

An Act to incorporate “The Australian Subscription Library” and otherwise to alter and amend its Constitution. [24th October, 1853.]

AUSTRALIAN
LIBRARY
AND LITERARY
INSTITUTION.

WHEREAS an Act of Council was passed in the fifth year of the reign of His late 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* And whereas another Act of Council was passed in the fourth year of the reign of Her present Majesty Queen Victoria intituled *An Act to render Shares in the Australian Subscription Library not transferable* And whereas by deed of grant dated the tenth day of August one thousand eight hundred and forty-four Her said Majesty did grant unto Thomas Walker James Mitchell and William Timothy Cape all of Sydney Esquires as trustees for the said library appointed under the first-

Preamble.
5th William IV.
Australian Subscription Library Act.
4th Victoria.
Do. Amendment Act.
Grant of 10th August 1814.

mentioned

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mentioned Act and to their successors duly elected in pursuance of the said Act (subject to the conditions reservations and provisoes therein-after mentioned) all that allotment or parcel of land containing by admeasurement twenty perches and a half of a perch situate in the city of Sydney parish of St. James county of Cumberland commencing at the intersection of Bent-street with Macquarie-street and bounded towards the south by Bent-street one chain fifty-seven links towards the west by a line at right angles to Bent-street eighty-three and a half links and towards the east by Macquarie-street one chain and fifty-seven links to the intersection of that street with Bent-street aforesaid being in satisfaction of a promise made by Sir Ralph Darling on the tenth day of October one thousand eight hundred and thirty-one for the site of the Australian Subscription Library and advertised as number four in the *Government Gazette* of the fifth day of July one thousand eight hundred and forty-four with the appurtenances to hold unto the said Thomas Walker James Mitchell and William Timothy Cape and their successors duly elected as aforesaid or in case of failure or neglect at any time to elect such trustee or trustees to be held by the survivor or survivors of the remaining trustee or trustees and the heirs of the survivor of such trustees until an election of trustees should take place in whom the legal estate should vest in conformity with the provisions of the said Act And whereas by another deed of grant dated the eighth day of May one thousand eight hundred and forty-seven Her said Majesty did grant unto the said Thomas Walker James Mitchell and William Timothy Cape as trustees for the said library and to their successors duly elected in pursuance of the said Act (subject to the conditions reservations and provisoes therein-after mentioned) all that allotment of land containing by admeasurement seven and a quarter perches be the same more or less situated in the said city of Sydney parish of Saint James and county of Cumberland being allotment number four in section number one hundred and seven commencing at the west corner of allotment number five and bounded on the south-west by Bent-street seventy-five links to a lane on the north-west by that lane being a line at right angles with Bent-street thirty-five links to the south-west corner of allotment number six on the north by allotment number six being a line at right angles with Macquarie-street and extending from that line ninety-one links to the north-west corner of allotment number five aforesaid and on the south-east by that allotment to the commencing point being the land promised by Sir Charles Augustus Fitz Roy on the seventeenth day of December one thousand eight hundred and forty-six as an additional grant for the said library and advertised as number one in the *Government Notice* dated the twenty-ninth day of March one thousand eight hundred and forty-seven with the appurtenances thereto belonging to hold unto the said Thomas Walker James Mitchell and William Timothy Cape and their successors duly elected as aforesaid or in case of failure or neglect at any time to elect such trustee or trustees to be held by the survivor or survivors of the remaining trustee or trustees and the heirs of the survivor of such trustees until an election of trustees should take place in whom the legal estate should vest in conformity to the provisions of the said Act And whereas it is expedient to repeal the said Acts and to incorporate the said library and otherwise to alter and amend its constitution Be it therefore enacted by His Excellency the Governor of New South Wales by and with the advice and consent of the Legislative Council thereof as follows—

Grant of 8th May
1847.

Two Acts are
repealed.
Future name to be
"The Australian
Library and Literary
Institution."

1. The said two Acts are repealed.
2. The library shall hereafter be called "The Australian Library and Literary Institution."

3.

Australian Library and Literary Institution.

3. In the construction of this Act the following words and expressions shall have the meaning hereby assigned to them unless such meaning be repugnant to or inconsistent with the context that is to say the word "library" shall mean the "Australian Library and Literary Institution" the word "proprietors" the present life proprietors of the Australian Subscription Library the word "shareholders" such persons as shall from time to time hereafter be accepted as shareholders in the library and the successors of such shareholders and where an officer of the library is named it shall mean the person for the time being filling the office.

