

[Seal]

[Coat of Arms]

ANNO DECIMO-OCTAVO

VICTORIAE REGINÆ

No. 17

*By His Excellency SIR WILLIAM THOMAS DENISON, Knight,
Lieutenant-Governor of the Island of Van Diemen's Land
And its Dependencies, with the Advice and Consent of the
Legislative Council.*

**AN ACT to establish a Parliament in Van Diemen's Land
And to grant a Civil List to Her Majesty.
[1st November 1854]**

WHEREAS by an Act of Parliament passed in the fourteenth year of the reign of Her present Majesty intituled *An Act for the better Government of the Australian Colonies* it was amongst other things enacted that notwithstanding anything therein contained it should be lawful for the Governor and Legislative Council of the Colony of Van Diemen's Land after the establishment of a Legislative Council therein under the said Act from time to time by any Act or Acts to alter the provisions or laws for the time being in force under the said Act or otherwise concerning the election of the Elective Members of such Legislative Council the qualification of Electors and Elective Members or to establish in the said Colony instead of the Legislative Council a Council and a House of Representatives or other separate Legislative Houses to consist respectively of such Members to be appointed or elected respectively by such persons and in such manner as by such Act or Acts should be determined and to vest in each Council and House of Representatives or other separate Legislative Houses the powers and functions of the Legislative Council for which the same

PREMABLE

might be substituted – And whereas it is expedient for securing the peace welfare and good government of this Colony for the Governor and Legislative Council to exercise the powers given to them by the Imperial Act for the purpose of vesting the powers and functions of the Legislative Council of this Colony in a Legislative Council and House of Assembly to be constituted in manner hereinafter mentioned - Be it therefore enacted by the Lieutenant-Governor of Van Diemen's Land by and with the advice and consent of the Legislative Council thereof as follows –

A Legislative Council and a House of Assembly substituted for present Legislative Council.

I. There shall be in place of the present Legislative Council of Van Diemen's Land one Legislative Council and one House of Assembly in the said Colony to be severally constituted in the manner hereinafter prescribed and such Legislative Council and House of Assembly shall after the dissolution as hereinafter provided of the existing Legislative Council have and exercise all the powers and functions of the said existing Legislative Council.

Present Council to make Electoral Districts.

II. For the purpose of electing Members to serve in the Legislative Council and House of Assembly the Governor and now existing Legislative Council shall by an Act to be passed for that purpose after this Act shall commence and take effect establish convenient Electoral Districts for the return of Members to the said Council and Assembly and shall determine the number of Members to be returned for each District to the said Council and Assembly and shall make all necessary provisions for the issuing executing and returning the necessary writs for the election of such Members – the appointing of returning officers – the taking the poll – the place and time of the elections – the completion and revision of lists of persons qualified to vote --for determining the validity of all disputed Returns – and for ensuring the orderly impartial and effective conduct of such elections – and immediately upon the issue of the writs for the first election of Members of such Legislative Council and House of Assembly the existing Legislative Council shall *ipso facto* be dissolved and the powers and functions thereof shall cease.

When existing Council dissolved.

III. The Governor and Legislative Council and House of Assembly together shall be called "The Parliament of Van Diemen's Land."

IV. The Governor shall fix such times and places for holding the first and every other Session of the Parliament of the said Colony and vary and alter the same respectively in such manner as he may think fit giving sufficient notice thereof and also from time to time prorogue the said Parliament and dissolve the said House of Assembly by proclamation or otherwise whenever he shall deem it expedient – Provided always that nothing herein contained shall be construed to empower the Governor to dissolve the Legislative Council.

Session of Parliament once in every year.

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

Legislative Council to consist of Fifteen Members.

