



# Government Gazette

## EXTRAORDINARY OF WESTERN AUSTRALIA.

[ Published by Authority. ]

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No. 43. ]

PERTH: FRIDAY, SEPTEMBER 7.

[ 1888.

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No. 3578.—C.S.O.

*Colonial Secretary's Office,  
Perth, 7th September, 1888.*

HIS Excellency the Governor directs the publication of the following Despatches and Documents, in order that the important questions to which they relate—namely, the proposed change of Constitution and the Finances of the Colony—may, in the interval before the opening of the Legislative Council on the 10th of October next, receive the careful consideration which they require.

By Command,  
MALCOLM FRASER,  
Colonial Secretary.

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*From His Excellency the Governor to the Right Honorable  
the Secretary of State.*

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*Responsible Government.*

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No. 80.

WESTERN AUSTRALIA.

MY LORD,

Government House, Perth, 14th April, 1888.

I laid Your Lordship's Despatches No. 130, of the 12th of December last, and No. 3, of the 3rd of January last, on the subject of Responsible Government, before the Legislative Council, by the Message No. 5, of the 12th ult., of which I enclose a copy, and in which, it will be seen, I did not express any further opinion of my own on the very important matter involved.

2. Having conveyed to Your Lordship, in my Despatches Nos. 137 and 158, of the 12th and 28th of July, 1887, my views on the principal points connected with the proposed change of the constitution of this Colony, I thought it best that Your Lordship's replies should be considered by the Legislature without any additional

*From the Right Honorable the Secretary of State to  
His Excellency the Governor.*

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WESTERN AUSTRALIA, }  
No. 68.

SIR,

Downing Street, 21st July, 1888.

I have the honor to acknowledge the receipt of your Despatch No. 143, of the 2nd ultimo, transmitting with your remarks the Estimates of Revenue and Expenditure of Western Australia for the present year.

I observe that the unassisted Revenue for the year is estimated at £394,462, while the expenditure is estimated at £396,772 1s. 4d., and that a balance of £2,114 11s. 11d. is expected at the end of the year by employing nearly one half of the balance left at the conclusion of 1887.

I note also that it appears doubtful whether the estimated Revenue will be reached.

From the general tone of the remarks contained in your speech to the Legislative Council, I gather that you feel the necessity in these circumstances for strict economy, which I trust it may be in your power to carry out by vigorous measures in conjunction with the Legislature.

I have, &c.,

Governor Sir F. N. Broome, K.C.M.G.,

KNUTSFORD.

&c.,            &c.,            &c.

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WESTERN AUSTRALIA, }  
No. 69.

SIR,

Downing Street, 30th July, 1888.

I have the honor to acknowledge the receipt of your Despatch No. 139, of the 28th of May, transmitting the draft of a Constitution Bill for Western Australia, with the Report of debates which have recently taken place in the Legislative Council, on the subject of Responsible Government.

2. I am aware of the importance of an early settlement of this question, and I regret the delay which is unavoidably caused through the non-acceptance by the Council of the proposals and conditions laid down in my despatches of the 12th of December and the 3rd of January last.

3. As regards No. 1 of the resolutions of the Legislative Council, previously transmitted in your Despatch No. 80, of the 14th April, I would observe that in suggesting latitude  $26^{\circ}$  as the line south of which the Colony might, under Responsible Government, have the power of dealing with the Crown Lands, I did not intend to prejudge the question whether that or any other parallel should be adopted as the dividing line between the two colonies, should one be hereafter created in the North. But I continue to be of opinion that as long as Western Australia remains undivided Her Majesty's Government should retain control over the permanent alienation of Crown Lands north of that or of some other not distant line.

4. As regards resolutions 2 and 3, I would point out that the power of disallowing the laws of a self-governing colony after they have been passed, is in itself a not very effective control. It tends to create considerable friction between the Home and Colonial Governments, and the exercise of such power would, in my judgment, prove to be more distasteful to the Colony than the retention by the Crown over a certain area of the power now vested in it by the law of regulating the disposal of the waste lands of the Colony.

5. With this view, therefore, I propose to leave in force the Act 18 and 19 Vic., cap. 56, and to make new regulations under that Act, which, after preserving all leases and rights which have been duly granted or created, would vest in the Legislature of Western Australia the sale, letting, and other disposal of waste lands of the Crown South of Latitude  $26^{\circ}$ , or of such parallel of latitude or other boundary as may from time to time be approved by Her Majesty in Council for that purpose, and would give them full power over the proceeds arising from the sale, letting, or other disposal of those waste lands.

6. The Regulations affecting the Crown Lands within the territory North of Latitude  $26^{\circ}$ , or other boundary would, after preserving existing interests, follow the lines pointed out in section (c) of paragraph 9 of my despatch, of the 12th of December, 1887. The existing Regulations could readily be adapted, if indeed they could not be retained in their present form.

7. As to Resolution 4, I accept the views of the Council and am prepared to assent to the creation of a Second Chamber; but as regards Resolution 5, I still think it desirable that such Chamber should be nominated, at all events in the first instance, and until the population of the Colony has considerably increased. It is, however, worthy of notice that none of the three Colonies which possesses a nominated Council have taken measures to change it for an elective body, and the working of these Councils has stood the test of thirty years experience.

8. There have been, nevertheless, some inconveniences in the members retaining their seats for life, and I propose that the members of the Upper House in Western Australia should retire after a term of, say, 6 years, but should be again eligible for nomination on the expiration of that term.

9. As to Resolution 7, I think it desirable to adhere to your proposal to separate the Aborigines Protection Board and its operations from the influence of political parties in the Legislature, and I concur in the principle embodied in the sections of the draft Bill which deals with this subject.

10. I am disposed to concur generally in your views as to the salaries of the Governor and Chief Justice and in the scale of pensions proposed, but I defer for the present all detailed observations upon the draft Bill, for I propose to have it recast to meet the views expressed above, and to transmit it to you without much delay. Should the Bill, as resettled, then be adopted by the Council, much time would be saved, as it would otherwise be necessary for you to reply to this despatch before any Bill could be framed and laid before the Council.

*Responsible Government.*

No. 139.

WESTERN AUSTRALIA.

MY LORD,

Government House, Perth, 28th May, 1888.

In continuation of my Despatch No. 80, of the 14th ultimo, I have the honor to enclose, herewith, for the consideration of Her Majesty's Government, and for amendment as may be deemed necessary, the draft of a Constitution Bill\* for Western Australia. I also enclose the authentic *Hansard* report of the recent debates in the Legislative Council upon Your Lordship's Despatches No. 130, of the 12th of December, and No. 3, of the 3rd of January last, and generally upon the question of Responsible Government.

2. Before commenting upon the draft Bill, I will refer to the points on which, in the two despatches just mentioned, my opinion and observations have been requested by Your Lordship.

3. In paragraph 9 of the despatch of December, it is suggested that, for the purpose of dealing with the Waste Lands of the Crown, the Colony, in the event of Responsible Government being granted, should be taken to be divided at about latitude 26, north of which line the regulation of the Crown Lands should remain under Imperial control, the proceeds of land sales being funded and preserved for the benefit of any future separate Northern Colony, except so far as expenditure from the fund thus created might be sanctioned by Her Majesty's Government "for the special advancement of the Northern Districts by the settlement of immigrants therein, or in other ways."

4. With regard to this scheme, I would remark that the Land Regulations proclaimed in accordance with the authority conveyed in Your Lordship's Despatch No. 13, of the 14th of January, 1887, constitute, in effect, a settlement of the Waste Lands of the Crown within this Colony, including the districts north of latitude 26, for the next twenty years, or, to be exact, until the 31st of December, 1907, and, further, that these now existing Land Regulations could not, under Responsible Government, be in any way altered or departed from, unless by virtue of some law passed by the Parliament of the Colony. Any such law, before it could come into force, would be subject to amendment or disallowance at the instance of Her Majesty's Government, in the usual constitutional manner.

5. For the above reasons, it does not appear to me that it is necessary, or would be useful, to make any special distinction or reservation, under the new political system, in respect of the regulating power for Crown Lands north of latitude 26.

6. Nor do I think that any benefit would arise from the funding of the proceeds of sales of land in these northern districts in the manner proposed in Your Lordship's despatch. The twenty years settlement of the lands which I have referred to rests, so far as these districts are concerned, almost entirely and exclusively on a leasehold basis, and only permits sales of land in townsites, and in special areas, under restrictive conditions. Probably, the sums obtained from land sales north of latitude 26 will be small for some time to come, while the ordinary expenditure of the Government in the districts in question will far exceed any such receipts. Whatever revenue may be derived from land sales north of latitude 26 will be required year by year for the needs of the Government.

7. By prohibiting, except to a small extent, and under restrictive conditions, sales of land north of latitude 26 for the next twenty years, the existing regulations, which, as I have said, cannot be altered save with the concurrence of the Imperial Government, may, I think, be considered to accomplish the object desired in the 8th paragraph of Your Lordship's Despatch No. 130, of last December, and "to preserve

\* See substituted draft enclosed with Despatch No. 152, of 6th June, 1888.

“the unalienated lands in the outlying portions of the Colony for the benefit of its “future inhabitants.”

8. These tropical or semi-tropical, and generally speaking, arid northern districts are not, I may further observe, at all adapted for what is commonly understood to be meant by “the settlement of immigrants.” So far as can be seen at present, no organised or considerable scheme of European immigration is possible within these districts.

9. From the foregoing observations, it will be gathered that I agree with Nos. 2 and 3 of the Resolutions passed by the Legislative Council, and transmitted by my previous despatch, namely, “that special statutory reservation to Her Majesty’s Government in the Constitution Act of power to control legislation affecting Northern lands is unnecessary,” and “that the proposed arrangement for funding the proceeds of sales of Northern lands, with a view to their future local use, would be a needless complication.” Since Western Australia is not to be separated when Responsible Government is granted, I also consider, with the Council (Resolution No. 1) “that to indicate, at the present time, the possible future boundary of a Northern political sub-division of the Colony would be premature, and open to serious objection.”

10. In paragraph 10 of Your Lordship’s despatch under notice, reference is made to an opinion I had previously expressed that, in the event of a separation of the Colony, about £200,000 of the present public debt should be taken over by the new territory. This suggestion is understood to have implied an interference with the hold of the public creditor upon the original Colony of Western Australia. I do not seem to have expressed my idea with sufficient precision, but I was merely referring to an arrangement between the Governments of the two portions of the original Colony after separation. One of the several methods of allotting, *in effect*, (which was all I intended) a settled sum of either the capital or of the interest of the public debt to the new Colony is embodied in clause 47 of the draft Bill now forwarded. While separation of the Colony would diminish the security of the public creditor by opening up a double chance of financial difficulty, my proposal, as it seems to me, would increase that security, by creating a double security for a portion of the debt. But, however this may be, the only point I wish to press is, that it should be clearly provided beforehand that any separated territory will have to carry away with it the liability to pay the interest and remaining principal of such loan money as has been spent within it. This seems bare justice to the parent Colony, and would act as a check on too hasty separation.

11. Referring now to Your Lordship’s despatch of the 3rd of January, I cannot help feeling that it would be very inadvisable to establish here Responsible Government with a single Chamber. I submit that the case of Ontario, cited by Your Lordship, is in many ways different from that of Western Australia. In the first place, Ontario does not really furnish an instance of Responsible Government with a single Chamber, seeing that the Ontario House and Ministry do not completely legislate and govern, but have behind them and over them the Dominion Parliament of two Houses and the Dominion Ministry. Ontario has, in fact, three Legislative Chambers. It is difficult to see how the existence in Ontario of a provincial Chamber of eighty-eight members entrusted only with partial powers, is at all a safe or covering precedent, on the authority of which Her Majesty’s Government would be warranted in handing over the whole Colony of Western Australia to a single Chamber of thirty members (the number proposed) possessing full powers.

