

ANNO QUINTO

GULIELMI IV. REGIS.

An Act to enable the Proprietors of a Public Library heretofore instituted and conducted at Sydney under the name and designation of the "Australian Subscription Library" to sue and be sued in the name of the Secretary for the time being of the said Library and for other purposes therein mentioned. [29th July, 1834.]

AUSTRALIAN SUB-
SCRIPTION LIBRARY.

WHEREAS a society or company was some time since formed at Sydney in the Colony of New South Wales for the purpose of establishing a public subscription library And whereas the said society or company has been established and is now carried on in Sydney under the name or style of the "Australian Subscription Library" and consists of about eighty members or shareholders and is under the management and control of a President Vice-President Treasurer and Secretary and a Committee of ten members chosen and to be chosen from time to time from the body of the proprietors And whereas the sum payable on the admission of each member is an original subscription or payment of five pounds sterling and an annual subscription or payment of two pounds sterling And whereas difficulties may arise in recovering the debts fines and penalties due and to become due to the said society or company and in maintaining actions or other legal proceedings for damages done to their property and also in prosecuting persons who may steal or embezzle the goods chattels and effects of the said society or company And it would be also convenient and just that persons having demands against the said society or company should be entitled to sue some member thereof in the place and stead of the whole And whereas it is expedient that the said society or company should have the power to contract for and purchase either in fee simple or for life or lives or for any term or terms of years for the purposes of the said society or company any messuages buildings lands tenements and hereditaments situate in the Colony of New South Wales and also to sell all or any of the said messuages buildings lands tenements and hereditaments as they may think proper and purchase any other messuages buildings lands tenements and hereditaments for the purposes aforesaid And also that the said society or company should be empowered and enabled to accept take receive and hold and subsequently sell or dispose of any messuages lands tenements and hereditaments money property and effects whatsoever which shall or may be given devised or bequeathed to them And whereas Thomas Walker of Sydney Esquire merchant James Mitchell of Sydney aforesaid Esquire surgeon and William Timothy Cape of Sydney

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Society authorized
to purchase and
accept lands &c.

Sydney aforesaid Esquire have been at a general meeting of the said society or company nominated and elected trustees for the purposes of this Act And whereas the above-mentioned purposes cannot be effected without the aid and authority of the Legislature Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That the present proprietors of any share or shares in the said society or company and all such other persons as shall from time to time become proprietors of any such share or shares shall be and they are hereby authorized and empowered to purchase any lands messuages tenements and hereditaments for the purposes of this Act and also to accept and take receive and hold any lands messuages tenements and hereditaments money property and effects whatsoever.

Lands &c. belonging
to the society vested
in trustees.

2. And be it further enacted That all lands messuages tenements and hereditaments and all charts books accounts minutes records and all other books kept by any officer of the said society or company 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 or company shall be and the same are hereby declared to be vested in Thomas Walker of Sydney aforesaid Esquire merchant James Mitchell of the same place Esquire surgeon and William Timothy Cape of Sydney aforesaid Esquire and their successors as trustees for the said society or company.

Trustees dying
property to vest in
survivor.

3. And be it further 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 messuages tenements and hereditaments charts books furniture and other property belonging to the said society or company 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 said society or company to be held in manner and at the times hereinafter mentioned 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 such trustee or trustees.

Suits by and against
the society to be in
the name of the
Secretary.

4. And be it further enacted That all actions and suits against any person or persons indebted to the said society or company whether a member or members thereof or otherwise and all the proceedings at law or in equity to be instituted and prosecuted by or on behalf of the said society or company or wherein the said society or company is or shall be in any way concerned against any person or persons whatsoever shall and lawfully may be instituted in the name of the person who shall be the Secretary of the said society or company at the time any such action suit or other proceedings shall be instituted as the nominal plaintiff complainant or petitioner on behalf of the said society or company and that all actions suits and other proceedings at law or in equity to be commenced instituted and prosecuted or carried on against the said society or company shall be instituted and prosecuted against the Secretary for the time being of the said society or company as the nominal defendant on behalf of the said society or company and that all prosecutions to be instituted or carried on by and on behalf of the said society or company for the embezzlement robbing or stealing of any books charts maps goods chattels and effects of the said society or company or for any other offence against the said society or company shall and lawfully may be so instituted and carried on in the name of the Secretary for the time being on behalf of the said society or company And in all informations and indictments it shall be lawful to state the property of the said society or company to be the property of such Secretary for the time being And any offender or offenders may thereupon be lawfully convicted of any such offence

and

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and the death resignation or removal or other act of such Secretary whose name shall be so made use of in any such proceeding shall not abate any such action suit prosecution or other proceeding but the same may be continued where it left off and be prosecuted and carried on in the name of any person who may be or become the Secretary for the time being of the said society or company.