VI. The Legislative Council shall consist of Fifteen elected Members and every man of the age of twenty-one years being a natural-born or naturalised subject of Her Majesty or legally made a denizen

of Van Diemen's Land and having a freehold estate in possession legal or equitable within the district for which his vote is to be given of the clear annual value of fifty pounds sterling money above all charges and incumbrances in any way affecting the same of or to which he has been seised or entitled either at law or in equity for at least six months next before the date of the writ for such election or when a registration of Electors shall be established next before the last registration of Electors or being a graduate of any University in the British Dominions or a Barrister or Solicitor on the roll of the Supreme Court of Van Diemen's Land or a legally qualified Medical Practitioner or an officiating Minister of Religion or an Officer or retired Officer of Her Majesty's land or sea forces not being on actual service and resident in the district for which his vote is to be given at least twelve months before the date of the writ for such election shall be entitled to vote at the election of a Member to serve in such Legislative Council.

Qualification of Electors.

VII. No person shall be capable of being elected a Member of the Legislative Council who shall not be of the full age of thirty years and a natural-born or naturalised subject of Her Majesty or legally made a denizen of Van Diemen's Land.

Qualification of Members.

VIII. The Legislative Council shall at its first meeting and before proceeding to the despatch of any other business elect some Member of the said Council to be the President thereof and as often as the place of such President shall become vacant by death, resignation or removal by a vote of the said Council the said Council shall again elect some other Member to be the President thereof and the President so elected shall preside at all meetings of the said Council and the election of the President of the Legislative Council shall be notified to the Governor by a deputation of the said Council.

Election of President of Legislative Council.

IX. The Legislative Council shall immediately after the election of the President thereof proceed to determine by lot the order in which the names of the several Members shall be entered upon a list to be called the "Members' Roll" and at the expiration of three years from the date of the issuing of the Writs for the first election under this Act and thenceforward at the expiration of every succeeding three years such five Members as shall be the first five on such Members' Roll shall vacate their seats and five new Members shall be elected to supply the vacancies so created and immediately after the five Members so elected to fill the vacancies so created shall have taken their seats they shall proceed in like manner to determine by lot the order in which their names shall be respectively placed on the "Members' Roll" next after the names of the ten Members previously on the said Roll and in the event of a single Member being elected to fill a seat in the said Council vacant by reason of death acceptance of office or otherwise the name of such Member shall be placed last on the said Members' Roll to the intent that one-third of the whole number of Members of the Legislative Council consisting of such five Members as shall have held their seats for the longest period shall vacate their seats every three years.

Order in which Members to retire.

X. In case of the absence of the President in consequence of leave of absence granted to him by the House or of illness or other unavoidable cause it shall be lawful for the Legislative Council to choose some other Member of the said House to fill temporarily the office and perform the duties of the President during his absence.

Absence of President provided for.

Quorum of Legislative Council.

XI. The Legislative Council shall not be competent to the despatch of business unless there be present including the President at least seven Members of the said Council and all questions which shall arise shall be decided by the majority of the votes of those Members of the Council who shall be present exclusive of the President who shall be allowed a casting vote.

Members of Legislative Council may resign.

XII. It shall be lawful for any Member of the Legislative Council 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 Member shall become vacant.

Seat in Legislative Council how to become vacant.

XIII. If any Legislative Councillor shall for one entire Session of the Legislative Council fail to give his attendance therein without the permission of the said Council or shall take any oath or make any declaration or act of acknowledgment of allegiance 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 shall 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 of unsound mind his seat in such Council shall thereby become vacant.

Question of vacancy how determined.

XIV. Whenever any question shall arise respecting any vacancy in the Legislative Council the same shall be heard and determined by the Legislative Council itself.

House of Assembly to consist of Thirty Members who may be elected Members.

XV. The House of Assembly shall consist of Thirty elected Members and any person (except as hereinafter excepted) shall be capable of being elected a Member of the House of Assembly who shall be a natural-born or naturalised subject of Her Majesty or legally made a denizen of Van Diemen's Land – Provided that no Judge of the Supreme Court or Minister of Religion shall be capable of being elected a Member of the House of Assembly.

Duration of Assembly.

XVI. Every Assembly 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 dissolved by the Governor.

Qualification of Electors.

