

An Act for the purpose of enabling the Trustees of the Albury Racecourse to grant leases thereof to any Club; and to enable the Members of the Club to sue and be sued in the name of the Chairman of the Committee for the time being of the Club; and for other purposes. [29th March, 1892.]

ALBURY
RACECOURSE.
—

WHEREAS by deed-poll or grant from the Crown, bearing date the sixth day of April, in the twenty-eighth year of the reign of Her Most Gracious Majesty Queen Victoria, in the year of our Lord one thousand eight hundred and sixty-five, under the hand of His Excellency Sir John Young, then Captain-General and Governor-in-Chief of the Colony of New South Wales, and under the seal of the said Colony, all that piece or parcel of land in the said Colony containing by admeasurement one hundred and forty-one acres, be the same more or less, situated in the county of Goulburn and parish of Albury, being portion number one hundred and sixty-seven: Commencing on the western side of a road three chains and eighty links wide at the south-eastern corner of T. Hatch's portion thirty-seven; and bounded thence on the north by the south boundary of that portion and its westerly prolongation, forming a south boundary of portion thirty-eight, being in all a line bearing west thirty-five chains and twenty-three links; on the west by part of the east boundary of portion thirty-eight aforesaid, being a line bearing south forty chains and four links to a road one chain wide; on the south by that road dividing it from part of D. Reid's portion thirty-six of one hundred and seventy acres, bearing east thirty-five chains and twenty-three links to the first-mentioned road; and on the east by that road dividing it from E. Mitchell's portion ninety-nine and E. Mitchell's portion one hundred, and from part of W. Wise's portion one hundred and one bearing north forty chains and four links to the point of commencement, with all the rights and appurtenances thereto belonging, was granted unto James Layton, Robert Brown, William Huon, Samuel Charles Valentine North, and George Day, upon trust, in their discretion to permit and suffer the said land or any part thereof to be used by such persons, clubs, or associations, at such times, and upon such terms and conditions, as the said James Layton, Robert Brown, William Huon, Samuel Charles Valentine North, and George Day, or any other trustees of the said land appointed as thereafter provided, should think fit and proper for any of the purposes hereinafter described (that is to say)—

Firstly—As a racecourse, upon which horse-races might be run, under the direction of any club or association then existing, or which might thereafter be founded for the purpose of horse racing.

Secondly—As a training ground for the purpose of training horses intending to race.

Thirdly—As a cricket ground, or place at and upon which the game of cricket might be played.

Fourthly—And for any other public amusement or purpose which his Excellency the Governor for the time being of the said Colony, with the advice of the Executive Council thereof, may from time to time declare to be a public amusement or purpose for which the said land or any part thereof should or might be used.

Provided

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Provided always, and it was thereby declared that it should or might be lawful for the trustees for the time being of the said lands, for any of the purposes aforesaid, to make all or any such rules and regulations for the use of the said land, or any part thereof, and to vary or alter the same, from time to time, as they might deem fit, for any of the purposes aforesaid: Provided always, and it was thereby declared, when and so often as the said James Layton, Robert Brown, William Huon, Samuel Charles Valentine North, and George Day, or any trustees or trustee to be appointed by virtue thereof, should die, resign, cease to reside in the Colony of New South Wales, or become incapable to act in the trust thereby created, it should be lawful for the Governor for the time being of the said Colony, with the advice of the Executive Council thereof, from time to time, by writing under his hand, to name and appoint a new trustee or trustees in the place and stead of any trustee or trustees so dying, resigning, ceasing to reside in the said Colony of New South Wales, or becoming incapable of acting in the said trust, and thereupon the said lands should be conveyed and assured by the surviving or continuing trustee or trustees, or by the heirs of the last surviving trustee, their or his heirs or assigns, upon the trusts and for the interests and purposes hereinbefore created, and declared of and concerning the said lands. And whereas the said trustees have for many years past permitted the members of the Albury Racing Club to have the use and enjoyment of the said lands, for the purpose of horse-racing, and the said Albury Racing Club has expended large sums of money in making, forming, and improving a course for horses to run on, and a tan gallop for horses to train on, and in erecting fences, stands, and other buildings on the said land in connection with horse-racing. And whereas it is desired to erect a new grand-stand, and also a lawn, and generally to permanently improve the said land, for the purposes of the said Albury Racing Club, but no funds to carry out such desire can be raised unless power to lease the said lands be granted by Parliament. And whereas it is expedient that power to lease the said lands be conferred on the said trustees, and that certain powers and privileges be granted to the members of the said Albury Racing Club, as hereinafter set forth: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the consent of the Legislative Council and Legislative Assembly of the Colony of New South Wales in the present Parliament assembled, and by the authority of the same, as follows:—

Interpretation
clause.

