

No. XXIII.

An Act to enable Trustees of Commons in New South Wales to have perpetual succession and to empower them to regulate the use of such Commons and for other purposes relating thereto. [25th April, 1873.]

COMMONS
REGULATION.

WHIEREAS by various instruments respectively under the hand Preamble. of the Governor for the time being of the Colony of New South Wales certain portions of land have been allotted as Commons for the use of the inhabitants of the towns or the cultivators and small farmers in the respective districts or localities in which such Commons are severally situated And whereas the Governor with the advice of the Executive Council may authorize hereafter the use of certain portions of the Crown Lands as temporary Commons by the residents or inhabitants of any town or district or locality And whereas it is expedient that bodies of Trustees with perpetual succession should be created for the purpose of holding such Commons for the use aforesaid and of making such regulations in relation to the said Commons as may be necessary for the more effectual and equal enjoyment of the same and for other purposes relating thereto 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:—

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 repealed.

2. Before any general election of Trustees under this Act shall have taken place any Trustees who may have been appointed by the Governor for the time being with the advice of the Executive Council or who may hereafter be appointed in like manner and their successors Trustees of Commons to be a body corporate. duly

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duly elected as hereinafter is provided shall be a body corporate under the name of the Trustees of the Common specified in any grant or dedication and under that name shall have perpetual succession and a common seal and may sue and be sued in their corporate name in relation to the said Common and shall be capable of holding such Common in perpetuity upon the trusts and for the uses declared in such grant or such dedication.

Election and nomination of Trustees.

3. From and after the passing of this Act the first general election of new Trustees for every Common shall take place at a general meeting of Commoners or persons entitled to the use of such Common in the month of January one thousand eight hundred and seventy-four such meeting to be convened by the Trustees of each Common or one of them by a notification in the *Government Gazette* and by a written or printed notice to be affixed in the office of the nearest Court of Petty Sessions and also in two or more conspicuous places on the said Common at which meeting the senior Trustee shall preside or in the absence of all the Trustees a chairman to be elected by the Commoners present from among themselves and then five new Trustees shall be elected to hold office for three years by the majority of persons present who in the opinion of the Trustee or Commoner so presiding shall for six months previously have been entitled to use the said Common and not more than five Trustees shall be elected for any one Common and every such election shall forthwith be communicated by the chairman to the Colonial Secretary Provided always that if any number less than five be elected or if no Trustees be elected at such meeting the Governor for the time being with the advice of the Executive Council shall nominate the required number.

Trustees to be elected every three years.

4. The Trustees so elected or nominated shall after notification thereof in the *Government Gazette* hold office as Trustees of such Common until the next general election of Trustees and every Trustee shall be eligible for re-election at the next general election of Trustees for every Common which shall take place in the month of January at the expiration of every three years and which shall be convened by the Trustees in like manner and presided over by a Trustee or in the absence of Trustees by a Commoner elected by the Commoners present in like manner as has been hereinbefore prescribed at the first general election of Trustees after the passing of this Act.

Vacancies occurring by death or otherwise how to be filled.

5. When any Trustee of any Common shall die or be absent from the Colony for more than twelve months or resign or become incapable to act in the trusts aforesaid then and so often as a vacancy shall occur a special meeting of the Commoners or persons entitled to the use of such Common shall be convened in like manner as hereinbefore prescribed and such vacancy shall be filled up by election as hereinbefore provided And every such election shall forthwith be communicated by the chairman to the Colonial Secretary Provided always that if no such election shall have taken place within twelve months after any vacancy shall have occurred the Governor for the time being with the advice of the Executive Council shall appoint a new Trustee to fill every such vacancy.

General powers of Trustees.

6. The Trustees for the time being of any such Common or the majority shall have power to ascertain determine and declare by writing under their hands and seals from time to time the number and description of cattle and other stock which the respective settlers cultivators and other inhabitants for whose use the Common shall have been granted or dedicated shall be entitled to depasture upon the said Common Provided however that such writing be forthwith deposited in the office of the nearest Court of Petty Sessions and that if any person shall feel himself aggrieved by the decision of the Trustees in this

Subject to appeal to nearest Court of Petty Sessions.

this

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this behalf he shall be at liberty to appeal at any time within two months from the time of depositing such writing in the said office to the said Court which said Court shall have full power to hear and determine the said appeal in a summary manner and to confirm or alter the decision of the said Trustees in relation to the party so appealing and to award costs against either party.

7. It shall and may be lawful for the Trustees for the time being of any such Common to make such rules and regulations for the better and more convenient and equal use and enjoyment of the said Common and of all other rights privileges and easements incident thereto by the persons having right of Common thereon as to them shall seem necessary or expedient and for the enforcement of such rules and regulations to impose fines not exceeding in any one case the sum of ten pounds for breaches thereof respectively and also for raising assessing levying and appropriating such moneys as shall be required for the purpose of defraying any costs charges and expenses which the said Trustees shall or may at any time be put or exposed to in or about the maintaining or improving of the said Common or in the protection of the rights of the said Common and a copy of such rules and regulations shall within fourteen days from the making thereof be transmitted to the office of the nearest Court of Petty Sessions and also to the Colonial Secretary and the Governor with the advice of the Executive Council shall have power at any time within two months from the receipt of such copy to disallow the said rules and regulations or any of them and shall signify such disallowance to the Court of Petty Sessions nearest to the said Common and in the meantime no such rules or regulations shall be in force.

Trustees may make regulations and enforce the same by fines.

8. Any one or more of the Trustees of any such Common shall have power to distrain or cause to be distrained and impounded any cattle or other stock found depasturing upon the said Common which shall belong to any person not entitled to the use thereof or to any commoner who shall at the time of such distress have surcharged thereon and also to claim demand and recover such damages in respect of such cattle or other stock so distrained as could or might be claimed by the owner or occupant of any private lands in respect of animals found trespassing and doing damage upon the same.

Power of impounding by Trustees.

9. All sums of money recovered and received by the Trustees of any Common for trespasses or otherwise under this Act shall be expended by the said Trustees in or about the improving of the said Common or otherwise in relation thereto and a just and true account of all moneys received and expended on account of any Common shall be produced and exhibited by the said Trustees at a general meeting of the Commoners of such Common to be convened by the Trustees as hereinbefore prescribed on the second Tuesday in the month of January in each year and shall be published in the *Government Gazette* at some time during the said month of January and in some local newspaper if any be published in the district wherein such Common is situate.

As to moneys received and expended by Trustees and publication of accounts.

10. Every general meeting of the Commoners of every Common may adjourn from time to time and every adjourned meeting shall be held to be a duly convened and constituted general meeting notwithstanding such adjournment.

Power of adjournment.

11. From and after the passing of this Act it shall not be lawful for the Trustees of any Common to grant leases of portions of such Common for any term of years or for any purpose or on any condition whatsoever. But leases granted prior to the passing of this Act by the Trustees of any Common under and in pursuance of the power given to them by clause five of an Act passed in the eleventh year of Her present Majesty numbered thirty-one are hereby declared valid until the expiration of the term of such leases provided that term shall not exceed seven years.

Not lawful to grant leases.

Border Duties.

Recovery and
appropriation of fines
and penalties.

12. All fines and penalties imposed under the provisions of this Act or under any rules or regulations made in pursuance thereof shall be recoverable in a summary way before any two Justices of the Peace and appropriated in the manner directed by the Acts for the time-being in force for the regulation of summary proceedings before Justices. Provided that every such penalty be proceeded for within three calendar months next after the commission of the offence for which the same shall have been incurred.

Short title.

13. This Act may be cited as the "Commons Regulation Act of 1873."