Interpretation clause.

4. The proprietors and shareholders shall henceforth be a body politic and corporate by the name of "The Australian Library and Literary Institution" and shall have perpetual succession and a common seal with full power to alter vary break and renew the same at their discretion and by that name to sue and be sued implead and be impleaded answer and be answered in every Court of Her Majesty and the land vested in the trustees and the property vested in the proprietors shall after the passing of this Act be and become vested in the corporation and the said proprietors and shareholders shall be for ever capable of holding to them and their successors the land and property before mentioned and any other land and property whatsoever necessary or proper for the purposes of the institution with full power to mortgage grant alien assign demise and convey the same and the said proprietors and shareholders shall and may by the name aforesaid act in all the concerns of the said corporation as fully and effectually as any other body politic or corporate but no sale mortgage incumbrance or other disposition of land or property belonging to the institution shall be made except with the approbation and concurrence of a general or special general meeting of the proprietors and shareholders.

The proprietors and shareholders to be a corporation.

5. The corporation shall have for its objects the advancement of literature and the diffusion of useful knowledge and the proprietors and shareholders are hereby empowered to establish lectures and adopt such other means as shall be thought likely to advance these objects.

The object of the institution shall be the advancement of literature and the diffusion of useful knowledge.

6. The number of shares shall be limited to one thousand and the price of each share shall be twenty-five pounds each shareholder shall be charged with the annual payment of one pound per annum in respect of each share a shareholder may hold more shares than one and upon all occasions of voting in the concerns of the library shall be entitled to vote in respect of each share which he may hold therein and the liability of each shareholder shall be limited to the amount of his share or shares.

The number of shares to be limited to 1,000 and the price of each share to be £25.

Liability to be limited to the amount of each share or shares.

7. If any shareholder shall neglect or refuse to pay the said sum of one pound per annum in respect of each share to the treasurer of such corporation or to such other person as shall be authorized by the committee to receive the same within the space of six calendar months from the time appointed to pay the same then and in every such case the share for or in respect of which there shall have been such neglect or default of payment shall thereupon be declared to be forfeited to the corporation.

In default of payment of annual subscription within six months share to be forfeited.

8. If at any time within the space of two years to be computed from the first day of January then next following the day on which such neglect or default of payment shall have been made any person who shall have made such neglect or default his executors administrators or assigns shall by writing under his hand to be delivered to the secretary offer to pay up his arrears of the said sum and the further sum of one pound by way of fine and shall solicit that upon his making such payment the forfeited share or shares be restored to him the committee at any meeting upon the payment of the said arrears and of the said further sum of one pound shall restore by a resolution

If within two years arrears of subscription be paid and one pound penalty share to be restored.

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resolution of the committee such forfeited share to the person soliciting the restoration of the same.

If not thus restored share to be sold.

9. The committee shall be empowered when and as they shall think proper after the expiration of the time lastly hereinbefore limited to sell either by public auction or private contract and for such sum of money as by them may be thought reasonable the share of any shareholder which shall have become forfeited to the corporation under the provision lastly hereinbefore contained and to receive and give receipts for the money for which the same shall have been sold and every share so sold shall thenceforth be subject to such annual payment as is hereinbefore mentioned but the defaulting shareholder his executors administrators or assigns may at any time within ten years from the period when the said shares shall have been sold be entitled to demand and receive from the treasurer the proceeds of such sale deducting therefrom such sum as shall be determined on by the committee not exceeding five pounds by way of penalty the arrears of his annual subscription and the expenses incurred in such sale.

Life proprietors who have redeemed their subscriptions may become shareholders on payment of £10 and life proprietors who have not redeemed their subscriptions on payment of £20.

10. Proprietors who have redeemed their subscriptions may at any time within five years from the passing of this Act become shareholders upon payment of ten pounds (being the sum of twenty-five pounds the price of each share deducting therefrom fifteen pounds the entrance fee and redemption money already paid by them) and proprietors who have not redeemed their subscription may at any time within the like period become shareholders upon payment of twenty pounds (being the said sum of twenty-five pounds the price of each share deducting therefrom five pounds the entrance fee already paid by them) and should any of these proprietors within the period aforesaid decline to become shareholders they shall continue to enjoy the privileges of the institution during life in the one case without payment of an annual subscription and during life and payment of the annual subscription of two pounds in the other case but after the death of the proprietors the whole land property and management of the corporation shall be vested in the shareholders.