12. There is nothing, so far as I know, within the limits of the British Empire that can be called a precedent for the experiment of a single Chamber for Western Australia, and I think such an experiment would be full of danger. Much irremediable harm might be done before the constitution could be changed. Further, it is well known that there is nothing more difficult in politics than to persuade a representative

Assembly that it should surrender power, and whatever right were reserved to Her Majesty-in-Council, there might be considerable trouble in altering a constitution once granted.

13. Legislation and Government by a Responsible Ministry in a single Chamber of only thirty members would, indeed, be an ultra development of democratic institutions, even in this democratic continent. If at Court it be thought unnecessary to be more loyal than the King, surely in Australia it would be a mistake to be more radical than Victoria.

14. It seems also to be inexpedient to propose for this Colony a Constitution which would place its political system out of harmony with those of the neighboring states of this part of the Empire. It is desired to assimilate and draw together these states as much as possible, and would it be wise now to create a distinctly new type of Constitution, by handing over a third part of the continent to a single Chamber? To initiate such a hitherto unheard of development of democracy would also be to strike a blow at the position, already attacked by some, of the Upper Houses which are the safeguards of the other Australian states. As for Western Australia itself, the danger of carrying democratic precept to its highest pitch at one bound in a young and politically untried community, with the special past circumstances of this Colony, would surely be very great.

15. Of course, I quite understand that Your Lordship, in proposing a single Chamber, has had regard, not so much to political considerations as to an apprehended practical difficulty in at first ensuring a sufficient number of desirable members for two Houses. But, even as to this, it may be observed that Queensland and other communities began their political career with two Chambers when they had a much smaller population than Western Australia, and I do not think there would be difficulty here in making up the complement of an Upper House of fifteen members, and a Lower House of thirty members. Moreover, on whatever special ground a single chamber may be advocated, we must, before adopting it, have regard to the whole issue, to the whole result of such a deviation from established principle and usage. It is significant that the proposal has been caught at and supported here by a very few persons of ultra-radical opinions, and hardly any one else. The Legislative Council have strongly opposed it, and have given it as their opinion (Resolution No. 4, transmitted by my previous despatch) "that the Constitution of this Colony should, from the first, provide "for the establishment of a second Legislative Chamber." I am not certain that the community would accept Responsible Government with one Chamber, and I think they would do wisely in rejecting it on such terms.

16. Neither Your Lordship nor the Legislative Council (*see* their Resolution No. 6) have concurred in my proposal that the Upper House should be given power to remove from a money bill anything of the nature of "a tack," and that, after a lapse of not less than eight months, the Lower House should have power, without consent of the Upper House, to pass the measure objected to, but only by a two-thirds majority.

17. I made this proposal with the view of providing beforehand against the difficulties, and, in the case of the Colony of Victoria at least, the positive and prolonged disaster, which the history of Colonial politics shows to have been the consequence of a deadlock between two Houses of a Legislature, arising from the endeavor of the Lower House to carry some new and important measure of policy (the bill containing which has been perhaps previously thrown out in the Upper House) by introducing it under the guise of a mere money vote on the Estimates of the year, and so taking advantage of the power of the purse to cripple the Legislative functions of the Upper House, whose only remedy in the case is their one right—which cannot practically be successfully exercised—of rejecting a money bill altogether.

18. Difficulties of the nature alluded to are more likely, I think, to occur between two Chambers of fifteen and thirty members, as proposed for Western Australia, than between assemblies, such as those of the other Colonies, containing two or three times the number of members. Further, when such difficulties do occur, may they not be expected to cause more trouble and confusion in a small community such as this, than among larger populations?

19. However, it must now, I presume, be left to the future to show whether some precautionary provision had better have been included in the Constitution Bill of Western Australia against this contingency peculiar to colonial, and particularly to Australian politics, or whether, as Your Lordship considers, the Colony will “in the end derive more benefit by working out its own future at the risk of some friction “from time to time.” No clause dealing with the subject is contained in the draft Bill. I should mention that the parliamentary paper on these difficulties between two Houses of a Colonial Legislature, which the 5th paragraph of Your Lordship’s despatch of the 3rd of January invites me to consider, was not enclosed with the despatch, as stated. I was able, however, by the courtesy of the Premier of Queensland, to obtain a copy. I perused it attentively, and laid it before the Legislative Council.

20. I would still respectfully adhere to my recommendation that the Upper Chamber should be elected, not nominated. As an elected chamber, it could not but command a greater degree of prestige and confidence; it would be less open to democratic attack; and it would be able to exercise its powers with greater freedom and more accepted result than could be the case with a nominated chamber. The Legislative Council also consider (Resolution 5) “that the second House of Western Australia should be elected by the people.” It will be perceived that the draft Bill provides for the nomination of members of the Upper Chamber in cases in which there is no return to a writ. Perhaps this contingency is not likely to occur, but I have thought it well to provide against it, as it is possible that a sufficient number of candidates for election to the Upper Chamber may not at first come forward.

21. In the seventh of the Resolutions previously transmitted, the Legislative Council, referring to the proposal approved by Your Lordship—“that some measure “would be necessary for placing the Aboriginal inhabitants of the Colony under the “care of a body independent of the Parliament of the day”—state their opinion “that “no ground whatever of necessity has been shown for placing the interests of the “Aboriginal population in the hands of a body independent of the local Ministry.” There can be no doubt that the Legislative Council, and public opinion here generally, are at present strongly opposed to the proposals made by me on this head,—proposals which Your Lordship is good enough to say “appear to be reasonable and well-considered.” This opposition is avowedly (*see* the Legislative Council debates and articles in the public Press) not to the exact terms of the proposals themselves, so much as based upon a feeling that a clause in the Constitution Bill removing any matters connected with the protection of the Aboriginal Natives from the control of the local Ministry might be taken to convey a reproach to the Colony, by implying that the local Government of Western Australia under the new Constitution could not be trusted to watch over the welfare of the Natives.

22. It must be admitted that the objections raised, on the score of the sentiment just mentioned, to what I have proposed, are in themselves neither unnatural nor unreasonable, at first sight. But I think they should be greatly lessened when the arrangement embodied in clause 52 of the draft Bill is regarded from another and more practical point of view, namely, as a safeguard very much in the interest and to the advantage of the Colonial Government and Ministers themselves. I will now state the exact provisions regarding Aboriginal Natives which I have introduced into the draft Bill.

23. It is proposed that the operations and expenditure of the Aborigines Protection Board, established under Act No. 25 of 1886, shall be controlled by the Governor, and not by the Ministry of the day, and that the Governor shall also have reserved to him some special powers affecting Aboriginal natives under the Pearl Shell Fishery Acts. For the purpose of promoting the welfare of the native population, a sum of £5,000 (or 1 per cent. on the revenue when this shall exceed £500,000) is proposed to be made a reserved charge on the Colonial revenue, for expenditure by the Aborigines Protection Board, under the control of the Governor. As a set-off to this charge, the heading of "Aborigines," the provision under which is £2,700 for the present year, would disappear from the Estimates, and I also think that a contribution at the rate of, say, £3 per head (but not to exceed £1,000 *per annum*) upon the number of aborigines engaged in the pearl fishery on the North-west coast might be paid from the reserved £5,000, towards the expenses of the Inspector of Pearl Shell Fisheries and his schooner, now partly employed in watching over the treatment and welfare of the Aboriginal native pearl divers. According to the last return, 172 Aboriginal natives were engaged in the pearl shell fishery, and, therefore, the proposed payment under this head from the £5,000 reserved for native purposes would be, at present, between £500 and £600 a year. Taking into account the £2,700 previously mentioned, this leaves £1,700 or £1,800 as the net increased annual outlay under the new constitution for the benefit of the natives. I think no one who considers the circumstances of this Colony can arrive at the conclusion that £5,000, to include £3,200 or £3,300 in reduction of existing charges, is at all too large a sum to set aside as an annual reserve for native purposes. The claims of the Aboriginal natives upon this Government are increasing year by year, and common justice requires that beneficial action, which practically means the expenditure of public money, in their interest should take a larger scope than it has hitherto done. Nor do I suppose that the Legislative Council would object to the monetary provision mentioned, which I have inserted in the draft Constitution Bill. The objection of the Council and of the public is to the principle of separate control, and this I will now remark upon.

24. I wish first to say that I have always found the Legislative Council ready to take a liberal and just view of questions connected with Aboriginal natives. Some proposals which I have considered desirable have no doubt from time to time been rejected by the Council, but I have relied a great deal on their local knowledge and experience, feeling assured that they are as anxious as I myself can be to discountenance anything like unjust or illiberal treatment of the natives. But it is not so much from the power "of the Parliament of the day," as from the out-of-doors political influences and pressure which must inevitably surround the existence of a Colonial ministry in a small community, that I would desire to remove the Aborigines Protection Board and its duties and operations. My belief is, that the Colonial ministry would be very glad indeed to be relieved of responsibilities connected with the appointment and instruction of Protectors of Aborigines, with the supervision of labor engagements of natives, with the institution of prosecutions in certain native cases, and with other matters arising under the Aborigines Protection Act. Neither is it any new thing for an independent Board created by statute to be entrusted with important duties, and to be allotted a certain fixed sum of public money for the necessary expenditure. The Aborigines Protection Board would not be an alien corporation, but must necessarily consist of leading colonists of Western Australia. Its duties are greatly connected with the Administration of Justice to the natives, and it seems fitting that such a Board should be independent of political circumstances and influence. The ministers of the future would, I cannot but think, be rejoiced and relieved to find that the welfare of the native population was in a measure confided to an independent body, which would stand between them and inconvenient requests and pressure from particular districts or persons. The existence of the Aborigines Protection Board would tend to secure the Government from attack and trouble on a vulnerable and exposed side, much at the mercy of a numerous and active class of



philanthropists, not always particular as to their facts, and would be a standing vindication of the attitude of both the Government and the Colony at large towards the native race, and of the careful watch kept over the welfare and interests of that race. In taking action in any matter, a Colonial ministry, like other ministries, has to consider its position and its supporters, and surely it would be well to remove such a question as the protection of the aboriginal natives of the Colony as much as possible from the sphere of party politics, and I will venture to say that such a step would have had good results had it been taken in time in some other colonies. I do full justice to the kind treatment which the natives receive from the great majority of settlers, even in the remote districts; but I have always maintained that unceasing vigilance is required to protect the aborigines from ill-usage by those evil-disposed persons who are to be found in every community, and it appears to me, looking to the great extent and special circumstances of this Colony, in which the settlers are ever coming into new contact with the natives at numerous points in a million square miles of territory, that it is absolutely necessary, when party Government shall be introduced, that some permanent body, independent of the political life of the day, shall be specially charged to watch over the aboriginal population. There are many despatches and papers in Your Lordship's office which support this view. These can be referred to, and they could be produced, if required. But the general principle seems so clear, that I feel I can abstain from bringing forward particular cases in support of it. Finally, then, and making full acknowledgment of, and full allowance for the good disposition of the Legislative Council and the colonists generally towards the aboriginal natives, I most strongly urge, partly as a measure which I feel confident will afford a West Australian ministry much cause for congratulation, but chiefly as a measure which is, in itself, right, just, and necessary, that clause 52 of the draft Bill, which embodies the proposals above referred to, be maintained intact. I may add to what I have said the remark that, even under the present Constitution, I have found that the existence of the Aborigines Protection Board, as a body created by statute and practically distinct from the Government, is a very convenient and useful arrangement. I would hope that the consideration and arguments now stated may, when fully weighed, cause a change of public opinion here in this very important matter of separating the Aborigines Protection Board and its operations from the influence of political party. Should it be found desirable at any time to alter the arrangement, this can be done, in the manner stated in clause 57 of the Bill.

25. I will now remark on some of the provisions, other than those already discussed, inserted in the draft Constitution Bill.

