

No. XXXIII.

SYDNEY
COMMISSIONERS.

An Act to dissolve the Corporation of the City of Sydney and for the appointment of Commissioners in lieu thereof for a limited period.
[29th October, 1853.]

Preamble.
6 Vic. No. 3.

14 Vic. No. 41.

WHEREAS by the Act of Council passed in the sixth year of Her present Majesty's reign number three the Inhabitants of the City of Sydney were constituted a Body Corporate and Politic by and under the name style and title of the "Mayor Aldermen Councillors and Citizens of the City of Sydney" And whereas by the Act of Council passed in the fourteenth year of the said reign number forty-one certain privileges powers and duties were conferred and imposed upon the said Body Corporate and upon the members and officers thereof for the better protection care and management of the local interests of the inhabitants of the said City and for the improvement thereof And whereas the said Corporate Body has not answered the purposes for which it was established and it is expedient to dissolve the same and to provide for the appointment of Commissioners in lieu thereof for a limited period and for the regulation of such Commissioners Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof as follows:—

Present Corporation dissolved.

1. From and after the thirty-first day of December now next the said Body Corporate and Politic established by the said firstly above recited Act by and under the name of "The Mayor Aldermen Councillors and Citizens of the City of Sydney" shall be and the same is hereby dissolved and the Mayor Aldermen Councillors Auditors and Assessors of the said City shall thenceforth cease to hold such offices respectively.

No elections of Mayor &c. to take place in November and December next.

No Aldermen or Councillors to go out of office in those months.

2. There shall not be any election of a Mayor Aldermen Councillors Auditors or Assessors for the said City in the months of November and December now next as required by the said secondly recited Act nor shall any of the present Aldermen and Councillors go out of office in the said months as also by the said Act is required but they shall respectively continue in office until the said thirty-first day of December next.

Certain clauses in the Act of 14 Vic. No. 41 repealed.

3. From and after the said thirty-first day of December next the following sections of the said secondly recited Act namely the second to the sixty-second sections inclusively the sixty-fifth sixty-sixth

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sixth and eighty-seventh sections the one hundred and twenty-second to the one hundred and twenty-sixth sections inclusively the one hundred and thirty-sixth section the one hundred and forty-fifth to the one hundred and forty-eighth sections inclusively and the one hundred and sixtieth to the one hundred and sixty-second sections inclusively shall be and the same are hereby repealed.

4. It shall be lawful for the Governor and he is hereby authorized and required to nominate and appoint three fit and proper persons to be Commissioners for carrying into effect the provisions for cleansing draining lighting and supplying with water the said City and all other measures for the sanitary improvement and good rule and government of the said City which might have been carried into effect by the said Mayor Aldermen and Councillors under the powers conferred on them by the said secondly recited Act and also for carrying into effect the provisions of an Act intended to be passed in the present Session of Council "*for the better sewerage and cleansing of the City of Sydney and portions of the Suburbs thereof*" and of another Act intended to be passed in this Session "*for supplying the City of Sydney and portions of the Suburbs thereof with water*" and also for carrying into effect all the other provisions contained or referred to in this Act and the Governor shall have power to remove or suspend any person so appointed and as often as any person so appointed shall die resign or become incapable or under the provisions herein contained shall cease to be a Commissioner or shall be removed or suspended or be absent it shall be lawful for the Governor in like manner to appoint either permanently or temporarily as the case may require another fit and proper person to be a Commissioner in the place of the Commissioner so dying resigning or becoming incapable or ceasing to be a Commissioner or being removed suspended or absent Provided always that any two of the Commissioners for the time being may continue to act notwithstanding one vacancy by any means in the number of Commissioners.

Governor authorized to appoint three Commissioners for the City in lieu of the present Corporation.

5. The Commissioners so to be appointed as aforesaid and their successors in office shall be and they are hereby constituted a Body Corporate and Politic by and under the name style and title of "The Commissioners for the City of Sydney" and under that name shall be capable in law to sue and be sued and to implead and be impleaded in all Courts of Law and Equity in all manner of actions causes and matters whatsoever and to accept take purchase and hold goods and chattels lands and tenements real and personal movable and immovable estates and to grant sell alienate assign demise and convey the same and to do and suffer all acts matters and things incidental or appertaining to a Body Corporate and shall and may have a common seal and in all cases of legal proceedings service of notice thereof upon the Chief Commissioner or Secretary for the time being shall be deemed and taken as good and sufficient service upon the said Commissioners as a Corporate Body.