1. In this Act—

The term "Governor" means the Governor with the advice of the Executive Council.

The term "Club" means The Albury Racing Club or any other Club or Association to whom any lands may be leased by the Trustees under the provisions of this Act.

The term "Committee" means the committee for the time being of the club.

The term "Chairman" means the person who is chairman for the time being of the committee.

The term "Trustees" means the trustees or trustee for the time being of the Albury Racecourse, being the land comprised in the hereinbefore mentioned Crown grant.

The term "Justice" means a Justice of the Peace in and for the Colony of New South Wales.

The term "building" means any house, outhouse, stand, booth, stable, shed, tent, fence, or other building, edifice, or erection of any description whatsoever for the time being standing, or being upon any land for the time being vested under or by virtue of this Act in the chairman.

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2. It shall be lawful for the said trustees, and they are hereby authorized by writing under their hands, to grant upon such terms and conditions as to them shall seem expedient to the said club, or to any other club or association now formed or which may hereafter be formed for the purpose of horse-racing, or for the purpose of promoting or engaging in any other public amusement or purpose for which it is intended the said lands should or might be used as aforesaid, the exclusive right to use and occupy the said lands or any part or parts thereof, as the said trustees should in their discretion think fit, for any number of years not exceeding twenty-one years, commencing from the time of signing the instrument by which the said lands shall be demised, with power also for the said trustees from time to time to renew any such lease for any further term not exceeding twenty-one years from the granting thereof, and with power also in any such lease, or any renewal or renewals thereof, to make such stipulations with reference to any buildings to be erected on the said lands or otherwise to the improvement thereof, as they may think proper.

Power to trustees to grant leases.

3. All actions, suits, and proceedings at law or in equity, for any cause, matter, or thing happening after this Act, to be commenced, instituted, prosecuted, or carried on by or on behalf of the club, or wherein the club is or shall be in anyway concerned against any person or persons, body or bodies, political or corporate, whether members or a member of the club or otherwise, or any distresses or proceeding to enforce payment of rent under any lease or leases, may be lawfully commenced, instituted, and prosecuted in the name of the chairman as the nominal plaintiff or petitioner for and on behalf of the club, and all actions, suits, and proceedings as aforesaid to be commenced, instituted, or prosecuted against the club, or any of the members thereof as such, shall be commenced, instituted, and prosecuted against the chairman as the nominal defendant for or on behalf of the club or members, and in all indictments and informations it shall be lawful to state the property of the club to be the property of the chairman; and any offence committed with any intent to injure or defraud the club shall, and lawfully may, in any prosecution for the same, be stated or laid to have been committed with intent to injure or defraud the chairman, and any offender or offenders may thereupon be lawfully convicted of any such offence. In all other charges or indictments, informations, or other proceedings it shall and may be lawful and sufficient to state the name of such chairman, and the death, resignation, removal, or other act of such chairman shall not abate any such action, suit, or prosecution, but the same may be continued and prosecuted and concluded in the name of any person who may be or become the chairman.

Actions to be in the name of the chairman.

4. A memorial of the names of the chairman and of each of the members of the committee respectively, in the form or to the effect set forth in the Schedule to this Act, signed by such chairman, and verified upon oath by the secretary or acting-secretary for the time being of the club, shall be filed of record in the Supreme Court of New South Wales within one calendar month after the passing of this Act, and when and so often as any chairman or member of the committee shall be newly elected, a memorial of the name of such newly elected chairman or member in the same form and to the same effect as the above-mentioned memorial, signed and verified as aforesaid, shall in like manner be filed or recorded in the said Supreme Court within one calendar month next after every such chairman or member shall be elected, and for all purposes whatsoever the production of the memorial recorded as by this Act directed, or of an office copy thereof, shall be received as sufficient and conclusive evidence in all

Memorial to be recorded.

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Courts of Justice, or before any person having by law or by consent of parties authority to receive evidence of all matters contained or set forth in such memorial, nor shall any proof be required of the authority of the person before whom the oath verifying the said memorial shall appear to have been sworn to have administered such oath.

No action to be brought until memorial recorded.

5. Until such memorial as hereinbefore is mentioned shall be recorded in the manner herein directed no action, suit, or other proceedings shall be brought by the club or any of the members thereof in the name of the chairman under the authority of this Act

Effect of judgment against the chairman.

6. Every judgement and every decree or order which shall be at any time after the passing of this Act obtained against the chairman on behalf of the club, shall and may take effect and be enforced, and execution thereof issued against the property and effects of the club.

Chairman may hold lands.

