

No. III.

HAWKESBURY BENE-
VOLENT SOCIETY.

An Act to enable the Members of a certain Society in the Colony of New South Wales denominated "The Hawkesbury Benevolent Society" to sue and be sued in the name of their Treasurer for the time being and for other purposes therein contained. [21st July, 1840.]

Preamble.

Enabling the Society
to sue in the name
of their Treasurer.

WHEREAS a Society has been for some years established at Windsor in the Colony of New South Wales called "The Hawkesbury Benevolent Society" which has for its object the relief of such poor persons as through age accident or infirmity are unable to support themselves And whereas to ensure its permanent prosperity it is expedient that some member of the same should be enabled to sue and be sued in the place of the whole of the members of such Society Be it therefore enacted by His Excellency the Governor of New South Wales by and with the advice of the Legislative Council thereof That all actions and suits whatsoever against any person or persons whether a member or members of the said Society or otherwise and all other proceedings whatsoever whether at Law or in Equity to be commenced or prosecuted by or on the behalf of the said Society or wherein the said Society is or shall be in anywise interested or concerned against any person or persons body or bodies politic or corporate shall and may be lawfully commenced and prosecuted in the name of the person who shall be the Treasurer of the said Society at the time any such action suit or other proceeding shall be instituted as the nominal plaintiff prosecutor complainant or petitioner for and on behalf of the said Society and such proceedings shall and may be prosecuted and carried on to their final termination in the name of such Treasurer notwithstanding any change may have been made in the said office of Treasurer during the progress of any such action suit or other proceeding.

Actions against the
Society to be prose-
cuted against their
Treasurer.

2. And be it enacted That all actions suits prosecutions and other proceedings at Law or in Equity to be commenced and prosecuted against the said Society shall be commenced and prosecuted against the Treasurer thereof for the time being as the nominal defendant for and on behalf of the said Society and that the death
resignation

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resignation or other act of the Treasurer of the said Society shall not abate any such action suit or other proceeding but the same may be continued where it left off and be prosecuted and carried on against the said Society in the name of the person who was Treasurer when such action suit or other proceeding was instituted or commenced Provided always that every such Treasurer in whose name any such action suit or other proceeding shall be commenced prosecuted carried on or defended shall in all cases be reimbursed and paid out of the funds of the said Society.

Proviso for indemnifying Treasurer.

3. And be it enacted That the Treasurer for the time being of the said Society being the plaintiff prosecutor or complainant petitioner or defendant in any action suit petition or other proceeding as aforesaid on behalf of the said Society shall not prevent his being a witness in any such action suit prosecution petition or other proceeding in like manner as he might have been if his name had not been made use of as such plaintiff prosecutor or complainant petitioner or defendant therein.

Treasurer may be a witness.

4. And be it enacted That a memorial of the name of the Treasurer of the said Society in the form or to the effect for that purpose set forth in the Schedule hereunto annexed signed by the President or Vice President the said Treasurer the Secretary and a majority of the Committee of Management of the said Society shall be recorded upon oath in the Supreme Court of New South Wales within thirty days next after the passing of this Act and when and as often as any person shall be newly elected the Treasurer of the said Society a memorial of the name of such newly elected Treasurer in the same form or to the same effect as the above mentioned memorial signed by such newly elected Treasurer the President or Vice President for the time being the Secretary and by a majority of the members of the Committee of Management of the said Society at the time of the election of such new Treasurer shall in like manner be recorded upon oath in the said Supreme Court within thirty days next after such Treasurer shall be elected.

Memorial of the name of the Treasurer to be recorded on oath in the Supreme Court.

5. Provided always and be it enacted That until such memorial as hereinbefore first mentioned be recorded in the manner herein directed no action suit prosecution or other proceeding shall be brought by the said Society in the name of the Treasurer of the said Society as aforesaid under the authority of this Act.

No action to be brought until memorial be recorded.

6. And be it enacted That the members of the said Society shall be and they are hereby authorized and empowered by and in the name of the Trustees of the said Society hereinafter named or the Trustees thereof for the time being to accept take and hold any estate or estates in lands tenements or hereditaments already granted or hereafter to be granted to them by the Crown but no other estates lands tenements or hereditaments whatsoever except what may be absolutely required for the purpose of building a house or houses for receiving the persons to be relieved by the said Society.

Society authorized to hold land in the name of Trustees.