Commissioners incorporated.

6. One of such Commissioners shall be appointed by the said Governor to be "Chief Commissioner" and any two of such Commissioners shall form a quorum and if there be an equality of votes upon any question at any meeting of the Commissioners duly convened such Chief Commissioner shall have a casting vote in addition to his own vote and such Commissioner or any two of them at a duly constituted meeting shall have full power and authority to do all such acts matters and things as shall be necessary for carrying into effect the purposes of this Act.

Appointment of Chief Commissioner

His casting vote.

General powers of Commissioners.

7. The said Commissioners shall be entitled to receive for their services out of the City Fund the salaries following (that is to say) the said Chief Commissioner a salary at the rate of one thousand

Remuneration to Commissioners.

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pounds per annum and each of the said other Commissioners a salary at the rate of eight hundred pounds per annum.

Disqualification of Commissioners.

8. In case the Legislative Council of the said Colony shall by Address to be presented by its Speaker to the Governor pray for the dismissal of any of the said Commissioners the appointment of such Commissioner shall be forthwith superseded.

If Commissioners appointed before 31st December next they may commence their duties but so as not to interfere with present Corporation.

9. In case the Governor shall think fit to appoint the said Commissioners before the said thirty-first day of December next it shall be competent to them immediately to enter upon the exercise and discharge of all the powers and duties conferred and imposed upon them by the said Act and by the said two Acts intended to be passed during this Session but so nevertheless that they shall not in any way interfere with the present Corporate Body or the officers and servants thereof.

Meetings of Commissioners regulated.

10. The said Commissioners shall appoint regular periodical times of meeting of which public notice shall be given and shall also be at liberty to meet at all other times as occasion may require Provided that no extraordinary meeting from which any one of such Commissioners shall be absent shall be deemed to be duly constituted unless the absent Commissioner shall previously have had not less than twelve hours notice of the time and place of such meeting which said notice shall be in writing signed by the Secretary and shall be delivered to such Commissioner in person or left at his usual place of abode or transmitted to him by post so that he may in the ordinary course of the post receive the same twelve hours before the time appointed for such meeting.

Appointment of officers.

11. The Commissioners shall and may subject to the approval of the Governor appoint employ and continue in office respectively a Secretary Treasurer and a Surveyor or Surveyors of the said City and such Engineers Collectors Workmen and other officers agents and servants as in their discretion they may deem necessary and proper for the execution of the powers and duties vested in the said Commissioners by virtue of this Act or by virtue of any other Act of the said Legislative Council and may assign and allow salaries wages and remuneration to such officers agents and servants and may from time to time subject to the approval of the Governor remove or dismiss such servants and officers respectively and in case of a vacancy in any such office or employment as aforesaid by death resignation removal or otherwise or of the illness or the absence of any such officer the Commissioners may subject to the approval of the Governor appoint another fit and proper person (permanently or temporarily as the case may require) in the place of the person so making such vacancy or being ill or absent.

Property of present Corporation transferred to Commissioners.

12. All the lands tenements buildings hereditaments and real estate chattels real and personal estate and property whatsoever and all powers rights remedies and capacities in respect of the same which shall on the said thirty-first day of December next be vested in or held in trust for the said Corporate Body or the Council of the said City established by the said recited Acts shall by force of this Act be vested in or held in trust for the Commissioners to be appointed under this Act and all moneys then due and owing by or to or on account of the said Corporate Body or Council shall be receivable by or from the said Commissioners and all contracts agreements mortgages bonds covenants and securities made or entered into with or in favor of or by or for the said Corporate Body or Council or any person on their behalf shall take effect and may be proceeded on and enforced by against and with reference to and in the name of the said Commissioners as fully in all respects as they might have been enforced by against and with reference to the said Corporate Body or Council if this Act had not been passed.

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13. No action suit prosecution or other proceeding whatsoever commenced or carried on previously to the said thirty-first day of December next either by or against the said Corporate Body or Council shall abate or be discontinued or prejudicially affected by force of this Act but shall continue and take effect both in favor of and against the said Commissioners and all decrees and orders made and all fines and penalties imposed and incurred respectively and all rates made or so much thereof as shall not have been levied and paid before the said thirty-first day of December next shall be enforced levied recovered and proceeded for by and in the name of the said Commissioners in such and the like manner as they could have been enforced levied recovered and proceeded for by and in the name of the said Corporate Body or Council of the said City if this Act had not been passed.

