

Queensland



CONSTITUTION ACT 1867

**Reprinted as in force on 29 January 1999
(includes amendments up to Act No. 37 of 1996)**

Reprint No. 2A

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Information about this reprint

This Act is reprinted as at 29 January 1999. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in the reprint, including table of corrected minor errors**
- **editorial changes made in earlier reprints.**

Queensland



CONSTITUTION ACT 1867

TABLE OF PROVISIONS

Section		Page
PRELIMINARY		
1A	Short title	8
THE LEGISLATURE		
1	Legislative Assembly	8
2	Legislative Assembly constituted	9
2A	The Parliament	9
3	One session of Parliament to be held each year	9
4	No member to sit or vote until the member has taken the following oath of allegiance	9
5	Affirmation may be made instead of oath	10
6	Disqualifying contractors and persons interested in contracts—election to take place on vacancies	10
7	Election of disqualified persons void	10
7A	Scope of ss 6 and 7	11
8	Standing rules and orders to be made	12
10	Power to alter system of representation	12
11A	Office of Governor	13
11B	Definition of Royal Sign Manual	13
THE GOVERNOR		
12	Place and time of holding Parliament	14
14	Officers liable to retire from office on political grounds	14
15	Judges continued in the enjoyment of their offices during their good behaviour notwithstanding any demise of the Crown	14
16	But they may be removed by the Crown on the address of Parliament ...	14
17	Their salaries secured during the continuance of their commissions	15

18	No money vote or Bill lawful unless recommended by Governor	15
----	---	----

THE LEGISLATIVE ASSEMBLY

27	Constitution of Legislative Assembly	15
28	Members of Assembly	15

GENERAL PROVISIONS

30	Legislature empowered to make laws regulating sale and other disposal of waste lands	16
----	--	----

CROWN RIGHTS AND REVENUES

34	All duties and revenues to form consolidated revenue fund	16
35	Such fund permanently charged with expenses of collection	16
39	Consolidated fund to be appropriated by Act of the legislature	17
40	The entire management of Crown lands and all revenues thence arising to be vested in the local legislature	17
40A	Powers, privileges and immunities of Legislative Assembly	18

POWERS AND PRIVILEGES OF PARLIAMENT

41	Power to order the attendance of persons	18
42	Order to attend to be notified by summons	18
43	Attendance of members	19
44	Objection to answer questions or produce documents to be reported to the House	19
45	House empowered to punish summarily for certain contempts	19
46	Speaker to issue warrant	20
47	Persons disturbing proceedings of House may be arrested without warrant	20
48	Form of warrant	21
49	Execution of verbal order or warrant	21
50	Doors may be broken open in executing warrant	21
52	House may direct Attorney-General to prosecute for other contempts	21

REQUIREMENT FOR REFERENDUM

53	Certain measures to be supported by referendum	22
----	--	----

LOCAL GOVERNMENT

54	System of local government	23
55	Manner of appointing persons to exercise powers, authorities, duties and functions of local government	24

56	Procedure on Bills affecting local government	25
----	---	----

PARLIAMENTARY SECRETARIES

57	Appointment of Parliamentary Secretaries	26
58	Functions of Parliamentary Secretary	26
59	Duration of appointment as Parliamentary Secretary	26
60	Reimbursement of expenses	27

ENDNOTES

1	Index to endnotes	28
2	Date to which amendments incorporated	28
3	Key	28
4	Table of earlier reprints	29
5	Tables in earlier reprints	29
6	List of legislation	29
7	List of annotations	31
8	Table of corrected minor errors	35

CONSTITUTION ACT 1867

[as amended by all amendments that commenced on or before 29 January 1999]

An Act to consolidate the laws relating to the Constitution of the State of Queensland

Preamble

Power of alteration of constitution

WHEREAS by an order in council empowering the Government of Queensland to make laws and to provide for the administration of justice in the colony dated at the court at Buckingham Palace 6 June 1859 it was declared and ordered by the Queen's Most Excellent Majesty in Council that the legislature of the colony should have full power and authority from time to time to make laws altering or repealing all or any of the provisions of the said order in council in the same manner as any other laws for the good government of the colony except so much of the same as incorporates the enactments of the 14th year of Her Majesty chapter 59 and of the sixth year of Her Majesty chapter 76 relating to the giving and withholding of Her Majesty's assent to Bills and the reservation of Bills for the signification of Her Majesty's pleasure and the instructions to be conveyed to Governors for their guidance in relation to the matters aforesaid and the disallowance of Bills by Her Majesty.

However, every Bill by which any alteration should be made in the constitution of the Legislative Council so as to render the whole or any portion thereof elective should be reserved for the signification of Her Majesty's pleasure thereon and a copy of such Bill should be laid before both Houses of the Imperial Parliament for the period of 30 days at least before Her Majesty's pleasure thereon should be signified.

Giving or withholding assent to Bills

And whereas by clause 31 of an Act of the sixth year of Her Majesty chapter 76 entitled *An Act for the government of New South Wales and Van*

Diemen's Land it was enacted as follows—‘That every Bill which has been passed by the said Council and also every law proposed by the Governor which shall have been passed by the said Council whether with or without amendments shall be presented for Her Majesty’s assent to the Governor of the said colony and that the Governor shall declare according to his discretion but subject nevertheless to the provisions contained in this Act and to such instructions as may from time to time be given in that behalf by Her Majesty her heirs or successors that he assents to such Bill in Her Majesty’s name or that he withholds Her Majesty’s assent or that he reserves such Bill for the signification of Her Majesty’s pleasure thereon and all Bills altering or affecting the divisions and extent of the several districts and towns which shall be represented in the Legislative Council or establishing new and other divisions of the same or altering the number of the members of the Council to be chosen by the said districts and towns respectively or increasing the whole number of the Legislative Council or altering the salaries of the Governor superintendent or judges or any of them and also all Bills altering or affecting the duties of customs upon any goods wares or merchandise imported to or exported from the said colony shall in every case be so reserved except such Bills for temporary laws as the Governor shall expressly declare necessary to be forthwith assented to by reason of some public and pressing emergency’.