5. And be it further enacted That a memorial containing the name of the Secretary for the time being of the said society or company in the form and to the effect set forth in the Schedule hereunto annexed signed by the Vice-President Secretary and majority of the said Committee shall be recorded upon the oath of one or more credible witness or witnesses in the Supreme Court of New South Wales within thirty days from the passing of this Act And when any member or proprietor of the said society or company shall be newly elected the Secretary of such society or company his name shall be recorded in the Supreme Court in like manner within thirty days then next following and until such memorial shall be recorded in manner herein directed no action suit or other proceeding shall be brought by the said society or company in the name of the Secretary for the time being as aforesaid under the authority of this Act.

Memorial of Secretary's name to be enrolled in the Supreme Court.

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

Secretary may be a witness.

7. And be it further enacted That execution upon any decree or judgment in any such action suit petition or other proceeding obtained against the Secretary for the time being of the said society or company whether he be plaintiff or defendant therein may and shall be issued against and levied upon the goods and chattels lands and tenements of any member or members whomsoever of the said society or company for the time being in like manner and not otherwise than as if such decree or judgment had been obtained against him her or them personally Provided always that every such Secretary for the time being in whose name any such action suit petition or other proceeding shall be commenced prosecuted carried on or defended and every such member or members against whose goods and chattels lands tenements and hereditaments execution upon any judgment or decree shall be issued or levied as aforesaid shall always be reimbursed and paid out of the funds of the said society or company all such dues damages expenses costs and charges as by the event of any such proceedings he she or they shall or may be put unto or become chargeable with and restitution shall be allowed as between the several parties as if this Act had not been passed.

Personal liability of members.

8. And be it further enacted That the provisions in this Act contained shall extend and be construed and deemed and taken to extend to the said society or company at all times during the continuance of the same whether the said society or company be now or be hereafter composed of all or some of the persons who were the original members or proprietors thereof or be composed altogether of persons who were not the original members or proprietors of the same.

Act to extend to all future proprietors.

9. Provided always and be it further enacted That nothing herein contained shall extend or be deemed taken or construed to extend to incorporate the members or proprietors of the said company

Members not to form a corporate body.

or

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or society or to relieve or discharge them or any of them from any responsibility duties contracts or obligations whatsoever which by law they are now or at any time hereafter shall be subject or liable to either between the said society or company or others or between the individual members of the said society or company and any of them and others or amongst themselves or in any other manner whatsoever except as far as the same is affected by the provisions of this present Act and the true intent and meaning of the same.

Members to have a life interest only.

10. And be it further enacted That each and every member of the said society or company shall be entitled to a life interest only in his or her share but transferable during his or her life in manner and under the restrictions hereinafter enacted and declared.

The names of the proprietors to be entered in a book.

11. And be it further enacted That the Committee of the said society or company shall and they are hereby required to cause the names and designations of the several persons who now have or may at any time hereafter be entitled to a share or shares in the said society or company with the numbers of such share or shares and also the number by which every share shall be distinguished to be clearly entered into a book or books to be kept by the Secretary for the time being of the said society or company for that purpose and such book shall be signed by the several persons entitled to such share or shares and after such entry and signature a certificate under the hand of the Secretary shall be delivered to every proprietor of such share upon demand specifying the share or shares to which he or she is entitled.

Shares may be sold.

12. And be it further enacted That it shall be lawful for the proprietor of any share or shares in the said society or company or his or her assigns (with such consent as hereafter is mentioned) to sell and transfer any such share or shares Provided always that no such proprietor shall have power or be entitled to sell his or her share or shares in the said society or company to any person or persons whatsoever until the person or persons to whom such share or shares is or are intended to be sold shall have been proposed as a member or members and approved and elected by ballot in the same manner as persons are ordinarily proposed balloted for and chosen members of the said society or company.

No person to vote until he has been a member three months.

13. Provided always and be it further enacted That no member shall be entitled to vote at any meeting as a proprietor in the said society or company in respect of any share or shares until the expiration of three calendar months after he or she shall have been so elected as aforesaid.

Trustees dying to be replaced.

14. And be it further enacted That upon the death of any trustee or trustees of the said society or company an election shall take place at the first general meeting of the society or company which shall next thereafter happen of one or more person or persons to become trustee or trustees respectively in his or their room and stead.

Present officers to remain in office until 1835.

15. And be it further enacted That the present President Vice-President Committee Chairman Secretary and Treasurer shall hold and fill their respective situations until the first general meeting of the said society or company to be held on the first day of January one thousand eight hundred and thirty-five or within thirty days thereafter.

Election of future officers.

16. And be it further enacted That at a general meeting which shall be held on the first day of January in every year or within thirty days thereafter there shall be an election of President Vice-President Secretary and Treasurer and also an election of ten proprietors who thenceforth shall be a Committee for the management of the affairs of the said society or company for one year next ensuing such election unless

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unless they or any of them shall die resign or cease to be a proprietor or proprietors of the said society or company 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 as members of such committee a special general meeting of the said society or company 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 power and authorities as the person so dying having resigned or become disqualified would have done respectively if no such vacancy had occurred.

17. And be it further enacted That the committee for the time being 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 by-laws rules and regulations as shall at any time be duly established and made at any general meeting of the said society or company.

Powers of the committee.