26. I wish first to acknowledge the assistance rendered to me by the Attorney General (the Hon. C. N. Warton) in the preparation of the Bill.

27. Many of the clauses of the draft Bill embody the usual provisions of a Colonial Constitution Act. In other clauses, suggestions contained in Your Lordship's Despatch of January last, and in my Despatch of the 12th of July previous, so far as approved or not objected to by Your Lordship, have been incorporated. These clauses, and others which explain themselves, require no comment.

28. I have suggested an estate of £500 as a qualification for a member of Parliament. It is probable that the Legislative Council will desire to lower this to merely the electoral qualification of a voter. I would not recommend that the point be contested, but I should regret the total disappearance of a property qualification, which, even when fixed at a low amount, is some sort of guarantee. A property qualification for the Lower House would no doubt be abolished before many years. But it might, as in Victoria, be retained during the first period of Responsible Government. The qualification for a member of the present Legislative Council is an estate of £1,000. Clause 10.

29. I have suggested five ministers, the Chief Secretary, Attorney General, Treasurer, Commissioner of Crown Lands, and Director of Public Works. I do not see how business can well be carried on with a lesser number. The offices represented are those the holders of which are the official members of the present Executive Council. I have proposed to place one, at least, of the ministers in the Upper House. I should like to have recommended that two be so placed, but four seem necessary in the Lower House, as at present in the Legislative Council.

30. The electoral districts and divisions I have tried to fix as I think they will be acceptable to the Legislative Council, but there can be no objection to this part of the Bill being further considered and amended.

31. The franchise for the Lower House is proposed to be the same as that for the existing Legislative Council, namely, an estate of £100 or its yearly equivalent. I have thought that it would be unwise to lower this franchise at the first initiation of Responsible Government in Western Australia. As the Colony progresses, the time will come when the basis of electoral power must be widened. For the Upper House, the voting qualification suggested is an estate of £200 or its yearly equivalent. This question of the franchise will, no doubt, be considerably discussed in the Legislature, but I think the majority of the Council will be in favor of commencing Responsible Government here with a voter's list more conservative than those of the other Australian Colonies. It is probable, however, that some qualifications may be added to those mentioned in the draft Bill, and no doubt out-of-doors pressure will be brought to bear. It would be desirable were Her Majesty's Government to indicate the extent beyond which they are of opinion that the basis of legislative power should not be broadened down during the initial period of Responsible Government.

32. The customs duties clauses are worded as in the New South Wales Constitution Act (Sections 44, 45) but I have thought it well to distinctly provide for the exemption from Customs duties which is and long has been accorded to the Governor of Western Australia under the 43rd Section of the Customs Ordinance of 1860, and as Commander-in-Chief. Until, at least, the Governor's salary is raised to £5,000 a year, I think this exemption should be continued.

33. In addition to saving all existing pensions and pension rights (Clause 55) I have proposed a reserved Civil List amounting to £9,850. The Governor's salary I have set down at £4,000, but, as there would be a reduction of £590 now provided on the annual estimates for various allowances connected with the Governor's establishment, the net increase upon the present salary of £3,000 would only be £410. As my tenure of office here is entering its sixth year, I feel no diffidence in remarking that the Governor's present salary is insufficient. Though living economically and entertaining only to a moderate extent, my expenses since I assumed this Government have exceeded by £2,000 the public money I have received. This does not appear to me to be a right state of things, for it has amounted, in effect, to a purchase of my commission. I believe the Legislative Council would desire that the allowances I have referred to should merge in salary, and should disappear from the estimates.

34. It is proposed to increase the salary of the Chief Justice from £1,000 to £1,200. In Mr. Weld's draft Constitution Bill of 1874, the Chief Justice's salary was placed at £1,250. The Puisne Judge of the Supreme Court now receives £700. It is proposed to raise the salary to £900. For the five Ministers, I have provided salaries of £600 each, with an additional £200 for the Minister acting as Premier. I do not think there is any necessity to reserve the salary of the Auditor General or other officers.

35. Compensation according to a scale which, at first sight, may appear too liberal, is proposed to be paid to the members of the present permanent Executive who will be removed from their posts by the operation of the Constitution Act. It must be

remembered that the Colonial Service now offers a far more limited field than in former years to an officer, holding under the Imperial Government, who is deprived of a post in a Colony possessing a good climate. To three of the members of the existing Executive Council, removal from the offices now enjoyed will be a great injury and loss, and I think the Legislative Council will be ready to consider this, and to compensate them accordingly. The services of the fourth officer, the Hon. Anthony Lefroy, C.M.G., the Treasurer, have been very long and honorable, extending over 39 years. It is proposed to award Mr. Lefroy his full salary of £650, and I think this old and loyal officer should be liberally treated on the occasion of the Colony changing its constitution. Of course if any of the retiring officers are again employed, under this or any other Government of the Empire, their compensation allowances will be reduced, according to the salaries they may receive. I would propose that Sir Malcolm Fraser, K.C.M.G., who, as Colonial Secretary, enjoys a salary of £900 a year, should receive £800 a year as compensation. He is to be deprived of his office, and his official career probably in effect compulsorily closed, after 18 years of excellent service in this Colony. Mr. John Forrest, C.M.G., the Surveyor General, whose first appointment dates from 1865, draws a salary of £600 a year, and it is suggested that his compensation should be £550 a year. Mr. Warton, the Attorney General, whose salary is £600 a year, only entered upon his present office in December, 1886. But he, as much as his colleagues, is being ousted from an official freehold by this constitutional change, losing many contingent advantages besides a permanent and secured income. I therefore suggest that Mr. Warton should receive £500 a year as compensation. Of course, it is for Your Lordship to determine what amounts should be asked for each of these officers. But it is after careful consideration of the amount of injury caused, that I have named the sums included in Schedule C. of the draft bill, and I may add that Members of a Colonial Executive have received compensation equal to their full salaries at a period and under circumstances in which removal from their posts by a change of constitution was far less prejudicial to them than it is to Sir Malcolm Fraser, Mr. Forrest, and Mr. Warton. Mr. Lefroy, the Treasurer, is advanced in years, and would in any case soon have to retire on the pension to which he is entitled. But his 39 years of service here seem to warrant the consideration which I have suggested should be shown to him.

36. The Act of the Imperial Parliament which will require to be passed before the Constitution Act for Western Australia can be brought into force will have to provide, among other necessary matters into which I need not now enter, for the preservation of the provisions of former Imperial Acts relating to the allowance, disallowance, or reservation for the signification of Her Majesty's pleasure, by the Governor, of Bills passed by the Colonial Legislature.

37. The introduction of Responsible Government will involve, so far as stated in the draft Bill now transmitted, a net additional charge upon the Colony of £6,910 *per annum*. This, however, will be subject to reduction as the £2,500 *per annum* which represents the pensions of the retired officers lapses by their re-employment or death. But it must be borne in mind that the change of Constitution will create new and considerable charges which are not stated in the Bill.

38. I think a few words should be added to clause 52 of the draft Bill, providing that any unexpended balance of the native reserve fund remaining at the end of each year shall be disposed of as the Governor may think fit.

39. Should it at any time be considered that the salaries reserved for the ministers were too low, they could be increased by placing a vote on the ordinary estimates of the year. It seems sufficient to reserve the sums named in Schedule B. of the Bill.

40. In conclusion, I would urge that every step be taken to secure the earliest settlement of this matter, so all-important to Western Australia. Politics and public affairs here have been almost brought to a stand-still by the impending change of

Constitution, and the welfare of the Colony imperatively requires that the Bill should go before the Legislative Council at the earliest practicable date. I should be glad of any possible telegraphic intimation on the subject, to enable me to arrange for the convocation of the Council.

I have, &c.,

F. NAPIER BROOME.

The Right Honorable Lord Knutsford, G.C.M.G.,  
&c., &c., &c.

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*Responsible Government—Further respecting.*

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No. 152.

WESTERN AUSTRALIA.

MY LORD,

Government House, Perth, 6th June, 1888.

Referring to my Despatch No. 139, of the 28th ultimo, transmitting the draft of a Bill for the introduction of Responsible Government into Western Australia, I have the honor to state that a further consideration of the matter induces me to recommend that the following provisions, contained in the Constitution Act of Victoria, be adopted in this Colony, namely, that the Legislative Council, or Upper House, be not subject to dissolution by the Governor, but that the senior of the three members for each of the five proposed electoral divisions be required to retire at the end of every two years, his place being filled by the election of a new member.

2. For the election of the Legislative Assembly, or Lower House, I would recommend single constituencies. Thus, the proposed three members for Perth would each be returned for a separate sub-division of the city; and Fremantle, and the other Districts returning more than one member, would be sub-divided for electoral purposes as necessary.

3. The gradual reconstitution of the Upper House would secure it against entire re-election upon any sudden wave of political opinion, which might possibly be evanescent and mistaken, and which would in any case have full play at a general election of the Lower House.

4. The sub-division into single constituencies of the electoral districts returning more than one member to the Lower House would prevent a merely local majority in one portion of a district from returning all the members for the district, and so crushing the power of the remainder of the constituency. This arrangement would also have other obvious advantages of a moderating tendency.

5. I would also propose to amend sections 35 and 36 of the draft Bill, by inserting some additional voting qualifications.

6. In substitution of the Bill previously transmitted, I enclose six copies of a draft measure containing the amendments suggested in this Despatch, together with some other alterations of a minor character. No doubt a minute scrutiny of the draft Bill will suggest further amendments, and I think the wording of some of the clauses might with advantage be recast. But the Bill is, at all events, sufficiently in shape to bring clearly before Her Majesty's Government—with a view to such further consideration as may be needed—the question of Responsible Government for Western Australia.

I have, &c.,

F. NAPIER BROOME.

The Right Honorable Lord Knutsford, G.C.M.G.,  
&c., &c., &c.

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[ ENCLOSURE. ]

# A BILL to confer a Constitution on Western Australia, and to grant a Civil List to Her Majesty.

**W**HEREAS by the thirty-second clause of the Imperial Act passed in the session holden in the thirteenth and fourteenth years of the Reign of Her present Majesty, intituled "An Act for the better Government of Her Majesty's Australian Colonies," it was among other things enacted that, notwithstanding anything thereinbefore contained, it should be lawful for the Governor and Legislative Council of this Colony, from time to time, by any Act or Acts, to alter the provisions or laws for the time being in force under the said Imperial Act or otherwise concerning the election of the elective members of such Legislative Council, and the qualification of electors and elective members, or to establish in the said Colony, instead of the Legislative Council, a Council and a House of Representatives, or other separate Legislative Houses, to consist of such members to be appointed or elected by such persons and in such manner as by such Act or Acts should be determined, and to vest in such Council and House of Representatives, or other separate Legislative Houses, the powers and functions of the Legislative Council for which the same may be substituted; and whereas it is expedient that the powers vested by the said Act in the said Governor and Legislative Council should be exercised, and that a Legislative Council and a Legislative Assembly as constituted by this Act should be substituted for the present Legislative Council, with the increased powers and functions hereinafter contained: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

Preamble.

## 1. THIS Act is divided into six parts, namely:—

Division of Act into parts.

- PART I.—Parliamentary.
- PART II.—Electoral.
- PART III.—Judicial.
- PART IV.—Legal.
- PART V.—Financial.
- PART VI.—Miscellaneous.

## PART I.—PARLIAMENTARY.

**2.** THERE shall be, in place of the Legislative Council now subsisting, a Legislative Council and a Legislative Assembly, which shall together be the Parliament of Western Australia, and shall be severally constituted in the manner hereinafter prescribed: and within the said Colony of Western Australia Her Majesty shall have power, by and with the advice and consent of the said Parliament, to make laws for the peace, welfare, and good government of the said Colony: and such Legislative Council and such Legislative Assembly shall, subject to the provisions of this Act, have and exercise all the powers and functions of the now subsisting Legislative Council. Provided, also, that all Bills for appropriating any part of the revenue of the said Colony, or for imposing, altering, or repealing any rate, tax, duty, or impost, subject always to the limitation contained in section fifty of this Act, shall originate in the Legislative Assembly.