Disallowance of Bills assented to

And by clause 32 of the said lastmentioned Act it was enacted as follows—‘That whenever any bill which shall have been presented for Her Majesty’s assent to the Governor of the said colony shall by such Governor have been assented to in Her Majesty’s name the Governor shall by the first convenient opportunity transmit to one of Her Majesty’s Principal Secretaries of State an authentic copy of such Bill so assented to and that it shall be lawful at any time within two years after such Bill shall have been so received by the Secretary of State for Her Majesty by Order in Council to declare her disallowance of such Bill and that such disallowance together with a certificate under the hand and seal of the Secretary of State certifying the day on which such Bill was received as aforesaid being signified by the Governor to the Legislative Council of the said colony by speech or message to the said Council or by proclamation in the *New South Wales Government Gazette* shall make void and annul the same from and after the day of such signification’.

Assent to Bills reserved

And by clause 33 of the same Act it was enacted as follows—‘That no Bill which shall be so reserved for the signification of Her Majesty’s pleasure thereon shall have any force or authority within the colony of New South Wales until the Governor of the said colony shall signify either by speech or message to the Legislative Council of the said colony or by proclamation as aforesaid that such Bill has been laid before Her Majesty in Council and that Her Majesty has been pleased to assent to the same and that an entry shall be made in the journals of the said Legislative Council of every such speech message or proclamation and a duplicate thereof duly attested shall be delivered to the registrar of the Supreme Court or other proper officer to be kept among the records of the said colony and that no Bill which shall be so reserved as aforesaid shall have any force or authority in the said colony unless Her Majesty’s assent thereto shall have been so signified as aforesaid within the space of two years from the day on which such Bill shall have been presented for Her Majesty’s assent to the Governor as aforesaid’.

Governor to conform to instructions

And by clause 40 of the same Act it was declared and enacted as follows—‘That it shall be lawful for Her said Majesty with the advice of Her Privy Council or under Her Majesty’s signet and sign manual or through one of Her principal Secretaries of State from time to time to convey to the Governor of the said Colony of New South Wales such instructions as to Her Majesty shall seem meet for the guidance of such Governor for the exercise of the powers hereby vested in him of assenting to or dissenting from or for reserving for the signification of Her Majesty’s pleasure Bills to be passed by the said Council and it shall be the duty of such Governor to act in obedience to such instructions’.

Extending the Governor’s powers as to giving or withholding the royal assent

And whereas by the Act of the eighth year of Her Majesty chapter 74 entitled *An Act to explain and amend the Act for the government of New South Wales and Van Diemen’s Land* and by section 7 thereof after reciting that by the said recited Act (to wit the said hereinbefore mentioned Act of the sixth year of Her Majesty chapter 76) ‘it is provided that certain Bills shall in every case be reserved by the Governor for the signification of Her Majesty’s pleasure thereon and the intent of such provision was to ensure

Constitution Act 1867

that such Bills as aforesaid should not be assented to by the Governor without due consideration' it was enacted 'That it shall not be necessary for the Governor to reserve any such Bill for the signification of Her Majesty's pleasure thereon from which in the exercise of his discretion as limited in the said recited Act he shall declare that he withholds Her Majesty's assent or to which he shall have previously received instructions on the part of Her Majesty to assent and to which he shall assent accordingly'.

Reservation of Bills

And whereas by the Act of the 14th year of Her Majesty chapter 59 intituled *An Act for better government of Her Majesty's Australian Colonies* it was provided and enacted that the provisions of the said Act of the sixth year of the reign of Her Majesty as explained and amended by the said Act of the eighth year of the reign of Her Majesty concerning Bills reserved for the signification of Her Majesty's pleasure thereon shall be applicable to every Bill so reserved under the provisions of the said Act of the 14th year of Her Majesty chapter 59.

And whereas it is expedient to consolidate the laws relating to the constitution of Her Majesty's said Colony of Queensland.

PRELIMINARY**Short title**

1A. This Act may be cited as the *Constitution Act 1867*.

THE LEGISLATURE**Legislative Assembly**

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

Legislative Assembly constituted

2. Within the said Colony of Queensland Her Majesty shall have power by and with the advice and consent of the said Assembly to make laws for the peace welfare and good government of the colony in all cases whatsoever.

The Parliament

2A.(1) The Parliament of Queensland consists of the Queen and the Legislative Assembly referred to in sections 1 and 2.

(2) Every Bill, after its passage through the Legislative Assembly, shall be presented to the Governor for assent by or in the name of the Queen and shall be of no effect unless it has been duly assented to by or in the name of the Queen.

One session of Parliament to be held each year

3. There shall be a session of the Legislative Assembly once at least in every year so that a period of 12 calendar months shall not intervene between the last sitting of the Legislative Assembly in one session and the first sitting of the Legislative Assembly in the next session.

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

4. No member of the Legislative Assembly shall be permitted to sit or vote therein until that member has taken and subscribed the following oath before the Governor or before some person or persons authorised by the Governor to administer the oath—

‘I, . . . (*name of member*) . . . do sincerely promise and swear that I will be faithful and bear true allegiance to Her (*or His*) Majesty . . . (*name of Sovereign*) . . . as lawful Sovereign of Australia and Her (*or His*) other realms and territories, and to Her (*or His*) heirs and successors, according to law. So help me God.’”

Affirmation may be made instead of oath

5. Provided that every person authorised by law to make affirmation instead of taking an oath may make such affirmation in every case in which an oath is hereinbefore required to be taken.