18. And be it further enacted That it shall and may be lawful for the said committee for the time being and they are hereby authorized and empowered from time to time to nominate and appoint one or more banker or bankers and also a Secretary Librarian and one or more receiver or receivers collector or collectors of all and singular the sum and sums of money to become due and payable to the said society or company under and by virtue of all or any of the present or any future rules and regulations of the said society or company and also from time to time to alter and change such banker or bankers and to discharge and dismiss or suspend any such Secretary Librarian receivers or collectors or other officers or servants and to appoint others in their stead as there shall be occasion subject however to the approbation of a general meeting of the said society or company.

Appointment of banker secretary &c.

19. And be it further enacted That the said committee or any ten members of the said society shall and may at any time or times and for such purpose or purposes as they may think proper call a special general meeting or special general meetings of the said society or company of which notice shall be given by advertisement in one or more of the public papers published in Sydney at least fourteen days before the calling of such meeting.

How general meetings to be convened.

20. And be it further enacted That the committee of the said society or company shall and they are hereby expressly required to present to the proprietors of the said society or company at the general meeting to be held on the first day of January or within thirty days thereafter in every year a statement in writing of the debts credits and effects of the said society or company.

Annual statement of accounts.

21. And be it further enacted That the orders and proceedings of every such general meeting and special general meeting shall be entered by the Secretary of the said society or company or by such other person as shall attend in his stead in a book or books to be kept for that purpose and such orders so entered and signed by the chairman of the said committee or in his absence by such member of the said society or company who shall be in the chair at each respective meeting shall be deemed and taken to be authenticated orders and proceedings of the said society or company.

Proceedings at general meetings.

22. And be it further enacted That every female who shall be a proprietor of one or more share or shares in the said society or company shall be entitled to vote by proxy in respect of her share at any general meeting of the said society or company wherever she shall be resident and any proprietor or proprietors who shall be actually resident at a greater distance than ten miles from the place where

Voting by proxy.

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such general meeting shall be appointed to be held shall have full power and authority to give his or their vote at such general meeting as aforesaid either in person or by proxy every such proxy being a member of such society or company and the appointment of such proxy to be in writing and lodged with the Secretary of the said society or company.

By-laws may be made at general meetings.

23. And be it further enacted That the said society or company shall have full power and authority from time to time at any of their general meetings as aforesaid to make such rules and orders and by-laws as to them shall seem meet and proper for regulating the proceedings of the said committee and for the general management of the said society or company in all respects whatsoever and from time to time to alter and repeal such rules orders and by-laws or any of them and to make others as to the shareholders of the said society or company at any general meeting shall seem meet and expedient and all rules orders and by-laws so made as aforesaid (being reduced into writing and signed by the Chairman and Secretary present at any such meeting) shall be binding upon all members of the said society or company 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 by-laws be not repugnant to the laws of the United Kingdom of Great Britain and Ireland or any of the provisions of this Act and that copies thereof be entered in a record book of the said society.

If annual subscription not paid interest to cease.

24. And be it further enacted That any shareholders in the said society or company who shall not pay his her or their annual subscription within twelve months next after notice in writing shall have been given to him her or them signed by the Secretary that the same has become due and payable according to the rules of the said society or company shall forfeit his her or their share or interest in such society or company and all benefit and advantage derivable under the same.

Not to affect any right not mentioned herein.

25. Provided always and be it further enacted That nothing in this Act contained shall be deemed to affect or apply to any right title or interest of His Majesty His Heirs and Successors or of any body or bodies politic or corporate or of any other person or persons excepting such as are mentioned therein or of those claiming by or under him or them.

Commencement of Act.

26. And be it further enacted That this Act shall not commence or take effect until the same shall have received the Royal approbation and the notification of such approbation shall have been made by His Excellency the Governor in the *New South Wales Government Gazette*.

A public Act.

27. And be it further enacted That when and as soon as this Act shall have received the Royal approbation and the notification of such approbation shall have been made as aforesaid by His Excellency the Governor in the *New South Wales Government Gazette* 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.

Methodist Missionaries Trustees.

SCHEDULE REFERRED TO.

MEMORIAL of the name of the Secretary of the "*Australian Subscription Library*" to be recorded in the Supreme Court of New South Wales in pursuance of an Act of the Governor and Council passed in the fifth year of the reign of His Majesty King William the Fourth intituled "*An Act to enable the Proprietors of a Public Library heretofore instituted and conducted at Sydney under the name and designation of the 'Australian Subscription Library' to sue and be sued in the name of the Secretary for the time being of the said Library and for other purposes therein mentioned*" Be it known that on the day of 183 A. B. was duly elected Secretary of the "*Australian Subscription Library.*"

C. D. Vice President.

A. B. Secretary.

E. F. } Members of { G. H.
I. K. } the Committee. { L. M.

O. Z. of Sydney gentleman maketh oath and saith that he was present and did see the foregoing memorial signed by the above-named Vice-President Secretary and Members of the Committee of the Australian Subscription Library.

Sworn this }
day of 183 . }