of certain Letters-Patent for separating, in exercise of the powers thus vested in Her Majesty, certain territories from New South Wales, and for

[92]

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erecting the said territories into a new Colony, by the name of the Colony of Queensland:

Her Majesty, by virtue of the powers vested in her by the said recited Act, and by and with the advice of Her Privy Council, is pleased to order, and doth hereby order, that there shall be within the said Colony of Queensland a Legislative Council and legislative Assembly.

II. And it is hereby declared and ordered, that 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 any part of the public revenue, for imposing any new rate, tax or impost, subject always to the limitations hereinafter provided, shall originate in the Legislative Assembly of the said Colony.

Legislative  
Council and  
Assembly  
constituted.

III. For the purpose of composing the Legislative Council of Queensland, the Governor of New South Wales is hereby authorised to summon, in Her Majesty's name, by an instrument or instruments under the Great Seal of the said Colony, such persons, not being fewer than five, as the said Governor shall think fit; and the Governor of Queensland is hereby authorised, in like manner, after the first meeting of the Council and assembly as hereinafter provided, to summon from time to time, to the said Legislative Council, such other 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 the said 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

Legislative  
Council how to be  
summoned.

Forces on full or half-pay, or retired officers on pensions.

IV. The members of the first Legislative Council of the said Colony who shall be so summoned by the Governor of New South Wales, 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 by the Governor of Queensland, 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.

V. For the purpose of constituting the Legislative Assembly of the said Colony of Queensland, it shall be lawful, in the first instance, for the Governor of New South Wales, within the time hereinafter mentioned, and thereafter for the Governor of Queensland, for 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.

VI. The Governor of New South Wales is hereby authorized, by Proclamation, to fix the number of Members of which the said Assembly shall be composed; and also, by such Proclamation as aforesaid to make all necessary provisions for dividing the said Colony into convenient electoral districts, and for the compilation and revision of lists of all persons qualified to vote, according, as nearly as may be, to the laws which are now or shall be at the date of such Proclamation in force in the Colony of New South Wales, at the elections to be holden within the several districts of the said Colony; and for the appointing of returning officers, and for the issuing, executing, and returning of 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, that the writs to be issued for

the first election of Members of the Legislative Assembly of the Colony of Queensland shall be issued by the Governor of New South Wales.

VII. 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  
Legislative  
Assembly.

VIII. And it is hereby declared and ordered, that all the provisions contained in a certain Act of the Legislature of New South Wales, passed in the seventeenth year of Her Majesty, and entitled “An Act to confer a Constitution on New South Wales, and to grant a Civil List to Her Majesty,” as assented to, with amendments, by Her Majesty under the authority of the said first recited Act of Parliament, which relate to the constitution, functions, and mode of proceeding of the Legislative Council and of the Assembly respectively, and to the qualification and disqualification of electors and members of the Assembly, shall be of force within the said Colony of Queensland, unless and until altered in manner hereinafter specified; and shall be deemed to be incorporated in this present Order in Council.

Constitution,  
functions, and  
mode of  
proceeding of  
Legislative  
Council and  
Assembly.

IX. 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.

X. 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 Order by the Governor of the said Colony.

First calling  
together of  
Parliament.

XI. 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

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

of the Colony, or before some person or persons authorized by such Governor to administer such oath:--

[Queensland] “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, 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.

XII. 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.

XIII. The said Legislative Council and Assembly in the first session of each respectively, and from time to time afterwards 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 the time being for

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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.

XIV. The provisions of the before-mentioned act of the fourteenth year of Her Majesty, chapter fifty-nine, and the Act of the sixth year of Her Majesty, chapter seventy-six, intituled "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 of Her Majesty, shall apply to Bills to be passed by the Legislative Council and Assembly constituted under the said Act of the Legislature of New South Wales and this Order, and by any other Legislative body or bodies which may at any time hereafter be substituted for the present Legislative Council and Assembly.

Provisions of former Acts respecting the allowance and disallowance of Bills preserved.

XV. The provisions of the said last-mentioned Act respecting the commissions, removal, and salaries of the Judges of the Supreme Court of New South Wales, shall apply and be in force in the Colony of Queensland so soon as a Supreme Court shall be established therein.

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

XVI. Such salaries as are settled upon the Judges for the time being by law, 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 the commissioner.

XVII. Subject to the provisions contained in the said first-recited Act of Parliament, 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 provisions

Legislature empowered to make laws regulating sale and other disposal of waste lands.

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.

XVIII. It shall not be lawful for the Legislature of the Colony to levy any duty upon articles imported *bona 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.

XIX. Subject to the provisions of this Order, 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 merchandize 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 articles the produce or manufacture of or imported from any particular country or place which shall 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.

XX. All Laws, Statutes, and Ordinances which, at the time when this Order in Council 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 order in Council 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

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

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

Force of Laws and authority of Courts preserved.

same may be abolished, altered, or varied by, or may be inconsistent with, the provisions of this Order, shall continue to subsist as if this Order had not been made, unless and until other provision shall be made as to any of the matters aforesaid by Act of the Legislature of Queensland; but so that the power of the Governor of New South Wales in relation to the matters aforesaid shall (except as hereinbefore provided) be vested in the Governor of Queensland.

XXI. The provisions of the said recited act of the Legislature of New South Wales respecting the disposal of taxes, imposts, rates, and duties, the Consolidated Revenue Fund, the Civil List, the appropriation of the surplus consolidated revenue, the origination and passing of money-votes, and the issue of portions of the public revenue, in pursuance of warrants under the hand of the Governor, shall be in force within the Colony of Queensland, unless and until altered in manner hereinafter specified, and shall be deemed to be incorporated with this present Order in Council; and the sum payable in every year to Her Majesty, by way of Civil List, shall not exceed, in all, six thousand four hundred pounds, and be applied towards defraying the expense of the several services specified in the Schedule to this Order annexed.

Civil List.

XXII. The Legislature of the Colony of Queensland shall have full power and authority, from time to time, to make laws altering or repealing all, or any, of the provisions of this 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 shall be made in the constitution of the Legislative Council, so as to render the whole or any portion

Power of alteration of Constitution.

thereof elective, 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 least, before Her Majesty's pleasure thereon shall be signified.

XXIII In the construction of this Order the word "Governor" shall mean the person, for the time being, lawfully administering the government of Queensland.

XXIV This Order shall take effect, except as therein otherwise provided, so soon as Her Majesty's Letters-Patent, erecting Queensland into a separate Colony, shall be received and published in the said Colonies. And the Right Honourable Sir Edward Bulwer Lytton, Bart., one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

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*Civil List*

Governor .. .. .	2,500
Private Secretary .. .. .	300
Colonial Secretary .. .. .	700
Treasurer .. .. .	700
Judge .. .. .	1,200
Public Worship .. .. .	<u>1,000</u>
 6,400	

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