Life proprietors declining shall continue to enjoy the privileges of the institution on the same terms as heretofore.

A token to be given to each shareholder by the production of which a visitor may have access to the institution.

11. Some token to be determined on from time to time by the committee shall be given to each shareholder in respect of each share he may hold and each shareholder shall have the privilege of admitting a visitor to the library and reading room and to the other advantages of the institution (with the exception of taking away book) in respect of each share he may hold and such visitor shall be admitted upon producing the shareholder's token and conforming to the regulations of the committee.

Present subscribers may continue subscribers upon payment at present rates. Rates for future subscribers to be hereafter determined on by the proprietors and shareholders.

12. Present subscribers may continue subscribers upon payment of an annual subscription not exceeding the amount now fixed by the rules and the institution shall hereafter be open to persons not being either proprietors or shareholders who shall be admitted upon the payment of such annual quarterly or monthly subscription and under such regulations as the proprietors and shareholders shall from time to time in that behalf determine.

Real estate to have the nature of personal estate and be transmissible accordingly.

13. In respect to shareholders the real estate acquired or to be acquired by the corporation shall have the nature and transmissible quality of personal estate.

Mode of transfer and transmission of shares.

14. The shares shall be numbered from one to one thousand and the numbers shall be entered in a register to be kept by the secretary for that purpose and opposite to each number shall be entered the name addition and place of abode of each shareholder and every transfer and acceptance of transfer shall be in the form or to the effect following (that is to say)—

Australian Library and Literary Institution.

“ I in consideration of paid
“ to me by of do
“ hereby transfer unto share (or shares)
“ of and in the Australian Library and Literary Institution
“ being share (or shares) numbered
“ to hold to the said
“ executors administrators or assigns subject to the pro-
“ visions of the Act of Council and the by-laws of the
“ corporation And I the said do hereby
“ agree to and with the said corporation to accept and take
“ the said share (or shares)
“ subject to the same provisions and by-laws and to make
“ all payments which may be required in respect of such
“ share (or shares) under the said Act of Council and
“ by-laws.”

And no person to whom a share shall have been sold or transmitted shall be entitled to the rights of a shareholder until such person shall have satisfied the secretary of his right to such share and the secretary upon being satisfied shall sign his name in such register and the person to whom such share shall have been sold or transmitted shall also sign his name in such register and thereupon such person shall become entitled to all the advantages of the institution but if on the decease of any shareholder upon the production of his will or the letters of administration to his effects to the secretary the secretary shall report to the committee that more than one person is legally entitled to the share then the persons legally entitled shall agree among themselves who shall represent the deceased as to his share and if they shall not come to an agreement the executors or administrators shall be entitled to nominate any one of them as the representative of the deceased shareholder.

15. There shall be a president a vice-president a treasurer a secretary and a committee of management consisting of such officers and of ten proprietors or shareholders all of whom shall be elected annually at a general meeting to be held in the month of January in each year in the manner hereinafter provided for and the present president vice-president treasurer secretary and committee of the Australian Subscription Library shall be the president vice-president treasurer secretary and committee of the corporation from the day of the passing of this Act until the general meeting of the proprietors and shareholders to be held on the first day of January next or within thirty days thereafter.

Officers of the institution.

16. At a general meeting which shall be held on the first day of January next after the passing of this Act or within thirty days thereafter and on the first day of January or within thirty days thereafter in every subsequent year there shall be an election of a president a vice-president a secretary and a treasurer and also of ten proprietors or shareholders who thenceforth shall be a committee for the management of the affairs of the corporation for the year next ensuing such election unless they or any of them shall die resign or cease to be a proprietor or shareholder 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 die resign or become disqualified to act or incapable of acting a special general meeting shall be convened within thirty days thereafter for the purpose of electing an officer or member to fill such vacancy and to exercise the said office for such time and with the like power as the person so dying having resigned or becoming disqualified to act or incapable of acting would have done if no such vacancy had occurred.

Mode of election of officers.

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General meetings to be advertised.