Parliament to be constituted in Western Australia.

Proviso as to Money Bills.

**3.** IT shall be lawful for the Governor to fix such places and times for holding the first and every other session of the said

Place and time for holding Sessions of Parliament.

Prorogation.  
Dissolution of  
Assembly.

Parliament as he may think fit, and from time to time to change or vary the same as he may judge advisable and most consistent with general convenience and public welfare, giving sufficient notice thereof: and also to prorogue the said Parliament from time to time, and to dissolve the Legislative Assembly by Proclamation or otherwise whenever he shall deem it expedient.

Duration of Parlia-  
ment.

4. THERE shall be a session of the said Parliament once at least in every year, so that a period of twelve calendar months shall not intervene between the last sitting of the Parliament in one session and the first sitting of the Parliament in the next session: and every Legislative Assembly hereafter elected shall continue for five years from the day on which such Parliament shall first meet for the despatch of business, and no longer: Provided that if a dissolution of the Legislative Assembly take place within that time, a new Legislative Assembly shall be summoned and elected as hereinafter mentioned.

First calling together  
of Parliament.

5. THE said Parliament shall be called together for the first time at some period not later than six months after the Proclamation by the Governor of this Act.

Writs for election of  
members of Parlia-  
ment.

6. IN order to the first general election of members of the said Parliament under this Act, and upon any dissolution or other determination of any Legislative Assembly, it shall be lawful for the Governor to issue writs for such general election of members to serve in the Legislative Council and Legislative Assembly, and thereafter for the general election of members to serve in the Legislative Assembly.

Writs for new elec-  
tion in case of  
vacancy.

7. WHENEVER it shall be established to the satisfaction of the Governor that the seat of any member of the Legislative Council or of the Legislative Assembly (as the case may be) hath become vacant, the Governor, unless other provision in that behalf has theretofore been made by the Parliament of the Colony, shall forthwith issue a writ for the election of a member, who, in the case of the Legislative Council, shall serve in the place so vacated during the term of service of a Legislative Councillor under this Act, and who, in the case of the Legislative Assembly, shall serve during the remainder of the term of the continuance of the then Assembly, and no longer. It shall be the duty of the President of the Legislative Council or of the Speaker of the Legislative Assembly, as the case may be, to inform the Governor of any vacancy.

Constitution of  
Legislative Council.

8. THE Legislative Council shall consist of fifteen persons, being three for each of the five Divisions of this Colony, as hereinafter named and described; such persons to have such qualifications, and to be elected in such manner, as hereinafter prescribed.

The seat of the senior member for the time being, reckoning from the date of election, of the Legislative Council, for each Division of the Colony, shall be held to be vacated on the completion of a period of two years from the date of the first meeting of Parliament, and also on the completion of each succeeding period of two years. In the event of two or more persons being elected for a Division on the same day, the seniority of the members shall be determined, for the purposes of this section, by the alphabetical precedence of their surnames, and, if necessary, of their Christian names.

In the event of fewer than fifteen persons being returned to the Legislative Council at the general election thereto, or in the event at any election of the number of persons returned being fewer than the number of vacancies to be filled, it shall be lawful for the

Governor in Council to nominate any person duly qualified as hereinafter mentioned to fill each vacancy so remaining unfilled, and such person so nominated shall become and be a member of the Legislative Council, and shall so be and remain until the expiration of the period of service of a Legislative Councillor as regulated by this section. If any vacancy arise among the members of the Legislative Council or of the Legislative Assembly from the death, resignation, lunacy, bankruptcy, or conviction for felony of a member, or otherwise, such vacancy shall be filled by a person having the qualifications hereinafter prescribed, and elected in the manner hereinafter prescribed, or, in the case of the Legislative Council, failing election, nominated as aforesaid by the Governor in Council, and such person so elected or nominated to fill such vacancy shall become and be a member of the Legislative Council or of the Legislative Assembly, as the case may be, and shall so be and remain until, in the case of the Legislative Council, the expiration of the period of service under this Act, and, in the case of the Legislative Assembly, until the expiration or dissolution of the then Assembly.

9. THE Legislative Assembly shall consist of thirty members, who shall sit for the respective districts, sub-districts, and constituencies hereinafter named and defined.

Constitution of the  
Legislative As-  
sembly.

10. NO person shall be qualified to be elected or nominated as aforesaid a member of the Legislative Council or to be elected a member of the Legislative Assembly unless he be possessed in law or in equity of an estate in lands or tenements of the yearly value of Fifty pounds, or of the value of Five hundred pounds, clear of all deductions.

Qualification for a  
member of Parlia-  
ment.

11. EVERY member of the said Legislative Council or Legislative Assembly, before he shall sit or vote in the said Council or Assembly, shall make the following declaration :—

Declaration of  
Qualification.

“ 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  
“ Western Australia, of the value of Five hundred  
“ pounds sterling money (or, of the yearly value of Fifty  
“ pounds, 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 be-  
“ come possessed of the said lands and tenements, or  
“ any part thereof, for the purpose of qualifying or en-  
“ abling me to be returned a member of the Parliament  
“ of the Colony of Western Australia,”

in writing under his hand, by delivering to the Clerk of the Council or Assembly (as the case may be), at the place where and while the Council or Assembly is sitting, a paper signed by such member, containing the said declaration, and also a statement of the district or districts in which the lands or tenements are situated out of which his qualification arises, with such other description thereof as may serve to identify the same, and the nature of his estate or interest therein, or in the rents and profits thereof; and the said papers shall be filed and kept by the Clerk with the other records of his office; and every member of the said Council or Assembly who shall sit and vote in the said Council or Assembly after the election of a President or Speaker (as the case may be), before making such declaration as aforesaid, shall be liable for every day on which he shall so offend to a penalty of Two hundred pounds, to be recovered by any person who shall sue for the same in the Supreme Court, and if he shall not be qualified according to the

true intent and meaning of this Act, his election shall be void, and a new writ shall be issued to elect another member in his stead.

Property Qualifica-  
tion to be possessed  
one year before  
election.

**12.** NO person shall be capable of being elected or nominated as aforesaid a member of the Legislative Council, or of being elected a member of the Legislative Assembly, unless he be of the full age of twenty-one years, nor unless he shall for one year previous to such election or nomination as aforesaid have been possessed of the qualification required by the tenth section of this Act.

Member may alter  
or make new  
declaration.

**13.** IF any member either of the Legislative Council or of the Legislative Assembly, after making the declaration required by the eleventh section of this Act, shall sell or otherwise dispose of the property or any part thereof described therein, or wish to make any alteration in the description of any property mentioned therein, or to substitute other property for the property so described, it shall be lawful for him at any time to make and subscribe another declaration, similar to that so required as aforesaid, and deliver the same to the Clerk of the Council or Assembly (as the case may be), to be by him filed and kept with the other records of his office.

Member selling  
qualifying property,  
after making declara-  
tion, disqualified to  
sit.

**14.** IF any member either of the Legislative Council or of the Legislative Assembly, after making the declaration required by the eleventh section of this Act, shall sell or otherwise dispose of the property or any part thereof described therein so that the remaining portion thereof, if any, is insufficient to constitute the qualification required for a member, shall sit or vote in the said Council or Assembly (as the case may be) at any time during any session after he shall have become so disqualified as aforesaid, he shall for every day on which he shall so offend be liable to pay the sum of Two hundred pounds, to be recovered by any person who shall sue for the same in the Supreme Court: Provided always, that if such person shall, at or before the time of selling or otherwise disposing of such property, or any part thereof, be legally or equitably seised of or entitled to other freehold property sufficient to constitute the aforesaid qualification, it shall be lawful for him to hold his seat in the Council or Assembly (as the case may be) if he shall, previously to sitting or voting, have made and subscribed another declaration, as hereinbefore provided, and shall have delivered the same to the Clerk of the Council or Assembly (as the case may be), to be filed and kept as aforesaid.

Disqualification for  
membership of Par-  
liament.

**15.** NO person shall be qualified to be elected or nominated as aforesaid a member of the Legislative Council, or to be elected a member of the Legislative Assembly, if he:

- (1.) Be a member of the other House of Parliament; or,
- (2.) Be a Judge of the Supreme Court; or,
- (3.) Be the Sheriff of Western Australia; or,
- (4.) Be a clergyman or minister of religion; or,
- (5.) Be interested, directly or indirectly, or by any person whomsoever in trust for him, or for his use or benefit, or on his account, in any contract or agreement for or with any department of the Public Service, unless he be only interested therein as a member of an incorporated company, or of an unincorporated trading company consisting of more than twenty persons; or,



- (6.) Be an undischarged bankrupt or a debtor whose affairs are in course of liquidation or arrangement ; or,
- (7.) Be an alien ; or,
- (8.) Has been in any part of Her Majesty's dominions attainted or convicted of treason or felony.

16. THE election or nomination as aforesaid of any person disqualified under the provisions of the last section shall be void, and if such person shall have been opposed by one or more candidates at the election, the candidate who polled the highest number of votes next to him shall be seated as member of the Legislative Council or Legislative Assembly, as the case may be.

Election of disqualified person, void.

17. NO member of the said Parliament shall be permitted to sit or vote therein until he shall have taken and subscribed the following oath before the Governor, or before some person or persons authorised by the Governor to administer such oath :

No member of Parliament allowed to sit or vote, unless and until he be sworn or have affirmed.

"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  
 "Western Australia. So help me God."

And whensoever the demise of Her present Majesty (whom may God long preserve), or of any of the 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.

Provided, always, that in the event of any person elected a member of the said Parliament declaring to the Governor, or to the person or persons authorised as aforesaid, that the taking of an oath is according to his religious belief unlawful, such person shall, in lieu of taking the said oath, be permitted to affirm by reading and personally delivering to the Governor, or such person or persons so authorised as aforesaid, a paper signed by him and containing the words following :

"I, A.B., solemnly declare that the taking of an oath is  
 "according to my religious belief unlawful, and I do  
 "sincerely promise and affirm 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  
 "Western Australia."

Provided, also, that the aforesaid provisions as to the taking of an oath on the demise of the Crown shall apply likewise to persons affirming, except that they be permitted to affirm as is in this section provided.

18. ANY member of the said Council or of the said Assembly who, though at the time of his election or nomination as aforesaid qualified under the provisions of the tenth section of this Act, and not disqualified under the fifteenth section thereof :

Seats in Parliament vacated in certain cases.

- (1.) Ceases to be qualified or becomes disqualified as aforesaid ; or,
- (2.) Becomes of unsound mind ; or,
- (3.) Take any oath or make any declaration or acknowledgment of allegiance, obedience, or adherence to

any foreign Prince or Power, or shall do, concur in, or adopt any act whereby he may become a subject or citizen of any foreign State or Power, or whereby he may become entitled to the rights, privileges, or immunities of a subject or citizen of any foreign State or Power; or,

- (4.) Ceases to be a British subject; or,
- (5.) Fails to give his attendance (if a Legislative Councillor) in the Legislative Council for two successive sessions of the Parliament of the said Colony without the permission of the Governor of the Colony, signified by the said Governor to the said Council; or (if a member of the Legislative Assembly) fails to give his attendance in the Legislative Assembly for two consecutive months of any session of the said Parliament, without the permission of the said Legislative Assembly entered upon its journals; or,
- (6.) Resigns his seat in the said Council, by writing under his hand addressed to the President, or in the Assembly by writing under his hand addressed to the Speaker; or,
- (7.) Accepts any office of profit under the Crown, other than the office of Speaker, or other than any one of the offices specified in the thirty-first section of this Act,

forthwith vacates his seat, and shall thenceforth be incapable of sitting or voting in the said Council or Assembly, as the case may be; Provided, always, that nothing herein contained shall prevent such member from being summoned or elected afresh to the said Council or Assembly (as the case may be) if and when duly qualified to become a member of the same.