7. And be it enacted That all lands tenements and hereditaments personal property or effects books accounts minutes records and all other books kept by any officer of the said Society and relating to the affairs of the same and all furniture goods and chattels of what nature or kind soever now being or at any time hereafter to become the property of the said Society shall be and the same are hereby declared to be vested in William Cox of Hobartville Richmond in the Colony aforesaid Esquire Robert Fitzgerald of Windsor aforesaid gentleman William Bowman of Richmond aforesaid gentleman Thomas Tebbutt of Windsor aforesaid merchant and John Macdonald of Pitt Town in the Colony aforesaid gentleman and their successors as Trustees for the said Society.

Land belonging to the Society to be vested in Trustees.

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Trustees within three months after election to declare that all lands tenements hereditaments personal property or effects books accounts &c. shall be held taken and accepted by them in trust only and to and for the sole use benefit and advantage of the Society.

8. Provided always and be it enacted That the Trustees hereinbefore named and appointed do and shall within twelve months after the passing of this Act or in case of the death resignation or absence from the said Colony or incapacity to act of any or either of the said Trustees that the Trustees or Trustee to be elected from time to time in manner hereinafter mentioned in the room of any or either of the said Trustees hereinbefore named so dying resigning or absenting themselves or himself from the said Colony or being incapable to act as aforesaid do and shall within three months after such election by deed in writing under their or his hands or hand to be deposited with the President for the time being of the said Society and registered in the Registry Office of the Supreme Court of New South Wales respectively declare that the lands tenements and hereditaments personal property or effects books accounts minutes records and all other books kept by any officer of the said Society and relating to the affairs of the same and all furniture goods and chattels of what nature or kind soever now or at any time hereafter belonging to the said Society shall be held accepted and taken by them in trust only and to and for the sole use benefit and advantage of the said Society and to and for no other use trust or purpose whatsoever but subject nevertheless at all times to the control order and discretion of the Committee of Management for the time being of the said Society for such purposes as they the said Committee shall direct order or appoint such order direction or appointment being made or entered in writing in the book or books of the orders and proceedings of the said Society to be kept in the manner hereinafter mentioned and certified to them the said Trustees for the time being of the said Society under the hand of the Secretary for the time being thereof and which said deed shall contain a provision that the Trustees thereby named and their successors shall be respectively chargeable with their own individual acts receipts and defaults only and shall be entitled to be reimbursed out of the funds of the said Society their expenses in relation to the trusts declared by such deed Provided always That none of the Trustees hereinbefore named and appointed or any future Trustees or Trustee to be elected from time to time in manner hereinafter mentioned shall be capable of acting as Trustees or as a Trustee in the execution of this Act until they or he shall have duly executed the said deed or declaration in the manner hereinbefore mentioned.

Trustees dying trusts to vest in survivors.

9. And be it enacted That in case of the death resignation or absence from the Colony or the incapacity of any or either of the said Trustees or of any other or future Trustee or Trustees that then the said lands tenements and hereditaments personal property or effects books furniture and other property belonging to the said Society shall vest in the surviving or remaining Trustee or Trustees until some other person or persons shall be elected at a general meeting of the members of the said Society in the room or stead of the person or persons so dying resigning or being absent from the Colony or becoming incapable of acting as aforesaid.

Trustees dying resigning &c. others to be elected in their place.

10. And be it enacted That upon the death resignation absence or incapacity of any Trustee or Trustees of the said Society an election shall take place at any subsequent general meeting of the Society which shall next thereafter happen of one or more person or persons to become Trustee or Trustees respectively in his or their room or stead and thereupon the said lands tenements and hereditaments personal property or effects books furniture and other property belonging to the said Society shall vest in such new Trustee or Trustees jointly with the surviving or continuing Trustees or Trustee as the case may require and that every such new Trustee or Trustees shall have and may exercise the same powers and authorities as if he or they had been

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been appointed a Trustee or Trustees by this Act Provided nevertheless that if by default of any such election or elections the number of Trustees shall ever be reduced and continue for any one entire year below the number of five it shall and may be lawful for the Governor of the said Colony to appoint such and so many persons to be Trustees of the said Society as shall be necessary to fill the vacancy or vacancies caused by such default of election or elections to complete the number of Trustees to five Provided however that nothing herein contained shall authorize the said Governor to appoint any person as a Trustee who shall not be a member of the said Society.

11. And be it enacted That the present life members of the said Society shall be members thereof without further subscription and that the payment to the Treasurer of a donation of ten pounds sterling shall henceforth constitute a member for life of the said Society and that an annual subscription of one pound sterling shall constitute a member of the said Society upon payment of such subscription to the Treasurer Provided however that no person except a life member shall be capable of taking any part in the management of the affairs of the said Society or of voting at any general meeting until he shall have been a member of the said Society for the space of one complete year Provided also that any person whose subscription for any year shall remain unpaid on the thirty-first day of December in such year shall cease to be a member of the said Society.