Disqualifying contractors and persons interested in contracts—election to take place on vacancies

6.(1) Any person who shall directly or indirectly personally or by any person whatsoever in trust for the person or for the person's use or benefit or on the person's account undertake execute hold or enjoy in the whole or in part any contract or agreement for or on account of the public service shall be incapable of being elected or of sitting or voting as a member of the Legislative Assembly during the time the person shall execute hold or enjoy any such contract or any part or share thereof or any benefit or emolument arising from the same.

(2) And if any person being a member of such Assembly shall enter into any such contract or agreement or having entered into it shall continue to hold it the person's seat shall be declared by the said Legislative Assembly as the case may require to be void and thereupon the same shall become and be void accordingly.

Proviso exempting from disqualification members of companies exceeding 20 in number

(3) Provided always that nothing herein contained shall extend to any contract or agreement made entered into or accepted by any incorporated company or any trading company consisting of more than 20 persons where such contract or agreement shall be made entered into or accepted for the general benefit of such incorporated or trading company.

Election of disqualified persons void

7.(1) If any person by this Act disabled or declared to be incapable to sit or vote in the Legislative Assembly shall nevertheless be elected and returned as a member to serve in the said Assembly for any electoral district such election and return shall and may be declared by the said Assembly to be void and thereupon the same shall become and be void to all intents and purposes whatsoever.

Penalty for sitting or voting

(2) And if any person under any of the disqualifications mentioned in section 6 shall whilst so disqualified presume to sit or vote as a member of the said Assembly such person shall forfeit the sum of \$1 000 to be recovered by any person who shall sue for the same in the Supreme Court.

Scope of ss 6 and 7

7A.(1) Sections 6 and 7 and the provisions relating to a public contractor of the *Legislative Assembly Act 1867*, section 7 extend, and it is hereby declared have always extended, only to contracts or agreements for the furnishing or providing of wares and merchandise to be used or employed in the service of the public.

(2) Without limit to the generality of subsection (1), sections 6 and 7 and the provisions relating to a public contractor of the *Legislative Assembly Act 1867*, section 7 do not extend, and it is hereby declared never have extended—

- (a) to any lease, licence to occupy, or other contract or agreement whereby any estate or interest in land is held under the Crown pursuant to the *Land Act 1994*, or pursuant to that Act and any other Act relating to the alienation of Crown land within Queensland, or pursuant to any other Act or Acts relating to the alienation of Crown land within Queensland, or whereby the right to hold under the Crown any such estate or interest is acquired, or agreed to be acquired, from any other person; or
- (b) to any lease, licence, authority, permit or other contract or agreement relating to mining, dredging, searching, or prospecting for, or the obtaining of, petroleum, coal, gold or any other mineral in or on any Crown land in Queensland; or
- (c) to a contract or agreement with Suncorp Insurance and Finance, or the Workers' Compensation Board, in relation to insurance business carried on by it; or
- (d) to any contract or agreement securing the repayment of the principal, or the payment of interest on, or both the repayment of principal and the payment of interest on, moneys lent to the

Crown or to any Crown corporation or instrumentality or corporation or instrumentality representing the Crown.

Standing rules and orders to be made

8.(1) The said Legislative Assembly from time to time hereafter as there may be occasion shall prepare and adopt such standing rules and orders as shall appear to the said Assembly best adapted—

- (a) for the orderly conduct of such Assembly; and
- (b) for the manner in which such Assembly shall be presided over in the case of the absence of the Speaker; and
- (c) for the manner in which its powers, privileges and immunities may be exercised and upheld; and
- (d) for the manner in which notices of Bills resolutions and other business intended to be submitted to such Assembly at any session thereof may be published for general information; and
- (e) for the proper passing entitling and numbering of the Bills to be introduced into and passed by the said Assembly; and
- (f) for the proper presentation of the same to the Governor for Her Majesty's assent.

(2) All of which rules and orders shall by such Assembly be laid before the Governor and being by the Governor approved shall become binding and of force.

Power to alter system of representation

10. It shall be lawful for the legislature of the State by any Act or Acts to be hereafter passed—

- (a) to alter the divisions and extent of the several counties districts cities towns boroughs and hamlets which shall be represented in the Legislative Assembly; and
- (b) to establish new and other divisions of the same; and
- (c) to alter the apportionment of representatives to be chosen by the said counties districts cities towns boroughs and hamlets

respectively; and

- (d) to alter the number of representatives to be chosen in and for the State and in and for the several electoral districts in the same; and
- (e) to alter and regulate the appointment of returning officers and make such new and other provision as they may deem expedient for the issuing and return of writs for the election of members to serve in the said Legislative Assembly and the time and place of holding such elections.

Office of Governor

11A.(1) The Queen's representative in Queensland is the Governor who shall hold office during Her Majesty's pleasure.

(2) Abolition of or alteration in the office of Governor shall not be effected by an Act of the Parliament except in accordance with section 53.

(3) In this Act and in every other Act a reference to the Governor shall be taken—

- (a) to be a reference to the person appointed for the time being by the Queen by Commission under Her Majesty's Royal Sign Manual to the office of Governor of the State of Queensland; and
- (b) to include any other person appointed by dormant or other Commission under the Royal Sign Manual to administer the Government of the State of Queensland.

Definition of Royal Sign Manual

11B. In section 11A the expression "Royal Sign Manual" means the signature or royal hand of the Sovereign.

THE GOVERNOR

Place and time of holding Parliament

12. It shall be lawful for the Governor to fix such place or places within any part of the State and such times for holding every session of the Legislative Assembly of the said State as the Governor may think fit such times and places to be afterwards changed or varied as the Governor may judge advisable and most consistent with general convenience and the public welfare giving sufficient notice thereof and also to prorogue the said Legislative Assembly from time to time and to dissolve the said Assembly by proclamation or otherwise whenever the Governor shall deem it expedient.

Officers liable to retire from office on political grounds

14. Officers liable to retire from office on political grounds shall hold office at the pleasure of the Governor who in the exercise of his power to appoint and dismiss such officers shall not be subject to direction by any person whatsoever nor be limited as to his sources of advice.