Penal action given against unqualified persons who sit and vote in the Council or Assembly.

**19.** IF any person whose return to the said Council or Assembly is void under the provisions of the sixteenth section, or who vacates his seat pursuant to the provisions of the next preceding section, shall sit and vote as a member of the said Council or Assembly, such person shall forfeit the sum of Five hundred pounds, together with full costs of suit, to any one who shall sue for the same in the Supreme Court of the Colony. And it shall be the duty of the Judge before whom such action may be tried forthwith to report the result to the President of the said Council or the Speaker of the said Assembly (as the case may be). Provided, always, that the provisions of this section shall not apply to the case of a person whose return is void, or whose seat is vacated by reason of his becoming of unsound mind.

Method of procedure as to declaring any election void, or any seat vacated.

**20.** WHENEVER any member of the said Council or of the said Assembly whose return is made void, or whose seat is vacated by reason of any of the foregoing provisions, shall signify to the President of the said Council or the Speaker of the said Assembly (as the case may be) that he consents to have his return declared void or his seat declared to be vacated; or whensoever it shall be reported by the Chief Justice or other Judge of the Supreme Court to the said President or the said Speaker (as the case may be) that the said sum of Five hundred pounds has been, pursuant to the provisions of the next preceding section, recovered against any member of the said Council or Assembly; or whensoever it shall be reported by the said Chief Justice or other Judge as aforesaid to the said President or the said Speaker (as the case may be) that any such return has been declared void, or that any seat has been

declared to be vacated by such Chief Justice or Judge, pursuant to the provisions hereinbefore contained: the said President or the said Speaker shall forthwith announce that such return is void or that such seat is vacated (as the case may be), if the Council or Assembly be sitting, from his place in the said Council or Assembly, and if the said Council or Assembly be not sitting, in the *Government Gazette* of Western Australia; after such announcement has been made, it shall not be lawful for the person thereby affected to take any part whatsoever in the proceedings of the said Council or Assembly, but he shall absolutely cease to be a member of the said Council or Assembly.

**21.** NOTWITHSTANDING any of the foregoing provisions, if any person shall have been nominated as aforesaid or returned as duly elected to the said Council or Assembly (as the case may be), and shall have taken the oath or made the affirmation required by the seventeenth section of this Act, and shall then vote or otherwise take part in the proceedings of the said Council or Assembly (as the case may be), such proceedings shall not be invalidated or in any way otherwise affected by the circumstance that it shall subsequently appear that the return or nomination as aforesaid of such person was void, or that he had at the time of so voting or otherwise taking part in the proceedings as aforesaid vacated his seat.

Presence of unqualified persons not to invalidate proceedings.

**22.** UPON any general election the Legislative Council or Legislative Assembly shall be competent to proceed to the despatch of business, at the time appointed by the Governor for that purpose, notwithstanding that any of the writs of election (not exceeding three in the Legislative Council or five in the Legislative Assembly) shall not have been returned, or that in any of the electoral districts the electors shall have failed to elect a member to serve in the said Assembly.

Parliament may proceed to business although full number of writs shall not have been returned.

**23.** THE members of the Legislative Council and of the Legislative Assembly, respectively, shall, upon their first assembling after every general election, proceed forthwith to elect one of their number to be President of the Council or Speaker of the Assembly (as the case may be); and in case of the death or resignation of the said President or Speaker, or of the removal of either by a vote of the said Council or Assembly (as the case may be), the said members shall forthwith proceed to elect another of such members to be such President or Speaker. And the President or Speaker so elected shall preside at all meetings of the said Legislative Council and Legislative Assembly (as the case may be); and the election of such President or Speaker shall be forthwith notified to the Governor by a deputation from the said Council or Assembly.

Election of President and Speaker.

**24.** IN case of the absence of the said President or Speaker, in consequence of leave of absence granted by the Legislative Council or Legislative Assembly (as the case may be), or by reason of illness, or other unavoidable cause, it shall be lawful for the Legislative Council or Legislative Assembly (as the case may be) to choose some other member of the said Council or Assembly to fill temporarily the office and perform the duties of the President or Speaker during such absence.

Absence of President or Speaker.

**25.** THE presence of at least five of the members of the said Legislative Council, exclusive of the President or the person presiding as aforesaid, shall be necessary to constitute a quorum for the despatch of business; and all questions which shall arise in the said

Quorum necessary in Legislative Council.

Legislative Council shall be decided by a majority of votes of the members present, other than the President or person presiding ; and when the votes shall be equal, the President or person presiding shall have the casting vote.

Quorum necessary in  
Legislative Assem-  
bly.

**26.** THE presence of at least ten of the members of the said Legislative Assembly, exclusive of the Speaker or of the person chosen to preside in his absence, shall be necessary to constitute a meeting of the said Legislative Assembly for the despatch of business ; and all questions which shall arise in the said Legislative Assembly shall be decided by the majority of votes of such members as shall be present, other than the Speaker or other person officiating as such as aforesaid ; and when the votes shall be equal, the Speaker or other person as aforesaid shall have the casting vote.

Salaries of President,  
Speaker, and Officers.

**27.** THE salary of the President of the said Legislative Council shall be at least equal to the salary of the Speaker of the said Legislative Assembly ; and the salaries and allowances of the various officers of the said Legislative Council shall be the same as those of the corresponding officers of the said Legislative Assembly ; and the chief Clerk for the time being of the said Legislative Council and of the said Legislative Assembly shall respectively be removable from office only in accordance with a vote of the House of which he shall be an officer.

Standing Rules and  
Orders.

**28.** THE said Legislative Council and Legislative 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, joint as well as otherwise, 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 regulation of the proceedings thereof and the despatch of business therein, and for the mode in which such Council and Assembly shall confer, correspond, and communicate with each other, respecting votes or Bills passed by or pending in such Council and Assembly respectively, and for the proper passing, intituling, and numbering of the Bills to be introduced into and passed by the said Council and Assembly, and for the proper presentation of the same to the Governor for the time being for Her Majesty's assent ; all of which Rules and Orders shall by such Council and Assembly respectively be laid before the Governor, and being by him approved shall become binding and of force.

Privileges of Parlia-  
ment.

**29.** IT shall be lawful for the said Parliament by any Act to define the privileges, immunities, and powers to be held, enjoyed, and exercised by the said Legislative Council and Legislative Assembly, and by the members thereof respectively. Provided that no such privileges, immunities, or powers shall exceed those now held, enjoyed, and exercised by the Commons House of Parliament, or the members thereof.

Office-holder taking  
the oaths as member  
of Legislative Assem-  
bly to vacate his seat  
unless a member of  
the Executive Coun-  
cil.

**30.** ANY person who, holding any office of profit from the Crown, shall be elected a member of the Legislative Council or Legislative Assembly, and who shall in pursuance of such election take the oath or make the affirmation hereinbefore prescribed, shall, unless at the time of his taking such oath he shall have been appointed by the Governor to fill one of the following offices, namely, Chief Secretary, Attorney General, Treasurer, Commissioner of Crown Lands, or Director of Public Works, be deemed by the taking of such oath or by the making

of such affirmation to have vacated such office. Provided always, that nothing in this section contained shall be deemed to apply to officers of Her Majesty's sea or land forces on full or half-pay.

One, at least, of the five offices above mentioned shall always be filled by a member of the Legislative Council.

## PART II.—ELECTORAL.

**31.** THE said Colony of Western Australia shall be divided into fifteen electoral districts, for the purpose of returning members to serve in the said Legislative Assembly, in manner following, that is to say, the districts of Electoral Districts.

|             |            |                     |
|-------------|------------|---------------------|
| Perth       | Swan       | Murray and Williams |
| Fremantle   | Vasse      | Toodyay             |
| Geraldton   | Gascoyne   | East Kimberley      |
| Greenough   | Wellington | West Kimberley      |
| Plantagenet | York       | Northern.           |

The boundaries of the Perth, York, Toodyay, Swan, Greenough, Vasse, and Plantagenet electoral districts shall be those in Schedule A of the Ordinance 33rd Vict., No. 13, contained under the names of the Perth, York, Toodyay, Swan, Greenough, Vasse, and Albany electoral districts, respectively.

The boundaries of the Murray and Williams and of the Fremantle, Geraldton, and of the Wellington electoral districts shall be those in the Schedule to "The Legislative Council Amendment Act, 1873," contained.

The boundaries of the Gascoyne electoral district shall be those in Schedule A to "The Legislative Council Amendment Act, 1882," contained.

The boundaries of the Northern electoral district shall be as defined and limited by "The Legislative Council Amendment Acts, 1873, 1882, and 1886."

The East Kimberley electoral district shall be that part of the Kimberley electoral district as defined by "The Legislative Council Amendment Act, 1886," which is East of the 126th degree of East longitude.

The West Kimberley electoral district shall be that part of the Kimberley electoral district as defined by "The Legislative Council Amendment Act, 1886," which is West of the 126th degree of East longitude.

The Perth and the Fremantle districts shall each return three members; the Plantagenet, Geraldton, York, Swan, Greenough, Wellington, Northern, Gascoyne, Toodyay, the East Kimberley, and the Vasse districts shall each return two members; and the Murray and Williams district and the West Kimberley district shall each return one member to serve in the said Assembly.

Provided always, that in the case of any electoral district returning more than one member to the Legislative Assembly, each member shall be wholly and solely returned by the constituency of an electoral sub-district of the district, and each district shall be divided for this purpose into electoral sub-districts corresponding to the number of members to be returned. Such electoral sub-districts shall be as defined and designated by the Governor in Council until otherwise provided under section fifty-six of this Act.

**32.** THERE shall be, for the purpose of the election of members to serve in the said Legislative Council, five electoral divisions which shall be named and constituted as follows:—

Electoral Divisions.

The Metropolitan Division, comprising the Perth and the Fremantle electoral districts.

The North Division, comprising the Northern, the East Kimberley, and the West Kimberley electoral districts.

The North-West Division, comprising the Geraldton, the Gascoyne, and the Greenough electoral districts.

The South Division, comprising the Murray and Williams electoral district, and the Plantagenet, the Vasse, and the Wellington electoral districts.

The East Division, comprising the Swan, the Toodyay, and the York electoral districts.

Electoral laws.

**33.** EXCEPT as otherwise provided in this Act, the existing laws relating to the qualification of electors, the mode of election, and all other matters concerning elections, shall remain and be in force, both in respect of elections to the Legislative Council and the Legislative Assembly, in the same manner and districts as they are now in force in respect of election to the existing Legislative Council. The Resident Magistrate at Wyndham shall be the Returning Officer for the East Kimberley Electoral District; and the Resident Magistrate at Derby shall be the Returning Officer for the West Kimberley Electoral District.

The Returning Officer for the Perth Electoral District shall be the Returning Officer for the Metropolitan Electoral Division.

The Returning Officer for the North Electoral District shall be the Returning Officer for the North Electoral Division.

The Returning Officer for the Geraldton Electoral District shall be the Returning Officer for the North-West Electoral Division.

The Returning Officer for the Plantagenet Electoral District shall be the Returning Officer for the South Electoral Division.

The Returning Officer for the York Electoral District shall be the Returning Officer for the East Electoral Division.

Registration of voters for members of Legislative Council.

