

ANNO VICESIMO QUARTO & VICESIMO QUINTO  
VICTORIÆ REGINÆ.

CAP. XLIV.

IMPERIAL ACT.  
QUEENSLAND  
LEGISLATION AND  
SOUTH AUSTRALIA  
LAND EXTENSION.

An Act to remove Doubts respecting the Authority of the Legislature of Queensland and to annex certain Territories to the Colony of South Australia and for other purposes. [22nd July, 1861.]

5 & 6 Vic. c. 76.

17 Vic. No. 41.

18 & 19 Vic. c. 54  
Schedule 1 s. 46.

WHEREAS by an Act passed in the Session of Parliament holden in the fifth and sixth years of Her Majesty intituled "*An Act for the Government of New South Wales and Van Diemen's Land*" it was enacted that it should be lawful for Her Majesty by Letters Patent to be from time to time issued under the Great Seal of the United Kingdom of Great Britain and Ireland to define as to Her Majesty should seem fit the limits of the Colony of New South Wales and to erect into a separate Colony or Colonies any Territories which then were or were reputed to be or thereafter might be comprised within the said Colony of New South Wales Provided always that no part of the Territories lying southward of the twenty-sixth degree of south latitude in the said Colony should by any such Letters Patent be detached from the said Colony And whereas by a Bill passed by the Legislative Council of New South Wales in the seventeenth year of Her Majesty intituled "*An Act to confer a Constitution upon New South Wales and to grant a Civil List to Her Majesty*" which said Act was with certain amendments assented to by Her Majesty in Council under authority of an Act of Parliament passed in the Session holden in the eighteenth and nineteenth year of Her said Majesty intituled "*An Act to enable Her Majesty to assent to a Bill as amended of the Legislature of New South Wales to confer a Constitution upon New South Wales and to grant a Civil List to Her Majesty*" it was provided that nothing in the said Bill contained should be deemed to prevent Her Majesty from altering the boundary of New South Wales on the north in such manner as to Her Majesty might seem fit nor for detaching from the said Colony that portion of the same which lies between the western boundary of South Australia and the one hundred and twenty-ninth degree of east longitude reckoning from the meridian of Greenwich And whereas by the last-recited Act of Parliament provision was made respecting the exercise by Her Majesty of the power given Her by the said Bill of altering the northern boundary of New South Wales and it was declared that it should be lawful for Her Majesty by Letters Patent to be from time to time issued under the Great Seal of the United Kingdom of Great Britain and Ireland to erect into a separate Colony or Colonies any Territories which might be separated from New South Wales by such alteration as aforesaid of the northern boundary thereof and in and by such Letters Patent or by Order in Council to make provision for the Government of any such Colony and for the establishment of a Legislature therein in manner as nearly resembling the form of Government and Legislature which should be at such time established in New South Wales as the circumstances of such Colony would allow and that full power should be given in and by such Letters Patent or Order in Council to the Legislature of the said Colony to make further provision in that behalf And whereas in virtue of the powers hereinbefore set forth Her Majesty did by certain Letters Patent bearing date the sixth day of June in the year

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year one thousand eight hundred and fifty-nine separate certain Territories therein mentioned from the Colony of New South Wales and did erect the said Territories into a separate Colony under the name of Queensland and did also by a certain Order in Council also bearing date the said sixth day of June one thousand eight hundred and fifty-nine make provision for the Government of the said Colony of Queensland and for the establishment of a Legislature therein but the form of Government and Legislature so established did not in all respects resemble the form of Government and Legislature at that time established in New South Wales And whereas doubts are entertained whether the powers intended to be conferred upon the said Government and Legislature by the said Order in Council and the Acts done by them may not be invalid by reason of such want of resemblance as aforesaid And whereas doubts are also entertained whether it is competent to Her Majesty by Letters Patent to annex to any existing Colony any part of New South Wales which may be detached therefrom or to detach from New South Wales that portion thereof which lies between the western boundary of South Australia and the one hundred and twenty-ninth degree of east longitude And whereas it is expedient to set at rest all such doubts as aforesaid and also to detach from New South Wales the last-mentioned portion thereof and to annex the same to South Australia Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

1. So much of the Colony of New South Wales being to the south of the twenty-sixth degree of south latitude as lies between the western boundary of South Australia and the one hundred and twenty-ninth degree of east longitude shall be and the same is hereby detached from the Colony of New South Wales and annexed to the Colony of South Australia and shall for all purposes whatever be deemed to be part of the said last-mentioned Colony from the day on which this Act of Parliament shall be proclaimed therein.