Judges continued in the enjoyment of their offices during their good behaviour notwithstanding any demise of the Crown

15. The commissions of the present judges of the Supreme Court of the said State and all future judges thereof shall be continued 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

16. It shall be lawful nevertheless for Her Majesty Her heirs or successors to remove any such judge or judges upon the address of the Legislative Assembly.

Their salaries secured during the continuance of their commissions

17. Such salaries as are settled upon the judges for the time being by Act of Parliament or otherwise and all such salaries as shall or may be in future granted by Her Majesty Her heirs and successors or otherwise to any future judge or judges of the said Supreme Court shall in all time coming be paid and payable to every such judge and judges for the time being so long as the patents or commissions of them or any of them respectively shall continue and remain in force.

No money vote or Bill lawful unless recommended by Governor

18. It shall not be lawful for the Legislative Assembly to originate or pass any vote resolution or Bill for the appropriation of any part of the said consolidated fund or of any other tax or impost to any purpose which shall not first have been recommended by a message of the Governor to the said Legislative Assembly during the session in which such vote resolution or Bill shall be passed.

THE LEGISLATIVE ASSEMBLY**Constitution of Legislative Assembly**

27. For the purpose of constituting the Legislative Assembly it shall be lawful for the Governor from time to time as occasion shall require in Her Majesty's name by an instrument or instruments under the Great Seal of the State to summon and call together a Legislative Assembly in and for the said State.

Members of Assembly

28. The Legislative Assembly shall consist of members duly qualified according to the *Legislative Assembly Act 1867* for the time being to be elected by the inhabitants of the said State having any of the qualifications mentioned in the Electoral Act for the time being.

GENERAL PROVISIONS

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

30. Subject to the provisions contained in the Imperial Act of the 18th and 19th Victoria chapter 54 and of an Act of the 18th and 19th years of Her Majesty entitled *An Act to repeal the Acts of Parliament now in force respecting the Disposal of the Waste Lands of the Crown in Her Majesty's Australian Colonies and to make other provisions in lieu thereof* which concern the maintenance of existing contracts it shall be lawful for the legislature of this State to make laws for regulating the sale letting disposal and occupation of the waste lands of the Crown within the said State.

CROWN RIGHTS AND REVENUES

All duties and revenues to form consolidated revenue fund

34. All taxes imposts rates and duties and all territorial casual and other revenues of the Crown (including royalties) from whatever source arising within this State and over which the present or future legislature has or may have power of appropriation shall form one consolidated revenue fund to be appropriated for the public service of this State in the manner and subject to the charges hereinafter mentioned.

Such fund permanently charged with expenses of collection

35. The consolidated fund of this State 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 shall be directed by any Act of the legislature.

Consolidated fund to be appropriated by Act of the legislature

39.(1) After and subject to the payments to be made under the provisions hereinbefore contained all the consolidated fund hereinbefore mentioned shall be subject to be appropriated to such specific purposes as by any Act of the legislature of the State shall be prescribed in that behalf.

(2) However, the consolidation of the revenues of this State 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 State for such time as shall have been appointed by any Acts of the said legislature by which any such charge was authorised.

The entire management of Crown lands and all revenues thence arising to be vested in the local legislature

40.(1) The entire management and control of the waste lands belonging to the Crown in the said State and also the appropriation of the gross proceeds of the sales of such lands and all other proceeds and revenues of the same from whatever source arising within the said State including all royalties mines and minerals shall be vested in the legislature of the said State.

(2) However, 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 land situate within the said State 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 State 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 or without the settled districts under and by virtue of the Act of the Imperial Parliament passed in the ninth and tenth years of Her Majesty's reign chapter 104 or of any order or orders of Her Majesty in Council issued in pursuance thereof.

Powers, privileges and immunities of Legislative Assembly

40A. The powers, privileges and immunities to be held, enjoyed and exercised by the Legislative Assembly and the members and committees thereof shall be such as are defined by any Act or Acts so far as those powers, privileges and immunities are not inconsistent with this Act or any other Act and until so defined shall be those powers, privileges and immunities held, enjoyed and exercised for the time being by the Commons House of Parliament of the United Kingdom and its members and committees so far as those powers, privileges and immunities are not inconsistent with this Act or any other Act, whether held, possessed or enjoyed by custom, statute or otherwise.

POWERS AND PRIVILEGES OF PARLIAMENT**Power to order the attendance of persons**

41. The Legislative Assembly of the said State and any committee of such House duly authorised by the House to send for persons and papers may order any person to attend before the House or before such committee as the case may be and also to produce to such House or committee any paper book record or other document in the possession or power of such person.

Order to attend to be notified by summons

42.(1) Any such order to attend or to produce documents before the Legislative Assembly shall be notified to the person required to attend or to produce documents by a summons under the hand of the Speaker and any such order to attend or to produce documents before any such committee shall be notified to the person required to attend or to produce documents by a summons under the hand of the clerk of the Parliament authorised by the chairperson of the committee.

(2) And in every such summons shall be stated the time and place when and where the person summoned is to attend and the particular documents which the person is required to produce.

(3) And such summons shall be served on the person mentioned therein either by delivering to the person a correct copy of such summons or by leaving a correct copy of the same with some adult person at his or her usual or last-known place of abode in the State.

(4) And there shall be paid or tendered to the person so summoned if the person shall not reside within 10 km of the legislative chambers a reasonable sum for his or her expenses of attendance.

Attendance of members

43. A member of the Assembly may be ordered by the Assembly to attend before the Assembly or before any committee of the Assembly without summons.

Objection to answer questions or produce documents to be reported to the House

44. If any person ordered to attend or produce any paper book record or other document to the Assembly or to any committee of the Assembly shall object to answer any question that may be put to the person or to produce any such paper book record or other document on the ground that the same is of a private nature and does not affect the subject of inquiry the Speaker or the chairperson of the committee as the case may be shall report such refusal with the reason thereof to the House who shall thereupon excuse the answering of such question or the production of such paper book record or other document or order the answering or production thereof as the circumstances of the case may require.