XVII. Every man of the age of twenty-one years being natural-born or naturalised subject of Her Majesty or legally made a denizen of Van Diemen's Land and have a freehold estate in possession legal or equitable situate within the district for which his vote is to be given of the clear value of One hundred Pounds sterling money above all charges and incumbrances in any way affecting the same of or to which he has been seised or entitled either at law or in equity for at least two months next before the date of the writ for such election or in case a registration of Electors shall be established next before the last registration of Electors or being a householder within such district occupying any house warehouse counting-house office shop or other building of the clear annual value of Ten Pounds sterling money and having resided therein two calendar months before such writ or registration as aforesaid or holding at the date of such writ or at the time of such registration a licence to depasture lands within the district for which his vote is to be given from the Government of Van Diemen's Land and paying for the same not less than Ten Pounds per annum or having a leasehold estate in possession

situate in such district of the annual value of Ten Pounds sterling money held upon a lease which at the date of such writ or at the time of such registration has not less than three years to run or having a salary of One hundred Pounds sterling a year or being a graduate of any University in the British Dominions or a Barrister or Solicitor on the roll of the Supreme Court of Van Diemen's Land or a legally qualified Medical Practitioner or an officiating Minister of Religion or an Officer or retired Officer of Her Majesty's land or sea forces not being on actual service and resident in the district for which his vote is to be given at least twelve months before the date of the writ for such Election shall be entitled to vote at the Election of a Member of the House of Assembly.

XVIII. Where any premises are jointly owned or occupied or held upon lease by more persons than one each of such joint owners occupiers or leaseholders shall be entitled to be registered as an Elector and to vote at the Election of Members to serve in the House of Assembly in respect of such joint ownership occupancy or leasehold provided each such person's share or interest in such premises would if several entitle him to vote under the provisions of this Act.

Qualifications of joint-tenants and owners

XIX. 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 elected or of sitting or voting as a Member of such 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 – Provided always that nothing herein contained shall extend to any contract or agreement made entered into or accepted by any incorporated company or any trading company consisting of more than six persons where such contract or agreement shall be made entered into or accepted for the general benefit of such incorporated or trading company – Provided also that if any person being a Member of such Assembly shall enter into any such contract or agreement or having entered into it shall continue to hold it his seat shall be void.

Disqualification of Contractors.

XX. The House of Assembly shall at its first meeting after every general election and before proceeding to the despatch of any other business elect some one Member of such Assembly to be the Speaker thereof and in case of his death resignation or removal by a vote of the House of Assembly the said House shall forthwith proceed to elect some other such Member to be Speaker and the Speaker so elected shall preside at all meetings of the said House of Assembly and the election of such Speaker shall be notified to the Governor by a deputation of the said House.

Election of Speaker.

XXI. In case of the absence of the Speaker in consequence of leave of absence granted to him by the House or of illness or other unavoidable cause it shall be lawful for the House of Assembly to choose some other Member of the said House to fill temporarily the office and perform the duties of the Speaker during his absence.

Absence of Speaker provided for.

XXII. The House of Assembly shall not be competent to the despatch of business unless there shall be present exclusive of the Speaker one third at least of the Members of the said Assembly and all

Quorum.

Member may resign.

questions which shall arise in the said House of Assembly shall be decided by the majority of votes of those members thereof who shall be present other than the Speaker and when the votes shall be equal the Speaker shall have a casting vote.

XXIII. It shall be lawful for any Member of the House of Assembly by any writing under his hand addressed to the Governor to resign his seat therein and from the time the same shall be received by the Governor the seat of such Member shall become vacant.

Seat in House of Assembly how to become vacant.

XXIV. If any Member of the House of Assembly shall for one whole Session thereof fail to give his attendance in the said Assembly without the permission of the said Assembly or shall take any oath or make any declaration or act of acknowledgement of allegiance or adherence to any Foreign Prince or Power or 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 to 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 of unsound mind his seat in such Assembly shall thereby become vacant.