Qualification of members.

Persons not to vote &c. until they shall have been members for one year.

Non-payment of annual subscription to disqualify members.

12. And be it enacted That a general meeting of the members of the said Society shall be held on the first Monday in the month of February in every year or within thirteen days thereafter at which meeting the Committee of Management of the preceding year of the said Society shall lay before the meeting a written report containing a statement of the receipts and disbursements of the said Society and of the quantity of land live stock and property possessed by the said Society together with every other information respecting the said Society which the said committee can afford after which there shall be an election of officers of the said Society namely a President Vice President Secretary and Treasurer and also of eight members who thenceforth with the President Vice President Secretary and Treasurer and the Trustees for the time being of the said Society shall be a committee for the management of the affairs of the said Society for one year next ensuing such election unless they or any of them shall die resign or cease to be a member or members of the said Society and that not less than five of the said committee shall form a quorum and that as often as an even number of the committee shall attend at such meetings the President or the Vice President or in their absence the Chairman who shall be elected and who shall preside at such meetings shall have a deliberative as well as a casting vote and when and so often as any of the said officers or one-third of the members of such committee shall in the course of the year of their election happen to die resign or become disqualified to act as such officer or officers or members of such committee a special general meeting of the said Society shall be convened by the secretary for the purpose of electing a member or members to fill such vacancy or vacancies and to exercise the said office or offices for such time and times and with the like powers and authorities as the person or persons so dying having resigned or becoming disqualified would have done respectively if no such vacancy or vacancies had occurred.

Election of officers of the Society.

13. And be it enacted That the said Committee of Management shall have full power and authority to issue lay out and dispose of all sums of money which shall be requisite for carrying into effect the purposes of this Act subject however to such orders bye-laws rules and

Powers of the committee.

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and regulations as shall at any time be duly made and established at any general meeting of the said Society.

Appointment of clerk superintendent of stock superintendent of the Asylum and other servants.

14. And be it enacted That it shall and may be lawful for the the said Committee of Management for the time being and they are hereby authorized and empowered from time to time to nominate and appoint a clerk superintendent of stock a superintendent or person having charge of the said Asylum and other servants and one or more receiver or receivers collector or collectors of all and singular the sum or sums of money to become due and payable to the said Society under and by virtue of all or any of the present or any future rules and regulations of the said Society and also from time to time to alter and change or to discharge and dismiss or suspend any such clerk superintendent of stock superintendent or person having charge of the said Asylum receiver or receivers collector or collectors or other servants and to appoint another or others in their stead or place as there shall be occasion subject however to the approbation of a general meeting of the said Society and that every clerk superintendent of stock superintendent or person having charge of the said Asylum receiver or other servant of the said Society now or hereafter to be appointed shall provide and give such securities and enter into sign and execute such deeds covenants assurances and instruments in the law and do and perform such other lawful acts and things in the law as the said committee may require and the counsel in the law of the said Society may approve and that such securities deeds covenants and assurances shall be made given and executed by the said clerk superintendent of stock superintendent or person having charge of the said Asylum receiver or other servant of the said Society to the Treasurer of the said Society for the time being for and on behalf of the said Society.

How general meetings to be convened.

15. And be it enacted That the said committee or any eight members of the said Society shall and may at any time or times and for such purpose or purposes as they may think expedient call a special general meeting or special general meetings of the said Society of which notice in writing shall be given at least fourteen days before the calling of such meeting and that at all general and committee meetings of the said Society the decision of every question or proposition which shall then be discussed shall be by a shew of hands of the majority in number of the members of the said Society constituting such meetings respectively and qualified to vote as aforesaid and in case of an even number of votes on any matter or question then discussed the President or in his absence the Vice President or the Chairman to be elected at such general or committee meetings shall have a casting vote as before mentioned.

Bye-laws may be made at general meeting.

16. And be it enacted That the said Society shall have full power and authority from time to time at any of their general meetings to make such rules and orders and bye-laws as to them shall seem meet and proper for regulating the proceedings and for the general management of the said Society in all respects whatsoever and from time to time to alter and repeal such rules orders and bye-laws or any of them and to make others as to the members of the said Society at any general meeting shall seem meet and expedient and all rules orders and bye-laws so made as aforesaid shall be entered by the secretary or clerk of the said Society or by such other person as shall attend in his or their stead in a book or books to be kept for that purpose and such rules orders and bye-laws so entered and signed by the President or the Vice President of the said Society or the Chairman to be elected at such meetings respectively and by the secretary or clerk present at such meeting shall be deemed and taken to be authenticated rules orders and bye-laws of the said Society and shall be binding

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binding on all the members of the same and shall be sufficient in any Court of Law or Equity to justify all persons who shall act under the same Provided always that such rules orders and bye-laws be not repugnant to the laws of the United Kingdom of Great Britain and Ireland or to the laws of the Colony of New South Wales or to any of the provisions of this Act and that copies thereof be entered in a record book of the said Society.