House empowered to punish summarily for certain contempts

45. The Legislative Assembly is hereby empowered to punish in a summary manner as for contempt by fine according to the standing orders of the House and in the event of such fine not being immediately paid by imprisonment in the custody of its own officer in such place within the State as the House may direct or in Her Majesty's gaol at Brisbane until such fine shall have been paid or until the end of the then existing session or any portion thereof any of the offences hereinafter enumerated whether committed by a member of the House or by any other person—

- (a) disobedience to any order of the House or of any committee duly authorised in that behalf to attend or to produce papers books records or other documents before the House or such committee unless excused by the House in manner aforesaid;
- (b) refusing to be examined before or to answer any lawful and relevant question put by the House or any such committee unless excused by the House in manner aforesaid;
- (c) the assaulting obstructing or insulting any member in his or her coming to or going from the House or on account of the member's behaviour in Parliament or endeavouring to compel any member by force insult or menace to declare himself or herself in favour of or against any proposition or matter depending or expected to be brought before the House;
- (d) the sending to a member any threatening letter on account of the member's behaviour in Parliament;
- (e) the sending a challenge to fight a member;
- (f) the offering of a bribe to or attempting to bribe a member;
- (g) the creating or joining in any disturbance in the House or in the vicinity of the House while the same is sitting whereby the proceedings of the House may be interrupted.

Speaker to issue warrant

46. For the purpose of punishing any of the contempts aforesaid the Speaker is hereby empowered upon the resolution in that behalf of the House to issue a signed warrant for the apprehension and imprisonment as aforesaid of any person adjudged by the House guilty of any such contempt if such fine shall not have been paid as aforesaid.

Persons disturbing proceedings of House may be arrested without warrant

47. Any person creating or joining in any disturbances in the House during its actual sitting may be apprehended without warrant on the verbal order of the Speaker and may be kept in the custody of the officer of the

House until a warrant can be made out for the imprisonment of such person in manner aforesaid.

Form of warrant

48.(1) Every such warrant shall contain a statement that the person therein mentioned has been adjudged guilty of contempt by the House the Speaker whereof shall have issued the same specifying the nature of such contempt in the words of this Act defining the same or in equivalent words.

(2) And every warrant shall be sufficient from which it can be reasonably collected that the person mentioned therein has been adjudged guilty of any of the contempts aforesaid and no particular form shall be necessary to be observed in such warrant.

Execution of verbal order or warrant

49.(1) The sheriff and the sheriff's officers and all police officers and other persons are hereby required to assist in the apprehension and detention of any person in pursuance of the verbal order as aforesaid of the Speaker and also to be aiding and assisting in the execution of any such warrant as aforesaid.

(2) And where any such warrant directs that the person mentioned therein shall be imprisoned in any gaol the keeper thereof is hereby required to receive such person into the keeper's custody in the said goal and there to imprison the person according to the tenor of the warrant.

Doors may be broken open in executing warrant

50. It shall be lawful for any person charged with or assisting in the execution of any warrant under the hand of the Speaker issued under the authority of this Act to break open in the daytime all doors of places where the person for whose apprehension such warrant was issued is concealed.

House may direct Attorney-General to prosecute for other contempts

52. It shall be lawful for the Legislative Assembly to direct the

Attorney-General to prosecute before the Supreme Court any such person guilty of any other contempt against the House which is punishable by law.

REQUIREMENT FOR REFERENDUM

Certain measures to be supported by referendum

53.(1) A Bill that expressly or impliedly provides for the abolition of or alteration in the office of Governor or that expressly or impliedly in any way affects any of the following sections of this Act namely—

sections 1, 2, 2A, 11A, 11B; and

this section 53

shall not be presented for assent by or in the name of the Queen unless it has first been approved by the electors in accordance with this section and a Bill so assented to consequent upon its presentation in contravention of this subsection shall be of no effect as an Act.

(2) On a day not sooner than two months after the passage through the Legislative Assembly of a Bill of a kind referred to in subsection (1) the question for the approval or otherwise of the Bill shall be submitted to the electors qualified to vote for the election of members of the Legislative Assembly according to the provisions of the *Elections Act 1915–1973* and of any Act amending the same or of any Act in substitution therefor.

Such day shall be appointed by the Governor in Council by Order in Council.

(3) When the Bill is submitted to the electors the vote shall be taken in such manner as the Parliament of Queensland prescribes.

(4) If a majority of the electors voting approve the Bill, it shall be presented to the Governor for reservation thereof for the signification of the Queen's pleasure.

(5) Any person entitled to vote at a general election of members of the Legislative Assembly is entitled to bring proceedings in the Supreme Court for a declaration, injunction or other remedy to enforce the provisions of this section either before or after a Bill of a kind referred to in subsection (1)

is presented for assent by or in the name of the Queen.

Act 24 Geo. 5 No. 35 preserved

(6) The provisions of this section shall in no way affect the operation of *The Constitution Act Amendment Act of 1934*.

LOCAL GOVERNMENT

System of local government

54.(1) There must be and continue to be a system of local government in Queensland under which duly elected local government bodies are constituted, each being charged with the good rule and government of that part of Queensland from time to time subject to that system of local government and committed to the jurisdiction of that local government body.

(2) The manner in which local government bodies are constituted and the nature and extent of their powers, authorities, duties and functions are as determined by and in accordance with the laws of the Parliament.

(3) Nothing in this section affects the operation of laws of the Parliament with respect to the carrying out of the powers, authorities, duties and functions of a local government body by a person or persons appointed where—

- (a) the council of the local government body has been dissolved; or
- (b) the council of a local government body is unable to be duly elected;

until such time as the council of a local government body has been duly elected.