Disqualification from felony.

XXV. No man shall be entitled to vote at the election of a Member or be capable of being elected a Member of either House of the Legislature who has been attainted or convicted of treason felony or other infamous offence in any part of Her Majesty's Dominions unless he have received a pardon or have undergone the sentence passed upon him for such offence.

Oath to be taken by Members.

XXVI. No Member either of the Legislative Council or of the House of Assembly shall be permitted to act or vote therein respectively until he shall have taken and subscribed before the Governor of the said Colony or before some person authorised by such Governor to administer it the oath set forth in the Schedule hereunto annexed marked A.

Seats in both Houses how vacated.

XXVII. If any Member either of the Legislative Council or of the House of Assembly shall accept any office of profit or any pension from the Government during pleasure or otherwise his seat shall thereupon become vacant.

Penalty for sitting and voting in either House if disqualified.

XXVIII. If any person by this Act disabled or declared to be incapable to sit or vote either in the said Legislative Council or in the House of Assembly shall nevertheless be elected and returned as a Member to serve in either of the said Houses of Legislature such election and return are hereby declared to be void to all intents and purposes whatsoever and if any person so elected and returned contrary to the provisions of this Act shall presume to sit or vote as a Member thereof in either the Legislative Council or the House of Assembly such person shall for each such offence forfeit the sum of Five hundred Pounds to be recovered by any person who shall sue for the same in the Supreme Court of Van Diemen's Land or any other Court in the said Colony having competent jurisdiction.

Legislative Council and Assembly to make Standing Orders.

XXIX. The Legislative Council and House of Assembly at the first sitting of each respectively and from time to time afterwards as there shall be occasion shall prepare and adopt such standing rules and orders

as shall appear to them best adapted for the orderly conduct of the business of such Council and Assembly and for the mode in which the said Council and Assembly shall confer correspond and communicate with each other for the manner in which Bills shall be introduced passed numbered and intituled in the said Council and Assembly respectively and for the proper presentation of the same to the Governor for Her Majesty's assent and generally for the conduct of all business and proceedings of the said Council and Assembly severally and collectively all of which rules and orders shall by such Council and Assembly respectively be laid before the Governor and being approved of by him shall become binding and of force.

XXX. There shall be payable to Her Majesty Her Heirs and Successors in every year out of the Consolidated Revenue Fund of Van Diemen's Land the several sums not exceeding in the whole Fifteen thousand three hundred Pounds for defraying the expenses of the services and purposes set forth in the Schedule to this Act annexed marked B and the said several sums shall be issued by the Treasurer of Van Diemen's Land in discharge of such warrants as shall from time to time be directed to him under the hand of the Governor.

Civil List granted to Her Majesty.

XXXI. There shall be reserved for Public Worship the sum of Fifteen thousand Pounds to be appropriated in the manner set forth in Schedule C of this Act or in such other manner as the Legislature of Van Diemen's Land shall hereafter from time to time direct and appoint.

Reserve for Public Worship.

XXXII. And whereas by the operation of this Act certain Officers of the Government will be more liable to loss of office on political grounds than heretofore and it is just to compensate the present holders of such offices for the actual loss of their offices in case the same should happen upon political grounds or at their option to compensate them for such increased liability to loss of office – Be it enacted that the sums set opposite the names of the persons mentioned in Part I. of Schedule D to this Act annexed who at present respectively hold the offices therein mentioned shall be payable annually by way of retiring allowance to such persons respectively during their respective lives upon their respective retirement or removal from office upon political grounds after this Act shall come into operation or if any of the said persons shall at least ten days before the commencement of the first Session of the said Parliament by writing under his hand addressed to the Governor signify his desire to accept a compensation for such increased liability to loss of office in lieu of such annual retiring allowance as aforesaid then the sum set opposite the name of such person in Part II. of the said Schedule D shall be paid to him forthwith in lieu of such retiring allowance and all such sums as aforesaid shall be payable and paid to such persons out of the General Revenue – Provided that if after any such annual retiring allowance as aforesaid shall have become payable the person entitled thereto shall accept any new appointment under the Crown then such retiring allowance shall merge or be reduced *pro tanto* during the tenure of such appointment according as the salary or emoluments of such new appointment is or are of greater or less amount than such retiring allowance of such person.