17. And be it enacted That it shall and may be lawful for the Governor of the said Colony by an instrument under the Great Seal of the said Colony to appoint at any time two or more Visitors with powers fully to inspect inquire into and report on the affairs of the said Society as well as to examine all books records or other documents and all accounts of receipts and disbursements of the said Society and if by the report of the said Visitors it shall appear to the Governor and the Executive Council of the said Colony that the estate or estates in lands tenements or hereditaments granted by the Crown to the said Society have not been discreetly or properly managed it shall and may be lawful for the said Governor with the advice of the said Executive Council to remove the whole or any one or more of the Trustees of the said Society and to appoint as many others in their stead being also members of the said Society or if it shall at any time appear by the said report that the value of the said last mentioned estates lands and hereditaments exceeds the sum of forty thousand pounds or if it shall appear that the annual income or revenue exceeds the sum of three thousand pounds it shall and may be lawful for the said Governor with the advice of the said Executive Council to direct that such a portion of the said annual income or revenue as to the said Governor and Executive Council shall seem proper shall be paid to the Trustees or Directors of any Society or Societies established or instituted or hereafter to be established or instituted for the relief of the poor or for any other charitable purpose in the town of Windsor or at any one or more towns or places within the districts of Windsor Richmond Pitt Town Wilberforce and the Lower Hawkesbury as the said Governor and Executive Council may deem most advisable And the Treasurer for the time being of the Hawkesbury Benevolent Society aforesaid is hereby authorized and required to pay the same accordingly.

Governor may appoint Visitors to examine books &c. and report thereon.

In certain cases Governor with the advice of the Executive Council may remove Trustees and appoint others.

If value of the property exceeds £40,000 or annual income exceeds £3,000 Governor and Executive Council may direct a portion of the funds to be applied to other purposes.

18. And be it enacted That the provisions in this Act contained shall extend and be continued and taken to extend to the said Society at all times during the continuance of the same whether the said Society be now or be hereafter composed of all or some of the persons who were the original members thereof or be composed altogether of persons who were not the original members of the same.

Act not to be affected by change of members of the Society.

19. And be it enacted That if any poor person who hath been or shall be admitted as an inmate into the Asylum of the said Society shall wilfully waste any of the goods or materials committed to his or her care or shall take or carry away without permission of the superintendent or person having charge of the said Asylum any goods or materials provided for the use thereof or belonging to any person residing there it shall and may be lawful for any two Justices of the Peace upon complaint being made before them on oath to hear the same and the party accused and upon conviction to commit the offender to the common gaol there to be kept on bread and water for any time not exceeding one month.

Punishment of inmates of the Asylum for waste of goods or materials committed to their charge.

20. Provided always and be it enacted That nothing in this Ordinance contained shall be deemed to affect or apply to any right title or interest of Her Majesty Her Heirs and Successors or of any body corporate or politic or any other person or persons excepting such as are mentioned herein or of those claiming by or under them.

Act not to affect the rights of Her Majesty or of others not mentioned therein.

Harbours.

Act to be deemed a
public Act.

21. And be it enacted That this Act shall be deemed and taken to be a public Act and shall be judicially taken notice of as such by the Judges of the Supreme Court of New South Wales and by all other Judges Justices and others within the Colony of New South Wales and its Dependencies without being specially pleaded.

SCHEDULE REFERRED TO.

MEMORIAL of the name of the Treasurer of "The Hawkesbury Benevolent Society" to be recorded in the Supreme Court of New South Wales pursuant to an Act of the Governor and Council passed in the fourth year of the reign of Her Majesty Queen Victoria intituled "*An Act to enable the Members of a certain Society in the Colony of New South Wales denominated 'The Hawkesbury Benevolent Society' to sue and be sued in the name of their Treasurer for the time being and for other purposes therein contained.*"

A. B. Treasurer.

E. F. }

G. H. }

I. K. }

L. N. }

Members of Committee

C. D. President.

{ N. O.

{ P. Q.

{ R. S.

{ T. U.

V. W. of _____ gentleman _____ of the above
named Society maketh oath and saith that he was present and did see the foregoing memorial signed by the above named Treasurer President and Members of Committee respectively whose names appear thereto.

Sworn this
day of

A.D. 18

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