(4) The reference in subsections (2) and (3) to the laws of the Parliament is a reference to the laws enacted by that Parliament, before or after the passing of the *Constitution Act Amendment Act 1989*, and for the time being in force.

(5) For the purposes of this section a joint local government and any

person or persons appointed to carry out the powers, authorities, duties and functions of a council of a local government body as an administrator are deemed to be the council of a local government body.

Manner of appointing persons to exercise powers, authorities, duties and functions of local government

55.(1) A body constituted or deemed to be constituted by 1 or more persons appointed (but not duly elected) after the commencement of the *Constitution Act Amendment Act 1989* to carry out the powers, authorities, duties and functions of a council of a local government body is not a council of a local government body appointed in accordance with section 54(3)(a) and, notwithstanding the provisions of any Act, such person or persons is or are not authorised to carry out powers, authorities, duties and functions of a council of a local government body unless the power conferred by law to dissolve the council of a local government body constituted or deemed to be constituted by such person or persons has been exercised in accordance with this section.

(2) The instrument that purports to dissolve the council of a local government body or a copy of the instrument must be tabled in the Legislative Assembly within 14 sitting days after the instrument has been made and, to the extent that it so purports, the instrument takes effect merely as a suspension from office of the duly elected members of the council of the local government body concerned until the Legislative Assembly, on the motion of the member of the Assembly for the time being responsible for local government in the State, within a period of 14 sitting days from such tabling confirms the dissolution of the council of the local government body.

(3) Where the Legislative Assembly confirms the dissolution of the council of a local government body, the instrument takes effect according to its terms as a dissolution of the council of the local government body concerned.

(4) Where the Legislative Assembly—

- (a) refuses to affirm the motion referred to in subsection (2); or
- (b) fails, within the period of 14 sitting days, to affirm the motion referred to in subsection (2);

the instrument to dissolve the council of the local government body thereupon ceases to have effect and—

- (c) the suspension from office of the duly elected members of the council of the local government body thereupon ceases and they are reinstated in their respective offices; and
- (d) the appointment of the person or persons appointed to exercise the powers, authorities, duties and functions of the council of the local government body thereupon terminates.

(5) Any person or persons appointed (but not duly elected) according to law to carry out the powers, authorities, duties and functions of a council of a local government body whose members are, pursuant to this section, suspended from office is or are authorised to carry out those powers, authorities, duties and functions during the period of suspension.

(6) In this section—

“local government body” means a body constituted by duly elected members and charged with carrying on the functions of local government.

Procedure on Bills affecting local government

56.(1) A member of the Legislative Assembly who is to be in charge of the passage in the Assembly of a Bill that is the responsibility of the member of the Assembly for the time being responsible for local government in the State and that, if enacted by the Parliament, would affect local government bodies generally, or any of them, if the member considers compliance with this subsection is practicable in the particular case, must cause a summary of the Bill to be given to an association that represents local government bodies in that State a reasonable time before the member (or a member on the member’s behalf) moves for leave of the Assembly to bring in the Bill.

(2) A Bill for an Act whereby the whole of the State would cease to have a system of local government that conforms to that prescribed by section 54(1) must not be presented to Her Majesty or the Governor for assent unless, on a day, appointed by order in council, no earlier than 6 months and no later than 1 month before the Bill is introduced in the Assembly, a proposal that the State should cease to have such a system of

local government has been approved by majority vote of the electors of the State voting on the proposal.

(3) A Bill assented to consequent upon its presentation in contravention of subsection (2) is of no effect as an Act.

(4) When such proposal is submitted to the electors of the State the vote must be taken in such manner as the Parliament prescribes.

(5) Any of the electors of the State is entitled to bring proceedings in the Supreme Court for a declaration, injunction or other remedy to enforce the provisions of subsection (2) either before or after a Bill of a kind referred to in subsection (2) is presented for assent.

(6) In subsections (2) to (5)—

“**electors of the State**” means the persons qualified to vote at a general election of members of the Assembly according to the provisions of the *Electoral Act 1992*.

PARLIAMENTARY SECRETARIES

Appointment of Parliamentary Secretaries

57.(1) The Governor in Council may appoint members of the Legislative Assembly as Parliamentary Secretaries.

(2) However, a Minister or member of the Executive Council may not be appointed as a Parliamentary Secretary.

Functions of Parliamentary Secretary

58. A Parliamentary Secretary has the functions decided by the Premier.

Duration of appointment as Parliamentary Secretary

59.(1) The appointment of a member of the Legislative Assembly as a Parliamentary Secretary ends on the polling day of the next election conducted of the members of the Legislative Assembly.

(2) However, the appointment ends before polling day if—

- (a) the member's seat becomes vacant otherwise than because the Legislative Assembly is dissolved or expires by the passage of time; or
- (b) the member resigns as Parliamentary Secretary by written notice of resignation given to the Premier; or
- (c) the member is appointed as a Minister or member of the Executive Council; or
- (d) the appointment is ended by the Premier under subsection (3).

(3) The Premier may, at any time, end the appointment for reasons that the Premier considers sufficient.

Reimbursement of expenses

60.(1) A Parliamentary Secretary is entitled to be reimbursed the Parliamentary Secretary's reasonable expenses of office.

(2) The consolidated fund is appropriated for the reimbursement.