17. Notice of the time and place of holding all general meetings shall be advertised three times in a Sydney newspaper at least fourteen days before such meeting and notice thereof for at least fourteen days before such meeting shall be hung up in the library and reading room.

Powers of committee.

18. The committee shall have the power 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 and regulations as shall from time to time be made at any general or special general meeting.

To appoint and dismiss servants.

19. The committee are authorized to appoint suspend or dismiss the servants of the library.

Service of legal proceedings on secretary to be good service.

20. In all cases of legal proceedings service of notice thereof upon the secretary shall be good service upon the corporation.

Committee or ten proprietors or shareholders may at any time convene a special general meeting.

21. The committee or any ten proprietors or shareholders shall and may at any time and for such purpose as they may think proper call a special general meeting of which notice shall be given by advertisement three times in a Sydney newspaper at least fourteen days before the day of such meeting and notice thereof for at least fourteen days before such meeting shall be hung up in the library and reading room.

Committee at general meeting to report to the proprietors and shareholders.

22. The committee shall present to the proprietors and shareholders at the general meeting to be held on the first day of January next after the passing of this Act or within thirty days thereafter and on the first day of January in every subsequent year (or within thirty days thereafter) a statement in writing of the debts credits and effects of the corporation.

Proceedings to be recorded.

23. The orders and proceedings of every such general meeting and special general meeting shall be entered by the secretary or by such other person as shall attend in his stead in a book to be kept for that purpose and such orders so entered and signed by the chairman of the committee or in his absence by such member who shall be in the chair at each respective meeting shall be taken to be authenticated proceedings.

Females and non-residents to vote by proxy.

24. Every female who shall be a proprietor or shareholder of one or more share or shares shall be entitled to vote by proxy in respect of her share at any general or special general meeting wherever she shall be resident and any proprietor who shall be actually resident at a greater distance than ten miles from the place where such general or special general meeting shall be appointed to be held shall have power to vote at such meeting either in person or by proxy every such proxy being a proprietor or shareholder and the appointment of such to be in writing and lodged with the secretary.

Power to make rules and by-laws.

25. The proprietors and shareholders shall have power from time to time at any general or special general meeting to make such rules orders and by-laws as shall seem meet and proper for regulating the proceedings of the said committee and for the general management of the corporation in all respects whatsoever and from time to time to alter amend vary revoke and repeal such rules orders and by-laws or any of them and to make others as to the proprietors and shareholders at any such meeting shall seem 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 the proprietors and shareholders and shall be sufficient in any Court of law or equity to justify all persons who shall act under the same Provided that such rules orders and by-laws be not repugnant to law or to this Act and that copies thereof be entered on record in the books of the corporation but the present rules and by-laws of the Australian Subscription Library shall continue in force so far as the same shall be applicable until substituted rules and by-laws shall be made and shall have come into operation by force of this Act.

Newcastle Coal and Copper Company.

26. If any proprietor shareholder subscriber or visitor shall without the consent of the librarian at any time hereafter take away from the library reading room or other part of the premises of the institution any book pamphlet newspaper or other property belonging to the corporation or shall wilfully destroy mutilate or damage any book pamphlet or other property belonging to the corporation he shall for every such offence forfeit and pay to the institution the sum of ten pounds and the said penalty or sum shall and may be recovered with full costs in any Court of Requests or summarily in any Court of Petty Sessions in Sydney such proceedings to be instituted in the corporate name of the institution and such sum to be applied as part of the funds of the institution and it shall be in the discretion of the committee to report the party offending to a general or special general meeting and it shall be competent for the proprietors and shareholders at such meeting if the party offending be a subscriber or visitor thenceforth to exclude him from the institution if the party offending be a proprietor to declare his life interest to be forfeited and if the party offending be a shareholder to declare his share to be forfeited and thereupon such share shall be sold either by public auction or by private contract for such sum of money as by the committee may be thought reasonable and the shareholder whose share shall have been sold his executors administrators or assigns shall be entitled to demand and receive from the treasurer the proceeds of such sale deducting therefrom the said penalty or sum of ten pounds and costs (if not before paid) the arrears of his annual subscription and the expenses incurred in such sale.

Penalty for taking away or injuring the property of the corporation.

27. Nothing in this Act shall prejudice present proprietors or subscribers.

Rights of present proprietors and subscribers preserved.