**34.** IN addition to the electoral lists directed by the seventh section of the Ordinance No. 13 of the 33rd Victoria to be kept by the Clerks of Magistrates in an electoral district, there shall also by them be kept other electoral lists of persons qualified under the provisions of the next succeeding section of this Act to vote for members of the Legislative Council, in respect of the electoral division in which such electoral district is situated; and all other provisions in force relating to the election of members of the now subsisting Legislative Council shall relate to the election of members both of the Legislative Council and of the Legislative Assembly, so far as they are not inconsistent with the provisions of this Act. The electoral lists of districts kept under the Ordinance aforesaid shall be separately kept and divided according to the electoral sub-districts of any district defined and designated as provided in section thirty-one of this Act.

**35.** 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 Western Australia, and having a freehold estate in possession, situate within the district for which his vote is to be given, of the clear value of Two 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 twelve calendar months next before the date of the last registration of voters, or being a householder within such district occupying a dwelling house of the clear annual value of Twenty pounds sterling money, and having resided therein twelve calendar months next before such registration, or holding a lease or license, original or renewed, to depasture, occupy, cultivate, mine, or cut timber upon lands, within the district for which his vote is to be given, from the Government of Western Australia, or having a leasehold estate in possession situate within such district, such lease or license or leasehold estate being of the whole or proportionate value within the district of Twenty pounds sterling money per annum, and having been held or possessed by him for not less than twelve calendar months next before such registration, shall be entitled to vote at the election of a member of the Legislative Council: Provided always, that no man shall be entitled to vote who has been attainted or convicted of treason, felony, or other infamous offence in any part of Her Majesty's dominions, unless he have received a free pardon, or one conditional on not leaving the Colony, for such offence, or have undergone the sentence passed on him for such offence; and provided also, that no man shall be entitled to vote unless at the time of such election he shall have paid up all rates and taxes which shall have become payable by him as owner or leaseholder in respect of such estate, or as occupier in respect of such occupancy, or as the holder of a lease or license in respect of such lease or license, except such as shall have become payable during three calendar months next before such election.

Qualification of voters at elections for members of the Legislative Council.

**36.** 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 Western Australia and having a freehold estate in possession, situate within the district, or, in the case of a district returning more than one member, within the sub-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 twelve calendar months next before the date of the last registration of voters, or being a householder within such district, or within such sub-district as aforesaid, occupying a dwelling house of the clear annual value of Ten pounds sterling money, and having resided therein twelve calendar months next before such registration, or holding a lease or license, original or renewed, to depasture, occupy, cultivate, mine, or cut timber upon lands within the district, or within such sub-district as aforesaid, for which his vote is to be given, from the Government of Western Australia, or having a leasehold estate in possession situate within such district, or within such sub-district as aforesaid, such lease or license or leasehold estate being of the whole or proportionate value within the district, or within such sub-district as aforesaid, of Ten pounds sterling money per annum, and having been held or possessed by him for not less than twelve calendar months next before such registration, shall be entitled to vote at the election of a member of the Legislative Assembly; Provided always, that no man shall be entitled to vote who has been attainted or convicted of treason, felony, or other infamous offence in any part of Her Majesty's dominions, unless he have received a free pardon, or one conditional on not leaving the Colony, for such offence; and provided also, that no man shall

Qualification of electors for members of the Legislative Assembly.

be entitled to vote unless at the time of such election he shall have paid up all rates and taxes which shall have become payable by him as owner or leaseholder in respect of such estate, or as occupier in respect of such occupancy, or as holder of a lease or license in respect of such lease or license, except such as shall have become payable during three calendar months next before such election.

### PART III.—JUDICIAL.

Judges continued in the enjoyment of their offices during good behaviour.

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

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

**38.** IT shall be lawful nevertheless for Her Majesty, Her Heirs and Successors, to remove any such Judge or Judges upon the Address of both Houses of the Parliament of this Colony.

Their salaries continued during the continuance of their commissions.

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

### PART IV.—LEGAL.

Existing law saved.

**40.** ALL laws, statutes, and ordinances which at the time of the passing of this Act shall be in force within the said Colony shall remain and continue to be of the same force, authority, and effect as if this Act had not been passed, except in so far as the same are repealed or varied by this Act, or are repugnant thereto (in which case they are to that extent hereby repealed), or in so far as the same shall or may hereafter, by virtue or under the authority of this Act, be repealed or varied by any Act or Acts of the Parliament of the said Colony.

Courts of Justice, Commissions, Officers, &c.

**41.** ALL the Courts of Civil and Criminal Jurisdiction within this Colony, and all legal Commissions, powers, and authorities, and all officers, judicial, administrative, or ministerial, within this Colony respectively, except in so far as the same are or may be abolished, altered, or varied in whole or in part by this or any future Act or Acts of the Parliament of the Colony or other competent authority, shall continue to subsist in the same form and with the same effect as if this Act had not been passed.

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

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



the importation into the said Colony of the like article the produce or manufacture of or exported from all other countries and places whatsoever.

43. IT shall not be lawful for the Parliament of the Colony to levy any duty upon articles imported *bonâ fide* for the supply of the Governor or of Her Majesty's Land or Sea Forces, nor to levy any duty, impose any prohibition or restriction, or grant any exemption or 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.

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

44. IT shall be lawful for the Parliament of this Colony, subject to the provisions contained as to Native Reserves in the fifty-second section of this Act, to make laws for regulating the sale, letting, disposal, and occupation of the waste lands of the Crown within this Colony.

Disposal of waste lands.

45. NOTHING in this Act contained shall prevent it being lawful for Her Majesty (with the advice of Her Privy Council) being empowered by an Act of the Imperial Legislature to divide this Colony by separating therefrom any part or parts of the Colony, and either making such part or parts of this Colony either a Crown Colony or Crown Colonies, or making such part or parts of this Colony a Colony or Colonies having Responsible Government. It shall be lawful for Her Majesty, so advised and so empowered, to sub-divide any Colony so created by separation from this Colony.

Separation of Colony.

46. IN the event of such separation as in the last section mentioned, the provisions of this Act shall apply, so far as practicable, to the remaining portion of this Colony.

After separation, Act to apply to remaining part of Colony.

#### PART V.—FINANCIAL.

47. IN the event of any contemplated separation as aforesaid, the Lords of Her Majesty's Treasury shall have power, if requested by the Governor in Council, on report and accounts duly furnished to them, to declare what portion of the public debt of the Colony has been expended within the territory intended to be separated, and the interest and sinking fund, if any, due upon such portion of the public debt shall be a reserved charge payable to the Government of the remaining portion of the Colony by the Government of the separated territory, and due provision for such reserved charge shall be made in any Act regulating the constitution of the separated territory. Provided always, that any such arrangement shall in no wise interfere with or lessen or set aside the obligations and liabilities of the original Colony of Western Australia incurred and secured by and under the several Loan Acts of the Legislature of the Colony before separation.

Liability of separated portion of Colony for public debt.

48. ALL taxes, imposts, rates, and duties, and all territorial casual, and other revenues of the Crown (including royalties) from whatever source arising within the Colony of Western Australia, and over which the present or future Legislature has or may have power of appropriation, shall form one Consolidated Revenue Fund to be appropriated to the Public Service of the Colony in the manner and subject to the charges hereinafter mentioned.

All duties and revenues to form Consolidated Revenue Fund.

Such fund permanently charged with expenses of collection.

**49.** THE Consolidated Revenue Fund of this Colony shall be permanently charged with all the costs, charges, and expenses incident to the collection, management, and receipt thereof; such costs, charges, and expenses being subject nevertheless to be reviewed and audited in such manner as is directed by "The Audit Act, 1881," or as may from time to time be directed by any Act of the Legislature.

No money vote or bill lawful unless recommended by the Governor.

**50.** IT shall not be lawful for the Legislative Assembly to originate or pass any vote, resolution, or bill for the appropriation of any part of the said Consolidated Revenue Fund, or of any other tax or impost, to any purpose which shall not have first been recommended by a Message of the Governor to the said Legislative Assembly during the session in which such vote, resolution, or bill shall be passed.

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

**51.** NO part of Her Majesty's revenue in the said Colony arising from any of the sources aforesaid shall be issued or shall be made issuable except in pursuance of warrants under the hand of the Governor of the Colony directed to the Public Treasurer thereof.

Aborigines Protection Board and Native Reserves.

**52.** THE Aborigines Protection Board established under "The Aborigines Protection Act, 1886," shall consist of persons to be nominated by the Governor from time to time, who shall also have the power to remove any member of the Board, and to appoint Protectors to Aborigines and to remove the same. No appointment of a person to witness Contracts under the 19th section of "The Aborigines Protection Act, 1886," shall be valid unless approved by him, and he shall have power to cancel such appointments and at any time to remove or dismiss any person from the office or position of a person appointed under the said section of the said Act.

There shall be payable to Her Majesty, Her Heirs and Successors, the sum of Five thousand pounds per annum in the Schedule to this Act annexed and marked A, mentioned as appropriated to the welfare of the Aboriginal Natives, to be expended for their benefit in the providing for them of food and clothing when they would otherwise be destitute, in promoting the education of Aboriginal children (including half-castes), and in assisting generally to promote the preservation and well-being of the Aborigines. The expenditure of the said annual sum shall be at the discretion of the Aborigines Protection Board, under the sole control of the Governor, anything in "The Aborigines Protection Act, 1886," to the contrary, notwithstanding. Provided always, that if and when the gross Revenue of the Colony shall exceed Five hundred thousand pounds in any financial year, an amount equal to and being one per centum on such gross Revenue shall, for the purposes of this section, be substituted for the said sum of Five thousand pounds in and for the financial year next ensuing.

It shall also be in the power of the Governor from time to time to proclaim any land, not being land granted by the Crown in fee or subject to any then existing contract under any Land Regulations, as land reserved for Native Reserves. All Native Reserves existing at the time of the passing of this Act are hereby vested in the Aborigines Protection Board; and all Native Reserves to be reserved as aforesaid shall, immediately upon their being reserved, vest in the said Board.

Civil List.

**53.** THERE shall be payable to Her Majesty, Her Heirs and Successors, in every year, out of the Consolidated Revenue Fund of

the Colony, not exceeding in the whole Nine thousand eight hundred and fifty 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 the Colony for the time being, in discharge of such warrants as shall from time to time be directed to him under the hand of the Governor.

54. AND whereas by the operation of this Act certain officers of the Government may lose their offices, and it is just to compensate such officers for such loss, be it enacted that the sums set opposite to the names of the persons in the Schedule to this Act annexed, marked C, who at present respectively hold the offices therein mentioned, shall be payable annually by way of retiring allowance upon their ceasing to hold office after the coming into operation of this Act; and all such sums aforesaid shall be payable, and be paid, to such persons out of the General Revenue, and the Treasurer of the Colony for the time being is hereby authorised and required to make such payments accordingly, on warrants under the hand of the Governor. Provided that if after any such annual allowance shall have become payable, the person entitled thereto shall accept any new appointment under the Crown, or retain any office under the Government, then such allowance shall merge, or be reduced *pro tanto* during the tenure of such appointment or office, according as the salary of such appointment or office is of greater or less amount than such allowance.

Compensation to Officers.

55. AFTER and subject to the payments to be made under the provisions hereinbefore contained, all the Consolidated Revenue Fund hereinbefore mentioned shall be subject to be appropriated to such specific purposes as by any Act of the Legislature of the Colony shall be prescribed in that behalf. Provided that the consolidation of the revenues of this Colony shall not affect the payment of the annual interest or the principal sums mentioned in any outstanding debentures, or other charge upon the territorial revenue, as such interest, principal, or other charge severally becomes due, nor shall such consolidation affect the payment of any sum or sums heretofore charged upon the taxes, duties, rates and imposts now raised, levied, and collected, or to be raised, levied and collected to and for the use of this Colony, for such time as shall have been appointed by any Acts of the said Legislature by which any such charge was authorised. Nor shall such consolidation, or anything in this Act, affect any pensions or superannuation allowances which shall, in accordance with the provisions of the Superannuation Act, at the time of the passing of this Act be chargeable upon the general revenue of the Colony, but all such pensions and superannuation allowances shall remain and be so chargeable, and shall be payable, and shall be paid out of such revenue, and all rights and benefits which at the time of the promulgation of this Act are claimable by or accruing to any civil servant of the Colonial Government under the said Superannuation Act are hereby reserved and maintained.