ENDNOTES

1 Index to endnotes

	Page
2 Date to which amendments incorporated	28
3 Key	28
4 Table of earlier reprints	29
5 Tables in earlier reprints	29
6 List of legislation	29
7 List of annotations	31
8 Table of corrected minor errors	35

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 29 January 1999. Future amendments of the Constitution Act 1867 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 93 of 1989	16 February 1996
2	to Act No. 3 of 1996	7 June 1996

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed names and titles	1
Changed citations and remade laws	1
Obsolete and redundant provisions	1
Corrected minor errors	1
Renumbered provisions	1
Comparative legislation	1

6 List of legislation

Constitution Act 1867 31 Vic No. 38

date of assent 28 December 1867

commenced 31 December 1867 (see s 57)

as amended by—

Constitution Act Amendment Act 1871 34 Vic No. 28

date of assent 19 June 1871

commenced on date of assent

Defamation Act 1889 53 Vic No. 12 s 2 sch (prev Defamation Law of Queensland)

date of assent 11 October 1889

commenced on date of assent

Constitution Act Amendment Act 1890 54 Vic No. 3

date of assent 29 September 1890

commenced on date of assent

Criminal Code Act 1899 63 Vic No. 9 s 3(2) sch 3

date of assent 28 November 1899

commenced on date of assent

Acts Citation Act 1903 3 Edw 7 No. 10 s 10 sch 3 (prev Acts Shortening Act Amendment Act 1903)

date of assent 13 November 1903

commenced on date of assent

Statute Law Revision Act 1908 8 Edw 7 No. 18 s 2 sch 1

date of assent 23 December 1908

commenced on date of assent

Constitution Act Amendment Act 1922 12 Geo 5 No. 32

date of assent 23 March 1922

commenced on date of assent

Constitution Acts Amendment Act 1959 8 Eliz 2 No. 23

date of assent 16 April 1959

commenced on date of assent

Constitution Acts Amendment Act 1961 10 Eliz 2 No. 20

date of assent 4 April 1961

commenced 1 April 1961 (see s 1(3))

Constitution Acts Amendment Act 1964 No. 6

date of assent 31 March 1964

commenced 1 July 1963 (see s 1(3))

Constitution Acts Amendment Act 1965 No. 65

date of assent 23 December 1965

commenced 1 December 1965 (see s 1(3))

Constitution Acts Amendment Act 1968 No. 24

date of assent 13 September 1968

commenced on date of assent

Constitution Acts Amendment Act 1971 No. 46

date of assent 1 November 1971

commenced on date of assent

Metric Conversion Act 1972 No. 31 pt 2 sch 1

date of assent 21 December 1972

commenced 5 July 1973 (proc pubd gaz 7 July 1973 p 1927)

Constitution Act Amendment Act 1977 No. 9

date of assent 5 April 1977

for notification of Royal Assent see proc pubd gaz 5 April 1977 p 1385

commenced on date of assent

Constitution Act and Another Act Amendment Act 1977 No. 24 pt 2

date of assent 21 April 1977

commenced 1 July 1977 (proc pubd gaz 25 July 1977 p 1122)

Legislative Assembly Act and Another Act Amendment Act 1978 No. 5 pt 3

date of assent 17 May 1978

s 6 commenced 1 July 1977 (see s 6(2))

remaining provisions commenced on date of assent

Constitution Act Amendment Act 1978 No. 42

date of assent 8 June 1978
 commenced on date of assent

Australia Act 1986 s 13 (Cwlth and Imp.)

date of assent 16 October 1985
 commenced 3 March 1986 (see s 17(2))

Constitution (Office of Governor) Act 1987 No. 73 s 16

date of assent 1 December 1987
 commenced on date of assent

Financial Administration and Audit Act and Another Act Amendment Act 1988 No. 49 pt 3

date of assent 12 May 1988
 commenced 1 July 1988 (proc pubd gaz 25 June 1988 p 2441)

Constitution Act Amendment Act 1989 No. 93

date of assent 10 October 1989
 commenced on date of assent

Constitution (Parliamentary Secretaries) Amendment Act 1996 No. 3 pts 1–2, s 2 sch 1

date of assent 9 May 1996
 commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 146

date of assent 22 October 1996
 s 146 commenced 21 October 1998 (automatic commencement under AIA s 15DA(2)) (see also 1997 SL No. 203 s 30(2))
 remaining provisions commenced on date of assent

7 List of annotations

Note—for text of Australia Act 1986 (Imp.), s 13 see Australia Acts (Request) Act 1985 No. 69, sch 2

Note also—references to ‘Pring’s Statutes’ and to Colonial Acts were omitted from the sectional notes throughout this Act by Act of 1903 3 Edw 7 No. 10 s 10 sch 3

PRELIMINARY

hdg prec s 1A ins 1996 No. 3 s 2 sch 1

Short title

s 1A ins 1996 No. 3 s 2 sch 1

Legislative Assembly

s 1 amd 1922 12 Geo 5 No. 32 s 4 sch

Legislative Assembly constituted

s 2 amd 1922 12 Geo 5 No. 32 s 4 sch

The Parliament

s 2A ins 1977 No. 9 s 3

One session of Parliament to be held each year

s 3 amd 1922 12 Geo 5 No. 32 s 4 sch

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

s 4 amd 1922 12 Geo 5 No. 32 s 4 sch
sub 1987 No. 73 s 16(3)(a)

Disqualifying contractors and persons interested in contracts—election to take place on vacancies

s 6 amd 1922 12 Geo 5 No. 32 s 4 sch

Election of disqualified persons void

s 7 amd 1922 12 Geo 5 No. 32 s 4 sch

Scope of ss 6 and 7

s 7A ins 1959 8 Eliz 2 No. 23 s 2(1)
amd 1996 No. 3 s 2 sch 1

Seats to become vacant in certain cases

s 7B ins 1977 No. 24 s 5
om 1978 No. 5 s 6(1)

Power of Legislative Assembly to relieve from consequences of alleged defaults

s 7C ins 1977 No. 24 s 6
om 1978 No. 5 s 6(1)

Standing rules and orders to be made

s 8 amd 1922 12 Geo 5 No. 32 s 4 sch; 1978 No. 42 s 2

Power to alter constitution of Legislative Council

s 9 om 1922 12 Geo 5 No. 32 s 4 sch

Power to alter system of representation

s 10 amd 1871 34 Vic No. 28 s 1

Existing Legislature not affected by this Act

s 11 om 1987 No. 73 s 16(3)(b)

