

(No. 2.)

Legislative Council.

33^o VICTORIA, 1869.

A BILL

To regulate Commons.

[MR. OWEN ;—13 October, 1869.]

BE it enacted by the Queen's Most Excellent Majesty by and with 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 repealed.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 commoners.
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 the *Gazette* and by written notice exhibited in the office of any Court of Petty
20 Sessions nearest to or within six miles of 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 once a year. Common held at least once in every year.
5. Every general or special meeting of commoners may adjourn Power of adjournment.
25 from time to time and every adjourned meeting shall for the purpose

of the conduct of business be held to be a duly convened and constituted general or special meeting as the case may be notwithstanding 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. 5

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 division be called for the votes shall be reckoned by the chairman or by any person or persons he may appoint as tellers. 10 15

Powers of general meeting.

8. Every general meeting of commoners of any Common may exercise any power conferred by this Act upon the general body of commoners and may call for and examine accounts of Trustees relating to the management of such Common and may consider amend and repeal existing and frame new by-laws Provided that every such amended or new by-laws shall be published in the *Government Gazette* and if disallowed by the Governor with the advice of the Executive by a like publication shall be of no effect. 20

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 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 or any other matter of which *one week's* notice as aforesaid shall have been given but not any other matter. 25

Election and nomination of Trustees.

10. A general election of new Trustees for every Common shall 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 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. 30 35

11. Whenever a vacancy shall occur in the number of Trustees ^{Vacancy among Trustees how filled.} of any Common during the currency of their term of office by death resignation or otherwise such vacancy may be filled up by agreement among the other Trustees unless at any time disallowed by the ⁵ 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 with the consent of a majority ^{Power of sale by Trustees.} of at least two-thirds of the commoners present at three special meetings or adjourned special meetings convened or constituted in ¹⁰ manner hereinbefore directed for the purpose of considering such sale in manner hereinbefore directed may sell any portion of such Common in lots of not less than *forty acres* either by public auction or by private contract at a price of not less than *five pounds* per acre.

13. The Trustees of any Common may surrender to the Crown ^{Surrender by Trustees.} or any adjacent Municipality the whole of such Common remaining at ¹⁵ 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 situated Provided that no such surrender shall be lawful unless a ²⁰ majority consisting of at least two-thirds of the commoners present at three special meetings or adjourned special meetings duly convened or constituted 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 ²⁵ in the *Gazette* three months at least before the holding of the said meeting.

14. The proceeds of sales of lands being part of any Common ^{Power of expenditure by Trustees.} 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 ³⁰ 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 ³⁵ majority consisting of at least two-thirds of the commoners present at three special meetings or adjourned special meetings duly convened or constituted in manner hereinbefore directed for the purpose of considering such expenditure shall have sanctioned such expenditure or payment.

General powers of Trustees.

15. The Trustees of any Common may determine and declare from time to time what persons are entitled as commoners to rights of commonage in and upon such 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 the *Gazette* and any person feeling himself aggrieved 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 party as they shall consider reasonable Provided that if the Trustee of any Common during his term of office be a commoner of the Common of which he is such Trustee the rights of such Trustee to such Common shall be null and void for the time being.

Rights of commoners.

16. Subject to the provisions and restrictions herein contained 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 and extent of such rights shall in every case be defined by By-laws under this Act.

Power of impounding by Trustees.

17. Any Trustee of a Common or other person duly authorized may distrain or impound cattle or other animals trespassing on such Common and may recover damages or other charges for such trespass in like manner as any owner or occupant of land is by law entitled.

By-laws.

18. The Trustees of any Common may make by-laws subject to this Act for carrying the same into effect Provided that such by-laws shall be published in the *Government Gazette* and a copy thereof affixed in the office of the nearest Court of Petty Sessions and if disallowed by a general meeting of commoners of such Common or by the Governor with the advice of the Executive Council by a like publication shall be of no effect.

No previous enactment or regulation to affect the operation of this Act.

19. No enactment relating to Commons contained in either of the Acts twenty-five Victoria number one or twenty-five Victoria 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.

20. An account of all moneys received and expended on account Publication of accounts. of every Common shall be exhibited every half-year at the nearest Court of Petty Sessions and published in the *Government Gazette*.

21. The Governor with the advice of the Executive Council Regulations under this Act. may make regulations not inconsistent with this Act for carrying the same into effect and such regulations shall be published in the *Government Gazette* and a copy of the same transmitted to each body of Trustees under this Act and laid before both Houses of Parliament if sitting or if not then within a reasonable time after the commencement of the then next Session.

22. This Act shall be styled and may be cited as the “Commons Short title. Regulation Act of 1870.”

[6d.]

10. An account of all moneys received and expended on account of every Common shall be exhibited every half year at the next Court of Exchequer and published in the Government Gazette.

11. The Governor with the advice of the Executive Council may make regulations for the better management of the said Common and a copy of the same shall be published in the Government Gazette and a copy of the same shall be laid before both Houses of Parliament.

12. This Act shall be cited and may be cited as the "Commons Regulation Act of 1870."

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