Suits &c. already in progress not to abate or be discontinued.

14. All the powers rights and privileges interests authorities and immunities whatever possessed by and all the duties imposed upon the Corporate Body and Council or by and on the Mayor Aldermen and Councillors of the said City by the said secondly recited Act (except such as were conferred or imposed by any of the sections thereof mentioned in the second section of this Act and thereby repealed) shall be possessed by and are hereby imposed on the Commissioners to be appointed under this Act.

Powers &c. of present Corporation vested in Commissioners except such as were conferred by repealed clauses.

15. All the duties imposed on the Town Clerk under the secondly recited Act except so far as the same may be altered by this Act and except so far as they are inconsistent with the provisions hereof shall be imposed upon and performed by the Secretary to be appointed by the said Commissioners under this Act which such Secretary may if the Commissioners shall think fit be appointed also to hold the office and perform the duties of City Treasurer.

Duties of certain officers of present Corporation transferred.

16. The City Treasurer shall in books to be kept for that purpose and in such manner and form as the Commissioners shall direct enter true accounts of all moneys received and paid and such books shall at all times be open to the inspection of the said Commissioners and all the accounts with all vouchers and papers relating thereto shall in the months of January and July in every year be submitted to the inspection of two Auditors to be nominated and appointed by a Resolution of the Legislative Council of the said Colony for the purpose of being examined and audited from the first day of January to the thirtieth day of June and from the first day of July to the thirty-first day of December inclusively in every year and if the said accounts shall be found to be correct the Auditors shall sign the same and certify to their correctness and after such accounts shall have been so examined and audited in the month of January in every year the City Treasurer shall make out in writing and submit to the said Commissioners a full abstract of his accounts for the preceding year in such form as the Commissioners may direct and the said Commissioners shall forthwith cause the same to be printed and a copy thereof shall be open to the inspection of all the rate-payers in the said City and copies thereof shall be delivered to all such rate-payers on payment of one shilling for each copy and a copy of the said abstract shall in the month of February in every year be published in the *New South Wales Government Gazette*.

Regulations as to accounts of Commissioners.

17. The said Commissioners shall once at least in every year and at such other times and in such manner and form as the Governor shall direct furnish full and true reports of their proceedings and accounts of all moneys raised and expended under the provisions of this Act which reports and accounts shall be laid by the Governor before the Legislative Council as soon thereafter as practicable.

Yearly reports of Commissioners.

18. Wherever in the unrepealed parts of the said secondly recited Act or in the Schedules attached thereto mention is made of the

Unrepealed parts of 14 Vic. No. 31 to be read as if Commis-

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sioners mentioned
instead of Mayor &c.

Similar provisions
with respect to
officers.

General City rates
imposed by authority
of Legislative
Council.

Lighting rates
imposed by same
authority.

Rate to be distributed
amongst the several
Wards in proportion
to the outlay for
lighting in each such
Ward.

Commissioners may
erect gas or other
works for lighting
the said City.

Commissioners may
regulate rents and
tolls at public mar-
kets in the City.

Regulations as to
payments of salaries
and other moneys.

the "Mayor Aldermen and Councillors" or the "Council" or the "Mayor" or the "Corporation" of the said City the enactment shall be read and applied as if the said Commissioners had been named therein instead of the said Mayor Aldermen and Councillors or the said Council or the said Mayor or the Corporation and wherever mention is made of the Town Clerk the enactment shall be read and applied as if the Secretary to the said Commissioners had been named therein instead of the said Town Clerk and whenever mention is made of the Treasurer Surveyor or other officers and servants of the Corporation the same shall be read and applied to the Treasurer Surveyor or other officers and servants whom the Commissioners subject to the approval of the Governor may appoint for the performance of the duties of the Treasurer Surveyor or other officers and servants mentioned in the said Act or duties corresponding thereto.

19. A rate of one shilling in the pound for the general purposes of the City shall in each year in equal half-yearly proportions be collected by the said Commissioners on the whole of the property in the said City according to its assessed value in the same manner as the City Rates could have been raised and levied by the Council of the said City under the provisions of the said secondly recited Act Provided that it shall be competent to the Legislative Council by Resolution to that effect to vary the amount of the said rate as to the said Council shall from time to time seem fit.

