

# A BILL

## To regulate Commons.

[MR. OWEN ;—6 October, 1869.]

**B**E it enacted by the Queen's Most Excellent Majesty by and with Preamble.  
the advice and consent of the Legislative Council and Legislative  
Assembly of New South Wales in Parliament assembled and by the  
authority of the same as follows :—

5 1. The Act eleventh Victoria number thirty-one is hereby Repeal of 11 Vic.  
No. 31.  
repealed.

2. Any persons duly elected or appointed under this Act Trustees of Common  
to be body corporate.  
Trustees of any Common created by grant from the Crown and their  
successors shall be a body corporate under the name of Trustees of the  
10 Common specified in such grant and under that name shall have  
perpetual succession and a common seal may sue and be sued in their  
corporate name and shall be capable of holding Common lands in  
perpetuity upon the trusts and for the uses declared in such grant.

3. A general or special meeting of commoners for the trans- Meetings of com-  
moners.  
15 action or consideration of any business or matter relating to any  
Common under this Act may upon the requisition of not fewer than  
twenty of the commoners thereof be convened by any Trustee of such  
Common or by any Justice of the Peace by notification in some news-  
paper ordinarily circulating within the district in which such Common  
20 shall be situate and by written notice exhibited in the office of the  
Court of Petty Sessions nearest to such Common at least *fourteen* days  
before the intended day of meeting.

4. There shall be a general meeting of commoners of every General meeting to  
be held at least  
once a year.  
Common held at least once in every year.

25 5. Every general or special meeting of commoners may adjourn Power of adjourn-  
ment.  
from time to time and every adjourned meeting shall for the purpose  
of the conduct of business be held to be the original meeting notwith-  
standing such adjournment.

Chairman of meeting.

6. At every such meeting the senior Trustee present shall preside and in case of his refusal or inability then the Justice convening the meeting but if no Trustee or Justice be present or willing to preside the commoners present may elect any commoner present to act as chairman.

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Proceedings at meetings.

7. At any such meeting every question shall be stated in writing and shall be put by the chairman and decided by a majority of votes of the commoners present. And the chairman in case of an equality of votes only shall have a casting vote and the result of such voting shall in the first instance be declared by the chairman but if a 10 division be called for the votes shall be reckoned by the chairman or by any person or persons he may appoint as tellers.

Powers of general meeting.

8. Every general meeting of commoners may exercise any power conferred by this Act and may call for and examine accounts of Trustees relating to the management of the Common and may 15 consider amend and repeal existing and frame new regulations. Provided that every such amended or new regulation shall be approved by the Governor with the advice of the Executive Council.

Proceedings and powers of special meetings.

9. The purpose for which any special meeting of commoners is convened shall be set forth in the requisition by which such meeting 20 shall have been convened and shall be stated by the chairman to the meeting. And every such meeting may determine the matter set forth in such requisition and any other of which one week's notice as aforesaid shall have been given but not any other matter.

Election and nomination of Trustees.

10. A general election of new Trustees for every Common shall 25 take place at a duly convened meeting of commoners in the month of January in each year and not more than three Trustees shall be elected or shall hold office for the same Common and if any number less than three or if no Trustee be elected at any such meeting the Governor with the advice of the Executive Council shall complete the required 30 number by nomination and the Trustees so elected or nominated shall after notification thereof in the *Gazette* hold office as Trustees of such Common until the next general election of Trustees.

Vacancy among Trustees how filled.

11. Whenever a vacancy shall occur in the number of Trustees of any Common during the currency of their term of office by death 35 resignation or otherwise such vacancy may be filled up by agreement among the other Trustees subject to disapproval by the Governor with the advice of the Executive Council and in default of such agreement or otherwise by the Governor as aforesaid.

12. The Trustees of any Common may make regulations to be <sup>Regulations.</sup> approved by the Governor with the advice of the Executive Council for carrying this Act into effect and such regulations shall be published in such newspaper as aforesaid and a copy thereof affixed in the office 5 of the nearest Court of Petty Sessions.

13. Subject to the provisions and restrictions herein contained <sup>Rights of commoners.</sup> the rights of commoners in regard to any Common shall so far as the same are capable of being exercised include the commonable rights recognized by the law of England Provided always that the nature 10 and extent of such rights shall in every case be defined by the regulations of each Common.

14. The Trustees of any Common may determine and declare <sup>General powers of Trustees.</sup> by writing under their hands from time to time what persons are entitled as commoners to rights of commonage in and upon such 15 Common and the number and description of cattle and other stock which every such commoner shall be entitled to depasture upon such Common and such declaration shall be forthwith deposited in the office of the nearest Court of Petty Sessions and a copy thereof published in such newspaper as aforesaid and any person feeling himself aggrieved 20 by any such declaration shall be at liberty to appeal against the same to any two Justices at the nearest Court of Petty Sessions at any time within two months from the time of such publication as aforesaid and the said Justices shall have full power to hear and determine the said appeal in a summary manner and to award such costs against either 25 party as they shall consider reasonable Provided that it shall be unlawful for the Trustee of any Common during his term of office to be a commoner of the Common of which he is such Trustee.

15. Any Trustee of a Common or other person duly authorized <sup>Power of impounding by Trustees.</sup> shall have power to distrain or impound cattle or other animals 30 trespassing on such Common and to recover damages or other charges for such trespass in like manner as an owner or occupant of land is by law entitled.

16. The Trustees of any Common with the consent of a majority <sup>Power of sale by Trustees.</sup> of at least two-thirds of the commoners present at a special meeting 35 convened for the purpose of considering such sale in manner hereinbefore directed may sell any portion of such Common in lots of not less than either by public auction or by private contract at a price of not less than five pounds per acre.

Surrender by  
Trustees.

17. The Trustees of any Common may surrender to the Crown or any adjacent Municipality the whole of such Common remaining at any time unsold on condition that some useful public work not being less in estimated value than such Common shall be constructed within or for the benefit of the district or districts in which such Common is 5 situated Provided that no such surrender shall be lawful unless a majority of at least two-thirds of the commoners present at a special meeting duly convened in manner hereinbefore directed for the purpose of considering such surrender shall have approved thereof and unless the terms and conditions of such surrender shall have been published 10 in the *Gazette* and in such newspaper as aforesaid three months at least before the holding of the said meeting.

Power of expenditure  
by Trustees.

18. The proceeds of sales of lands being part of any Common shall be deposited in a bank by the Trustees thereof who shall have power to expend the same or any portion thereof upon public works 15 within or for the benefit of the district or districts within which any such Common may be situated or to pay them over to the Government as part of the value of the Common in the event of its being surrendered to the Crown as hereinbefore provided Provided however that no such expenditure or payment as aforesaid shall be lawful unless a majority 20 of at least two-thirds of the commoners present at a special meeting duly convened in manner hereinbefore directed shall have sanctioned such expenditure or payment.

19. No enactment relating to Commons contained in either of the Acts twenty-fifth Victoria number one or twenty-fifth Victoria 25 number two or any other Act of Council and no Regulation made thereunder shall restrict or otherwise affect the operation of this Act but shall so far as the same may be inconsistent herewith be to that extent repealed hereby.

Publication of  
accounts.

20. An account of all moneys received and expended on account 30 of every Common shall be exhibited every half-year at the nearest Court of Petty Sessions and published in such newspaper as aforesaid.

Short title.

21. This Act shall be styled and may be cited as the "Commons Regulation Act of 1869."