Consolidated Revenue to be appropriated by Act of the Legislature. Debenture or any other charges on Consolidated Revenue Fund not to be affected by such consolidation.

35 Vic., No. 7.

#### PART VI.—MISCELLANEOUS.

56. IT shall be lawful for the Parliament of the Colony, by any Act or Acts to be hereafter passed, to alter the divisions and extent of the several Electoral Divisions and Electoral Districts which shall be represented in the Legislative Council and Legislative Assembly respectively, and to establish new and other Electoral Divisions and Electoral Districts by altering the boundaries of such Divisions or Districts or otherwise, and to constitute, alter,

Power to alter system of representation.

define, and designate the Electoral Sub-districts of any Electoral District, and to alter the apportionment of representatives to be chosen by the said Electoral Divisions and Electoral Districts and Sub-districts respectively, and to alter the number of representatives to be chosen in and for the Colony and in and for the several Electoral Divisions and Electoral Districts and Sub-districts in the same, and to alter and regulate the appointment of Returning Officers and make such new and other provision as they may deem expedient for the issuing and return of Writs for the election of members to serve in the said Legislative Council and Legislative Assembly respectively, and the time and place of holding such elections. Provided always, that it shall not be lawful to present to the Governor of the Colony for Her Majesty's assent any Bill by which the number or apportionment of representatives in the Legislative Council or in the Legislative Assembly shall be altered, unless the second and third readings of such Bill in the Legislative Council and the Legislative Assembly respectively shall have been passed by the votes of an absolute majority of the whole number of the members for the time being of the Legislative Council and the Legislative Assembly respectively, and the assent of the Governor on behalf of Her Majesty shall not be given to any such Bill unless a joint address shall have been presented by the Legislative Council and the Legislative Assembly to the Governor, stating that such Bill has been so passed.

Parliament as constituted by this Act empowered to alter any of its provisions.

**57.** NOTWITHSTANDING anything hereinbefore contained, the Parliament of the Colony as constituted by this Act shall have full power and authority, from time to time, by any Act or Acts, to alter the provisions or laws for the time being in force under this Act or otherwise concerning the Legislative Council or Legislative Assembly in matters beyond the scope of the last preceding section, and to change the constitution of such Legislative Council or of such Legislative Assembly. Provided always, that it shall not be lawful to present to the Governor of the Colony for Her Majesty's assent any Bill by which such change in the Constitution of the Legislative Council or of the Legislative Assembly shall be effected, unless the second and third readings of such Bill in the Legislative Council and in the Legislative Assembly respectively shall have been passed by the votes of an absolute majority of the whole number of the members for the time being of the Legislative Council and the Legislative Assembly respectively; and the assent of Her Majesty shall not be given to any such Bill unless a joint address shall have been presented by the Legislative Council and the Legislative Assembly to the Governor, stating that such Bill has been so passed. Provided also, that every Bill which shall be so passed for any of such purposes shall be reserved for the signification of Her Majesty's pleasure thereon, and a copy of such Bill shall be laid before both Houses of the Imperial Parliament for the period of thirty days at the least before Her Majesty's pleasure thereon shall be signified.

Operation of Act deferred.

**58.** THE foregoing provisions of this Act shall have no force or effect until so much and such parts of the Acts of the Parliament of the United Kingdom of Great Britain and Ireland hereinafter mentioned, that is to say:—13th and 14th Victoria, chapter 59, intituled *An Act for the better Government of Her Majesty's Australian Colonies*; 5th and 6th Victoria, chapter 76, intituled *An Act for the better Government of New South Wales and Van Dieman's Land*; 7th and 8th Victoria, chapter 74, intituled *An Act to explain and amend the Act for the Government of New South Wales and Van Dieman's Land*; 18th and 19th Victoria, chapter 76, intituled *An Act to repeal the Acts of Parliament now in force respecting the dis-*

13 & 14 Vict., c. 59.  
5 & 6 Vict., c. 76.  
7 & 8 Vict., c. 74.  
18 & 19 Vict., c. 76.

*posals of the Waste Lands of the Crown in Her Majesty's Australian Colonies, and to make other provision in lieu thereof*, as severally relate to the Colony of Western Australia, and are repugnant to this Act, shall have been repealed; and the entire management and control of the Waste Lands belonging to the Crown in the said Colony of Western Australia excepting Native Reserves, and also the appropriation of the gross proceeds of the sale of any such lands, and of all other proceeds and revenues of the same from whatever source arising within the said Colony, including all royalties, mines, and minerals, shall upon and after such repeal be vested in the Legislature of the said Colony. Provided that nothing herein contained shall affect or be construed to affect any contract, or to prevent the fulfilment of any promise or engagement made by or on behalf of Her Majesty with respect to any lands situate within the said Colony, in cases where such contracts, promises, or engagements shall have been lawfully made before the time at which this Act shall take effect within this Colony, nor to disturb or in any way interfere with or prejudice any vested or other rights which have accrued or belong to the licensed occupants or lessees of any Crown Lands within this Colony by virtue of the said last-mentioned Act of Parliament, or of any regulations made, issued, and proclaimed in pursuance thereof.

59. IN the construction of this Act the term "Governor" shall mean the Governor or Administrator for the time being lawfully administering the Government of Western Australia or his Deputy appointed under Her Majesty's Royal Instructions, and shall signify such Governor, Administrator, or Deputy acting alone and without the advice of the Executive Council; and the expression "Governor in Council" shall mean such Governor, Administrator, or Deputy acting by and with the advice of the Executive Council. In the construction of "The Aborigines Protection Act, 1886," and of the fifth section of "The Pearl Shell Fishery Regulation Act, 1873," the word "Governor" shall mean such Governor, Administrator, or Deputy acting alone and without the advice of the Executive Council; and in the second section of "The Pearl Shell Fishery Regulation Act, 1875," the expression "the Governor in Executive Council" shall also mean such Governor, Administrator, or Deputy acting alone and without the advice of the Executive Council, and the said section is hereby amended accordingly.

Governor and Governor in Council.

60. THE appointment to all public offices under the Government of the Colony hereafter to become vacant or to be created, whether such offices be salaried or not, shall be vested in the Governor in Council, with the exception of the appointments of the officers liable to retire from office on political grounds, which appointments shall be vested in the Governor alone. Provided always, that this enactment shall not extend to minor appointments which by Act of Parliament or by order of the Governor in Council may be vested in heads of departments or other officers or persons within the Colony. Provided also, that all appointments in respect of the Aborigines Protection Board and of persons appointed to witness contracts under the provisions of "The Aborigines Protection Act, 1886," shall be made as provided by the fifty-second section of this Act.

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

61. THIS Act shall be published in the *Government Gazette* of Western Australia, by the Governor, within three months after Her Majesty's approval of the same shall have been received, and, subject to the provisions of the fifty-second, fifty-third, and fifty-

Act to be proclaimed.

eight sections, shall commence and take effect from the date of such Proclamation.

Short title.

62. THIS Act may be cited for all purposes as “The Constitution Act, 188 .”

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| Schedule A.                             |   | £    | s. | d. |
|---|---|------|----|----|
| For promoting the welfare of Aboriginal | } | 5000 | 0  | 0  |
| Natives ... ..                          |   |      |    |    |

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Note the provision in Section 52 when the Revenue exceeds £500,000.

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| Schedule B.   |  | £      | s. | d. |
|---|--|--------|----|----|
| Governor ... ..   |  | 4000   | 0  | 0  |
| Private Secretary ... ..  |  | 300    | 0  | 0  |
| Clerk of the Executive Council ... ..   |  | 250    | 0  | 0  |
| Chief Justice ... ..  |  | 1200   | 0  | 0  |
| Puisne Judge ... ..   |  | 900    | 0  | 0  |
| Chief Secretary ... ..  |  | 600    | 0  | 0  |
| Attorney General ... ..   |  | 600    | 0  | 0  |
| Treasurer ... ..  |  | 600    | 0  | 0  |
| Commissioner of Crown Lands ... ..  |  | 600    | 0  | 0  |
| Director of Public Works ... ..   |  | 600    | 0  | 0  |
| Any officer acting as Premier, in addition to the salary of his office ... .. |  | 200    | 0  | 0  |
|   |  | £9,850 | 0  | 0  |

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| Schedule C.  |   | £      | s. | d. |
|--|---|--------|----|----|
| Sir MALCOLM FRASER, K.C.M.G., Colonial Secretary ... ..                | } | 800    | 0  | 0  |
| CHARLES NICHOLAS WARTON, Attorney General                              | } |        |    |    |
| ANTHONY O'GRADY LEFROY, C. M. G., Colonial Treasurer, Full Salary      | } | 650    | 0  | 0  |
| JOHN FORREST, C.M.G., Surveyor General and Commissioner of Crown Lands | } | 550    | 0  | 0  |
|  |   | £2,500 | 0  | 0  |

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*Estimated Revenue and Expenditure for 1888.*

No. 143.

WESTERN AUSTRALIA.

MY LORD,

Government House, Perth, 2nd June, 1888.

I have the honor to enclose, herewith, copy of the Estimates of Revenue and Expenditure of this Government for the current year.

2. The revenue (including £4,124 carried forward from 1887) is set down at £398,886, and the expenditure at £396,772, leaving £2,114 as the estimated credit balance on the 31st of December next.

3. These Estimates only passed the Legislative Council on the 28th of March last. I had originally suggested another scheme of finance for 1888, namely, that stated in paragraphs 7 to 18 (annexed) of my opening Speech to the Council. This scheme, however, failed to secure sufficient support, and the Estimates were withdrawn on the 4th of January. After having been re-drafted, they were re-introduced, and were passed with but little alteration. Pending the settlement of the Estimates, the Council agreed to a vote of credit of £86,831, on account of the services for the first quarter of 1888. In explanation of the course which was pursued, I enclose copy of my Message No. 3, of the 4th January.

4. The Estimate of Revenue for 1888 is £16,559 above the actual receipts of 1887. But the actual receipts for the first quarter of 1888 having proved to be £5,139 less than the receipts for the first quarter of last year, it follows that, unless the revenue of the remaining three quarters of this year be £21,698 greater than the revenue of the corresponding three quarters of 1887, the Estimate of Revenue for 1888 will not be reached.

5. Unless some source of income should further develop itself during the present year, or unless some economy should be effected upon the estimated expenditure, this Government must be prepared for a deficit—though not, I would hope, for one of any magnitude—on the 31st of December next. Bearing in mind the demand for a further public works loan (the interest on which would have to be provided) and for Responsible Government (which would entail an additional expenditure of from £5,000 to £10,000 *per annum*), the finances of the Colony certainly require the most careful watching and consideration.

I have, &amp;c.,

F. NAPIER BROOME.

The Right Honorable Lord Knutsford, G.C.M.G.,

&amp;c.,

&amp;c.,

&amp;c.

*Finances and Financial Arrangements.*

No. 196.

WESTERN AUSTRALIA.

MY LORD,

Government House, Perth, 23rd July, 1888.

I have the honor to enclose, herewith, for Your Lordship's information, the Financial Returns for the second quarter of this year.

2. The revenue of 1888 to the 30th of June has been £6,143 less than the amount received during the corresponding period of last year. The greater part of this deficiency, however, has occurred during the first quarter, and it will be noticed that the revenue for April, May, and June was within £1,004 of the amount collected in

the same months of 1887. An improvement is, therefore, perceptible, and if we assume that the revenue for the rest of the year will equal that of the third and fourth quarters of 1887, we obtain a total of £371,759. Adding to this the balance of £4,424 brought forward from 1887, we have £376,183 available to meet the total current expenditure of 1888. As this expenditure has been estimated at £396,772, and as it is not likely to be less than this sum, there is reason, I regret to say, to apprehend a deficit of £20,589 on the 31st of December next.