Office of Governor

s 11A ins 1977 No. 9 s 4
amd Australia Act 1986 (Cwlth and Imp.) s 13(2)

Definition of Royal Sign Manual

prov hdg sub Australia Act 1968 (Cwlth and Imp.) s 13(3)

s 11B ins 1977 No. 9 s 5
amd Australia Act 1986 (Cwlth and Imp.) s 13(3)

Place and time of holding Parliament

s 12 amd 1922 12 Geo 5 No. 32 s 4 sch

Provisions of former Acts respecting the allowance and disallowance of Bills reserved

s 13 om 1987 No. 73 s 16(3)(b)

Officers liable to retire from office on political grounds

prov hdg amd 1996 No. 37 s 146(2)

s 14 amd 1977 No. 9 s 6; Australia Act 1986 (Cwlth and Imp.) s 13(4);
1996 No. 37 s 146(3)**But they may be removed by the Crown on the address of Parliament**

s 16 amd 1922 12 Geo 5 No. 32 s 4 sch

No part of public revenue to be issued except on warrants from Governor

s 19 om 1988 No. 49 s 30

THE LEGISLATIVE COUNCIL

hdg prec s 20 om 1922 12 Geo 5 No. 32 s 4 sch

ss 20–26 om 1922 12 Geo 5 No. 32 s 4 sch

Duration of Assembly

s 29 om 1890 54 Vic No. 3 s 1

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

s 31 om 1987 No. 73 s 16(3)(b)

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

s 32 om 1987 No. 73 s 16(3)(b)

Force of laws and authority of courts preserved

s 33 om 1987 No. 73 s 16(3)(b)

Civil list of £16,300 payable to Her Majesty

s 36 om 1908 8 Edw 7 No. 18 s 2 sch 1

Civil list to be accompanied by surrender of all revenues of the Crown

s 37 om 1987 No. 73 s 16(3)(b)

Pensions payable to judges of Supreme Court

s 38 om 1987 No. 73 s 16(3)(b)

Consolidated fund to be appropriated by Act of the legislature

s 39 amd 1996 No. 3 s 2 sch 1

The entire management of Crown lands and all revenues thence arising to be vested in the local legislature

s 40 amd 1996 No. 3 s 2 sch 1

Powers, privileges and immunities of Legislative Assembly

s 40A ins 1978 No. 42 s 3

POWERS AND PRIVILEGES OF PARLIAMENT

hdg prec s 41 amd 1922 12 Geo 5 No. 32 s 4 sch

Power to order the attendance of persons

s 41 amd 1922 12 Geo 5 No. 32 s 4 sch

Order to attend to be notified by summons

s 42 amd 1922 12 Geo 5 No. 32 s 4 sch; 1972 No. 31 s 6 sch 1

Attendance of members

s 43 amd 1922 12 Geo 5 No. 32 s 4 sch

Objection to answer questions or produce documents to be reported to the House

s 44 amd 1922 12 Geo 5 No. 32 s 4 sch

House empowered to punish summarily for certain contempts

s 45 amd 1922 12 Geo 5 No. 32 s 4 sch

Speaker to issue warrant

prov hdg amd 1922 12 Geo 5 No. 32 s 4 sch

s 46 amd 1922 12 Geo 5 No. 32 s 4 sch

Persons disturbing proceedings of House may be arrested without warrant

s 47 amd 1922 12 Geo 5 No. 32 s 4 sch

Form of warrant

s 48 amd 1922 12 Geo 5 No. 32 s 4 sch

Execution of verbal order or warrant

prov hdg sub 1996 No. 3 s 2 sch 1

s 49 amd 1922 12 Geo 5 No. 32 s 4 sch; 1996 No. 3 s 2 sch 1

Doors may be broken open in executing warrant

s 50 amd 1922 12 Geo 5 No. 32 s 4 sch

House may direct Attorney-General to prosecute instead of proceeding summarily

s 51 om 1889 53 Vic No. 12 s 2 sch

House may direct Attorney-General to prosecute for other contempts

s 52 amd 1922 12 Geo 5 No. 32 s 4 sch

REQUIREMENT FOR REFERENDUM

hdg prec s 53 ins 1977 No. 9 s 7

Certain measures to be supported referendum

s 53 prev s 53 om 1899 63 Vic No. 9 s 3(2) sch 3

pres s 53 ins 1977 No. 9 s 7

amd 1996 No. 37 s 146(4)

LOCAL GOVERNMENT

hdg prec s 54 ins 1989 No. 93 s 3

System of local government

s 54 prev s 54 om 1889 53 Vic No. 12 s 2 sch

pres s 54 ins 1989 No. 93 s 3

Manner of appointing persons to exercise powers, authorities, duties and functions of local government

s 55 prev s 55 om 1889 53 Vic No. 12 s 2 sch

pres s 55 ins 1989 No. 93 s 3

Procedure on Bills affecting local government

s 56 prev s 56 om 1889 53 Vic No. 12 s 2 sch
pres s 56 ins 1989 No. 93 s 3

PARLIAMENTARY SECRETARIES

hdg prec s 57 sub 1996 No. 3 s 3

Appointment of Parliamentary Secretaries

s 57 sub 1996 No. 3 s 3

Functions of Parliamentary Secretary

s 58 ins 1996 No. 3 s 3

Duration of appointment as Parliamentary Secretary

s 59 ins 1996 No. 3 s 3

Reimbursement of expenses

s 60 ins 1996 No. 3 s 3

SCHEDULE A

om 1908 8 Edw 7 No. 18 s 2 sch 1

SCHEDULE B

om 1908 8 Edw 7 No. 18 s 2 sch 1

8 Table of corrected minor errors

TABLE OF CORRECTED MINOR ERRORS
under the Reprints Act 1992 s 44

Provision	Description
15	om 'continue' ins 'continued'