20. A rate of sixpence in the pound upon the whole property of the said City according to its assessed value shall in each year in equal half-yearly proportions be collected by the said Commissioners for the purpose of lighting the said City in the same manner except as hereinafter provided as the Lighting Rates could have been raised and levied by the Council of the said City under the provisions of the said secondly recited Act Provided that it shall be competent to the Legislative Council by Resolution to that effect to vary the amount of the said rate as to the said Council shall from time to time seem fit and provided also that the total amount of the said rate shall be distributed amongst the several Wards of the said City in proportion to the amount of the outlay made in the said several Wards for the lighting thereof to which end the said Commissioners are required to ascertain in each year the proportions of outlay for lighting made upon each Ward up to and during the previous year and to apportion the rate amongst the several Wards accordingly and the inhabitants of each Ward shall be liable to pay the said rate according to such apportionment and not otherwise.

21. It shall be lawful for the said Commissioners to erect execute and provide all necessary buildings works and machinery for the manufacture supply and distribution of gas or other materials for the lighting of the said City or any portions thereof if they shall at any time deem it advisable so to do.

22. It shall be lawful for the said Commissioners by any by-law to be passed by them and to be subject to disallowance in the same manner as by-laws passed by the present City Council to regulate the amount of fees to be paid on produce brought to the markets within the City and of the rents or tolls for the occupation of stalls or standing places in such markets and of tolls for the sale of horses cattle and other live stock therein or for weighing articles at the weigh bridge anything in the said secondly recited Act to the contrary hereof notwithstanding.

23. All salaries shall be paid in equal monthly instalments on the first Monday of each month and all accounts for works performed for and articles supplied to the said Commissioners in carrying into effect

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effect the provisions of this Act on being duly certified by the proper officer and passed by the said Commissioners at any duly convened meeting of the said Commissioners shall be forthwith paid by the City Treasurer on an order from the said Commissioners signed by at least two of them and countersigned by the Secretary in evidence of their having been duly passed.

24. All moneys received by the City Treasurer on account of the said Commissioners shall be lodged on the same day or as soon thereafter as shall be practicable to the credit of the said Commissioners in one or more of the banking establishments of the said City to be selected by them and all payments made on account of the said Commissioners shall be by cheques on the said Banks signed by the said Treasurer and by one or more of the said Commissioners.

Funds to be paid forthwith into Bank and how to be drawn out.

25. From and after the thirty-first day of December next all the powers and duties which by the "Electoral Act of 1851" are vested in or imposed on the Mayor of Sydney as Returning Officer for that City or otherwise in relation to Elections of Members of the Legislative Council and to the preparation of the Electoral Lists for the said City shall be vested in and performed by the Sheriff of the Colony who shall be the Returning Officer for the said City and the Secretary to the Commissioners to be appointed under this Act shall perform the duties which by the said Electoral Act are required to be performed by the Town Clerk of the said City and Deputies to be appointed by the Sheriff shall perform the duties of Aldermen at Elections under the said Act and Collectors of Electoral Lists and Clerks at Elections to be appointed by the said Sheriff shall act as Collectors and Clerks appointed by the Mayor under the said Act and the said Sheriff and the Deputies Collectors and Clerks appointed by him for the purposes of the said Electoral Act and the said Secretary to the Commissioners shall possess the same powers and privileges and be subject to the same duties and penalties for neglect of duty as the Mayor Aldermen Town Clerk Collectors and other officers and persons elected and appointed respectively under the provisions of the second recited Act would have possessed for the same purposes or would have been subject to if this Act had not been passed.

After 31st December next all the Mayor's duties as Returning Officer &c. to be performed by the Sheriff who shall appoint Deputies and Clerks to perform the duties necessary at Elections.

26. The Courts which by the said Electoral Act are required to be held by the Aldermen and Assessors of the several Wards of the City for the revision of the Electoral Lists thereof shall after the dissolution of the said Corporation be held by the Justices of the Peace assembled in Petty Sessions within the said City in the same manner as by the said Act is provided in respect of all Electoral Districts save that of the City of Sydney. Provided that in case there shall be two or more places in the said City in which Courts of Petty Sessions are appointed to be held by Justices of the Peace it shall be lawful to the Governor to assign to the several Courts held at such places the revision of such of the Electoral Lists of the several Wards as he shall think fit.

Electoral Lists to be revised by Justices in Petty Sessions.

27. This Act shall be in force until the thirty-first day of December in the year one thousand eight hundred and sixty.

Duration of Act.