Certain Territories detached from New South Wales and annexed to South Australia.

2. It shall be lawful for Her Majesty by such Letters Patent as aforesaid to annex to any Colony which is now or may hereafter be established on the Continent of Australia any Territories which in exercise of the powers hereinbefore mentioned might have been erected into a separate Colony Provided always that it shall be lawful for Her Majesty in such Letters Patent to reserve such powers of revoking or altering the same as to Her Majesty shall seem fit or to declare the period during which such Letters Patent shall remain in force and also on the revocation or other determination of such Letters Patent again to exercise in respect of the Territories referred to therein or any part thereof all such powers and authority as might have been exercised if the said Letters Patent had never been made.

Power to annex to existing Colonies Territories now part of New South Wales.

3. All the provisions made in the afore-mentioned Letters Patent and Order in Council of the said sixth day of June one thousand eight hundred and fifty-nine for establishing the Colony of Queensland and for the Government of the said Colony and for the establishment of a Legislature therein shall be and be deemed to have been valid and effectual for all purposes whatever and all acts and proceedings of the said Government and Legislature shall be and be deemed to have been from the date of the said Order in Council of the same force and effect as if the last-mentioned Order in Council had been in all respects valid and free from doubt.

All provisions of Letters Patent of 6th June 1859 and proceedings thereunder of Government &c. of Queensland to be valid.

4. And whereas in the event of any Territories being hereafter separated from New South Wales and erected into a separate Colony it may not be expedient that the form of the Government and Legislature to be established in the said Colony should depend upon the

Sect. 7 of 18 and 19 Vic. c. 51 repealed.

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the form of Government and Legislature which may at the time of such separation be established in New South Wales Be it enacted as follows—So much of the secondly herein-recited Act of Parliament as requires that the Government and Legislature of any Colony so erected as aforesaid shall as nearly as the circumstances of the said Colony shall allow resemble the form of Government and Legislature which shall be at such time established in New South Wales shall be and the same is hereby repealed.

Provision for determining boundaries.

5. Whereas the boundaries of certain of Her Majesty's Colonies on the Continent of Australia may be found to have been imperfectly or inconveniently defined and it may be expedient from time to time to determine or alter such boundaries Be it therefore further enacted as follows—It shall be lawful from time to time for the Governors of any contiguous Colonies on the said Continent with the advice of their respective Executive Councils by any instrument under their joint hands and seals to determine or alter the common boundary of such Colonies and the boundary described in any such instrument shall be deemed to be within the limits there laid down the true boundary of said Colonies so soon as Her Majesty's approval of such instrument shall have been proclaimed in either of such Colonies by the Governor thereof.

Providing mode of apportioning Public Debt in the event of any Territory being separated from any Australian Colony.

6. In the event of any Territory being hereafter separated from any Australian Colony and either erected into a separate Colony or annexed to any other Colony if the Governor of the Colony to which such Territory belonged before separation or the Governor of the Colony to which it shall belong or which it may constitute after separation shall represent to one of Her Majesty's Principal Secretaries of State that a question has arisen between the Governments of two Colonies as to the proportions in which the Public Debt of the Colony from which such Territory has been separated should be borne by the two Colonies respectively after separation or as to the division of the Public Moneys in the Treasury of such first-mentioned Colony at the time of separation it shall be lawful for Her Majesty through one of Her Principal Secretaries of State to require the Governors of the two Colonies with the advice of their respective Executive Councils each to appoint a Commissioner and it shall be lawful for Her Majesty to appoint a third Commissioner not being a resident in or employed in the Public Service of either Colony and to fix the time and place of the first meeting of the Commissioners and such Commissioners shall determine the proportion in which such moneys or debt shall be divided between the two Colonies and the award of such Commissioners or of any two of them when confirmed by Her Majesty in Council shall be final and conclusive against both Colonies Provided always that nothing herein contained and no award as aforesaid shall in any way prejudice or affect the security of any Debentures which may have been issued before the separation of any Territory by the Government of the Colony from which such Territory may be separated or the absolute right and claim of the holders thereof to demand and receive payment of the amounts thereby respectively purporting to be secured as well out of the revenues of the Colony from which such Territory has been separated as out of the revenues of the Colony to which such Territory shall belong or which it may constitute.