Compensation for Officers liable to loss of office.

XXXIII. All Bills for appropriating any part of the Revenue or for imposing any tax rate duty or impost shall originate in the said House of Assembly and it shall not be lawful for the said House of Assembly

Money Bills to originate in the Assembly.

All Money votes to be recommended by the Governor.

Act to be proclaimed.

to originate or pass any vote resolution or Bill for the appropriation of any part of the Revenue or of any tax rate duty or impost for any purpose which shall not have been first recommended by the Governor to the said House of Assembly during the Session in which such vote resolution or Bill shall be passed.

XXXIV. This Act shall be published in Van Diemen's Land by the Governor of the said Colony within three months after Her Majesty's approval of the same shall have been received by proclamation for that purpose in the *Hobart Town Gazette* and shall commence and take effect from the day of the date of such proclamation.

Short title may be cited.

XXXV. In referring to this Act it shall be sufficient to make use of the expression "The Constitutional Act".

SCHEDULE A.

OATH OF ALLEGIANCE

I 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 *Van Diemen's Land*, 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 or Successors, all Treasons and traitorous Conspiracies and Attempts which I shall know to be against Her or any of them: and all this I do swear without 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!

Sworn at Hobart Town this day
of One thousand eight hundred and
before

SCHEDULE B.

CIVIL LIST.

PART I.

£ s. d.

Governor's Salary 4000 0 0
Allowances and Contingent Expenses..... 2500 0 0

TOTAL £6500 0 0

PART II.

	£	s.	d.
Chief Justice.....	1500	0	0
Puisne Judge	1200	0	0
Attorney-General.....	900	0	0
Solicitor-General	600	0	0
			<hr/>
TOTAL	<u>£4200</u>	<u>0</u>	<u>0</u>

PART III.

	£	s.	d.
Colonial Secretary	1200	0	0
Colonial Treasurer	800	0	0
Colonial Auditor	600	0	0
			<hr/>
TOTAL	<u>£2600</u>	<u>0</u>	<u>0</u>

PART IV.

	£	s.	d.
Pensions.....	2000	0	0

SCHEDULE C.

PUBLIC WORSHIP.

	£	s.	d.
Public Worship	15,000	0	0

SCHEDULE D.

PART I.

Compensation by way of Retiring Allowance.

	£	s.	d.
William Thomas Napier Champ, Colonial Secretary, three-fourths of Salary.....	900	0	0
Francis Smith, Attorney-General, three-fourths of Salary	675	0	0
Peter Gordon Fraser, Colonial Treasurer, three- fourths of Salary	600	0	0

PART II.

Compensation by way of Bonus to Holders of Office liable to Loss of Office on Political Grounds.

	£	s.	d.
William Thomas Napier Champ, Colonial Secretary,			
five years' Salary	6000	0	0
Francis Smith, Attorney-General, five years' Salary	4500	0	0
Peter Gordon Fraser, Colonial Treasurer,			
five years' Salary.....	4000	0	0

RICHARD DRY,
Speaker

Passed the Legislative Council, this thirty-first day of October, one thousand eight hundred and fifty-four.

Fr. HARTWELL HENSLOWE,
Clerk of the Council.

JAMES BARNARD,
GOVERNMENT PRINTER, VAN DIEMEN'S LAND.

[In conformity with the provisions of the 31st clause of the Act for the better Government of New South Wales and Van Diemen's Land (5 & 6 Ret Cap 76) I reserve this Bill for the signification of Her Majesty's pleasure therein.

Govt House
1 Nov ' 54.

W. Denison
Lieut Governor]