3. It is not impossible that some special increase of revenue may occur before the end of the year. If so, the deficit will of course be reduced. We have now, however, to frame the budget of 1889 with the above figures in prospect.

4. Having carefully considered the whole situation, I see no better course open than to revert to a proposal made by me to the Legislature in December last, in connection with the draft estimates for this year, namely, to repay to general revenue, from loan funds, the sum of £50,617, representing capital expenditure incurred from revenue for railway construction and for works in the Kimberley District. This expenditure, of which I enclose a schedule, should not, I think, be allowed to fall permanently upon revenue. It is this expenditure which has produced the apprehended deficiency, and it was really impossible that current funds should be sufficient to bear the cost of completing and equipping railways, and the cost of the expensive works and buildings required to found the new Colony of Kimberley in the far north of this vast territory.

5. My proposal of last year was that this sum of £50,617 should be repaid to revenue from the balance of the 1884 loan, a Reappropriation Bill being passed for the purpose. The Legislature, however, preferred that the 1884 loan should not be utilised in this manner, and the scheme was rejected. But the Council, I feel sure, would be very willing that it should be now carried out, provided the repayment to revenue could be made from a new loan.

6. A deficit of £20,000 can hardly be met by reducing the public expenditure for 1889. Large economies (£60,000 as compared with 1887) have been effected this year, and further reductions would mean an interference with official salaries, which are already small enough. Moreover, the revenue, I would maintain, has a right to the return of the £50,617 it has advanced to meet capital charges. There is a precedent for this, in the case of the construction of the Eucla Telegraph Line.

7. In connection with this question, I would also draw attention to the fact that our railways are still very imperfectly equipped. I have just had to sanction an order for three new locomotives, costing £7,000, and a considerable quantity of other rolling stock is required. It is clear that these and other such charges cannot be made good from general revenue. The loan funds from which the railways which have been constructed require in fact to be supplemented by not less than £50,000.

8. I now come to another consideration which influences me in writing the present despatch. The discoveries of gold in the Eastern Districts have lately assumed great importance. There can hardly be doubt of their richness, but an expenditure of public money is required to develop them. A diamond drill should be employed to search for fresh water in the neighborhood of the reefs, wells should be sunk on the different routes, and other expenditure incurred. But these expenses cannot be met from current revenue, and they may fairly be made a capital charge on loan funds. The gold reefs of the Eastern Districts may lead to a great advance of this part of Western Australia, and they should be assisted from the public purse. They are not like the Kimberley goldfields, situated in a remote part of the territory, but are immediately connected with the capital and the centre of the Colony. For information respecting these gold discoveries, I refer Your Lordship to my Despatches No. 261, of the 5th of November, 1887, No. 62, of the 24th of March last, No. 190, of the 16th instant, and No. 195, of to-day's date.



9. It is the near and very promising future connected with the substantial discoveries of gold recently made in different districts of the Colony, added to the necessity of repaying to general revenue the capital expenditure which threatens to cause a deficit, and to the further necessity of incurring some additional capital expenditure in completing the construction and equipment of our existing railways, which has led me to feel warranted in asking Your Lordship for authority to introduce during next session of the Legislature, opening on the 10th of October, a Loan Bill for the moderate amount of £200,000, of which sum £50,617 should be repaid to general revenue to defray advances on capital account, £50,000 allotted to the completion and equipment of existing railways, and £50,000 devoted to the development of goldfields. The allotment of the remainder of this small Loan might be a subject for future consideration.

10. I shall be glad of a telegraphic reply to this Despatch, to enable me to make the necessary arrangements.

11. The Executive Council concur in the recommendation now made.

I have, &c.,

F. NAPIER BROOME.

The Right Honorable Lord Knutsford, G.C.M.G.,  
&c.,                      &c.,                      &c.

[ENCLOSURE.]

*Schedule of Capital Expenditure proposed to be recouped from Loan.*

|  | £      | s. | d. |
|--|--------|----|----|
| Works at Derby ... ..                          | 253    | 16 | 5  |
| Preliminary Railway Survey, Beverley ... ..    | 139    | 5  | 4  |
| Kimberley District, Miscellaneous Works ... .. | 2000   | 0  | 0  |
| Removal East Fremantle Railway Platform ... .. | 299    | 0  | 0  |
| Continuous Breaks ... ..                       | 2000   | 0  | 0  |
| Stationary Engine ... ..                       | 240    | 0  | 0  |
| Kimberley Works ... ..                         | 10849  | 19 | 5  |
| Wyndham Works ... ..                           | 9615   | 0  | 0  |
| Land Grant Railways ... ..                     | 250    | 7  | 8  |
| North Fremantle Railway Station ... ..         | 300    | 0  | 0  |
| Kimberley District Works ... ..                | 8000   | 0  | 0  |
| Additional Rolling Stock ... ..                | 5500   | 0  | 0  |
| Fremantle Workshops ... ..                     | 2500   | 0  | 0  |
| Do. Carriage Shed ... ..                       | 4500   | 0  | 0  |
| Reservoir, Clackline ... ..                    | 1200   | 0  | 0  |
| Cottages for men, Beverley ... ..              | 1300   | 0  | 0  |
| Alterations Station's Grounds ... ..           | 1250   | 0  | 0  |
| Tank, Fremantle... ..                          | 420    | 0  | 0  |
|  | £50617 | 8  | 10 |

TELEGRAM.

*Governor to Secretary of State.*

"Twenty thousand pounds deficit expected on 31st December next. For reasons given in despatch by mail, consider it desirable that Bill should be introduced Loan of Two hundred thousand.

GOVERNOR.

24-7-88."

remarks from me, the more particularly as you had not endorsed my recommendations as to some of the chief details of the new constitution. For the same reason, and also because I believed that what was desired at the present time was the free and full expression of the views of the unofficial part of the Legislature, I requested the official members of the Council not to take part in the debate on Your Lordship's despatches, or on any resolutions which might be proposed. This course has been pursued on previous occasions when the Responsible Government question has been discussed by the Legislature.

3. The result of the full and extended consideration of the subject by the Legislative Council is embodied in the two Addresses (Nos. 13 and 14, of the 6th instant), copy of which, and of my reply (Message No. 16, of the 9th instant), I have the honor to enclose.

4. The report of the debate which took place in the Council has not yet been printed. I will send it when it is ready.

5. I am transmitting the present papers for Your Lordship's early information as to what has taken place. My full report, which will be accompanied by the draft of the Constitution Bill for Western Australia which I would respectfully recommend to the consideration of Her Majesty's Government, will follow by an early mail, and, pending the receipt of it, I would ask that no action be taken.

6. For convenient reference, I enclose copy of the printed despatches laid before the Council.

I have, &c.,

The Right Honorable  
Lord Knutsford, G.C.M.G.,

F. NAPIER BROOME.

&c.,                      &c.,                      &c.

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[ ENCLOSURES. ]

Message No. 5.

F. NAPIER BROOME.

The Governor has the honor to enclose, herewith, an extract from the *Government Gazette* of the 26th of January last, and a copy of the *Government Gazette Extraordinary* of the 6th of February last, containing published Despatches (No. 130, of the 12th December, 1887, and No. 3, of the 3rd of January, 1888) from the Right Honorable the Secretary of State for the Colonies, on the subject of a change of the Constitution of this Colony to the form known as Responsible Government.

2. The Governor requests that the Honorable the Legislative Council will take these Despatches into consideration, and will favor him with their views on the very important subject to which they relate.

3. The Governor's opinions in this matter are already before Your Honorable House (Council Paper No. 1 of this Session), and he considers it unnecessary, at the present time, to offer any further remarks.

Government House, 12th March, 1888.

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Address No. 13.

*To His Excellency Sir Frederick Napier Broome, Knight Commander of the most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief in and over the Territory of Western Australia and its Dependencies, &c., &c., &c.*

MAY IT PLEASE YOUR EXCELLENCY,

*The Legislative Council has the honor of submitting to Your Excellency the following Resolutions adopted this day:*

That an Humble Address be presented to His Excellency the Governor, conveying the Resolutions passed by the House in response to the Despatches of the Secretary of State on Responsible Government, and praying His Excellency that he will be pleased, in forwarding them to Lord Knutsford, to point out the extreme importance attaching to an early settlement of this most important

question. This House further requests that His Excellency the Governor would forward to the Secretary of State the *Hansard* report of the debates which took place when the resolutions were under consideration.

## RESOLUTIONS.

That this Council, having taken the two despatches of the Secretary of State, dated 12th December, 1887, and 3rd January, 1888, on the subject of constitutional change for Western Australia, into careful consideration, resolves as follows :—

(1.) That to indicate, at the present time, the possible future boundary of a Northern political subdivision of the Colony would be premature and open to serious objection.

(2.) That special statutory reservation to Her Majesty's Government in the Constitution Act of power to control legislation affecting Northern lands is unnecessary, the Crown having a right of veto upon all such legislation.

(3.) That the proposed arrangement for funding the proceeds of sales of Northern lands, with a view to their future local use, would be a needless complication, the Regulations lately sanctioned by the Secretary of State not contemplating alienation of those lands except in townships and in special areas.

(4.) That the Constitution of the Colony should, from the first, provide for the establishment of a second Legislative Chamber.

(5.) That the second House of Western Australia should be elected by the people.

(6.) That this Council is in accord with the Right Honorable the Secretary of State for the Colonies in the views expressed by him in paragraphs 3, 4, and 5 of his Despatch No. 3 of January 3, 1888, to His Excellency the Governor, and considers that, under the proposed Constitution, the two Houses should "have co-ordinate powers and equal authority in the passing of laws," thus following "the precedents of older communities."

(7.) That no ground whatever of necessity has been shown for placing the interests of the aboriginal population in the hands of a body independent of the local Ministry.

Legislative Council,  
6th April, 1888.

JAS. G. LEE STEERE,  
Speaker.

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Address No. 14.

*To His Excellency, &c., &c., &c.*

"That an Humble Address be presented to His Excellency the Governor, praying that in view of the present position of affairs in the Colony it is expedient that no delay should occur in settling the Constitutional question; and that His Excellency will be pleased to introduce at this Session of Council a Constitution Bill framed upon the lines of the resolutions passed in Committee."

6th April, 1888.

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Message No. 16.

## F. NAPIER BROOME.

The Governor has the honor, in reply to Addresses Nos. 13 and 14 of the 6th instant, to inform the Honorable the Legislative Council that the additional Resolutions now passed by the Council on the subject of Responsible Government, together with the *Hansard* report of the debates thereon, will be transmitted, as requested, to the Right Honorable the Secretary of State.

The Governor will endeavor to bring about the earliest possible settlement of the Constitutional question now pending, and agrees with Your Honorable House as to the necessity of carrying the proceedings to a conclusion without loss of time.

A reference to the despatches which have been laid before the Council will show that the Governor is not in a position, at present, to do more than transmit the Resolutions of the Legislature to the Secretary of State; but Your Honorable House may rest assured that there will be no delay in taking any action warranted by further instructions, when these shall have been received from Her Majesty's Government.

Government House, 9th April, 1888.

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11. In view, however, of the unsatisfactory state of the finances of the Colony, as shown in your Despatch No. 143, of the 2nd ultimo, and more particularly by your telegram of the 24th instant, in which you report a probable deficit on the year of £20,000, and express your desire to raise a Loan of £200,000, I trust that you realise the importance of proceeding cautiously in this matter of Responsible Government, the additional expenses of which the Colony does not seem likely to be able to support without difficulty.

Governor Sir F. N. Broome, K.C.M.G.,  
&c.,                      &c.,                      &c.

I have, &c.,  
KNUTSFORD.