7. It shall be lawful for such chairman and his successors in office from time to time and at any time hereafter to accept the lease of and to hold by demise from the said trustees for the purposes of this Act the said lands as aforesaid.

Lands vested in chairman to be held for racecourse and other purposes.

8. The lands comprised in the hereinbefore recited Crown grant, and by this Act authorised to be demised to the chairman, shall be held by him only for the purpose of being maintained and used for a public racecourse, or for one or other purposes in the said recited grant mentioned under and subject to the provisions of this Act, and any by-laws to be made under or by virtue hereof.

Committee may maintain buildings already erected, and erect others.

9. The committee may maintain any buildings now standing and being upon the said land comprised in the hereinbefore recited grant or any part thereof, and may also from time to time complete or erect upon the said land, or any other land for the time being vested in the chairman either in addition to or substitution for the buildings now standing thereon, all such other buildings as may in the opinion of the majority of the committee be necessary or expedient for or in connection with the use of the said land as a public racecourse.

Committee may make by-laws.

10. The committee, or an absolute majority in number of such committee present at any meeting, may from time to time, subject to the special provisions of this Act, make such by-laws as they may think fit for regulating all matters concerned or connected with the lands comprised in the hereinbefore recited grant, or any lands which may hereafter be vested in the chairman, and for the protection of the shrubs, trees, and herbage growing upon the said lands, and for regulating the use and enjoyment thereof, and the admission thereto, or to any buildings or enclosures thereon, and the expulsion therefrom of members of the club, or any other person or persons whomsoever, causing annoyance or inconvenience, and the rates or charges to be paid for such admission, and all other necessary by-laws for the general management of the said racecourse, and may impose penalties on the breach of any such by-law, not in any case to exceed the sum of ten pounds; and may from time to time, by any other by-laws, alter or repeal any such by-laws, provided that no such by-laws be repugnant to the laws for the time being in force in New South Wales, and every such by-law shall be reduced into writing, and shall be signed by the chairman.

Disallowance of by-laws by Governor in Council.

11. No by-law made under the authority of this Act shall be of any force or effect until the expiration of one month after the same or a copy thereof, signed by the chairman, shall have been sent to the Colonial Secretary of New South Wales for the time being, and until publication hereinafter mentioned; and at any time within the said period of one month the Governor may disallow any such by-law, which shall not then come into operation.

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12. Every by-law shall, immediately upon the expiration of one month after the same shall have been sent as aforesaid, if not disallowed as aforesaid, be published in the *Government Gazette*, together with a notice stating when such by-law was sent to the Colonial Secretary, and that such by-law has not been disallowed, and such by-law shall come into operation from the date of such publication.

Publication of
by-laws.

13. One or more copies of all by-laws made under this Act, and for the time being in force, shall be painted on boards, or printed on paper, and posted in some conspicuous place or places, at or near the principal entrance to the said racecourse, or on the front or other conspicuous part of the grand-stand on the said racecourse.

Public notification of
by-laws.

14. Such by-laws, when so posted and published as aforesaid, shall be binding upon and be observed by all parties, and shall be sufficient to justify all persons acting under the same, and the production of the copy of the *Government Gazette* containing any notification of such by-laws, or of any of them, shall be conclusive evidence that such by-laws were duly made and not disallowed, and it shall be presumed that such by-laws were duly posted and published, until the contrary be shown.

Evidence of by-laws.

15. The Governor may at any time by order declare that from a time to be named in such order and not less than six months from the date of the publication of such order in the *Government Gazette*, any by-law made under this Act shall be repealed, and from and after the time so named in such order such by-law shall, unless previously otherwise repealed under the provisions herein contained, be absolutely repealed and of no effect: Provided always that such repeal shall not interfere with or affect any action, suit, prosecution, or other proceedings commenced before the time of such repeal.

The Governor
may repeal
by-laws.

16. Any person offending against any by-law made under this Act shall forfeit for every such offence any sum not exceeding ten pounds, to be imposed by such by-law as a penalty for any such offence, and to be recovered by proceedings which may be taken in a summary way before any Stipendiary or Police Magistrate or before any two Justices at the Court of Petty Sessions nearest to the place where the breach of such by-law was committed: Provided that in any proceedings which may be taken in the recovery of any penalty imposed for the breach of any by-law, the persons prosecuting shall not be called upon to define or prove the boundaries of the lands comprised in the hereinbefore mentioned grant or of any other lands vested in the said chairman, and coming within the provisions of this Act, where the complaints form an act committed on such lands or any of them; and if the infraction or non-observance of any such by-laws be attended with danger or annoyance to the public or hindrance to the committee or any of the officers of the said club or the public in the lawful use of the said racecourse, it shall be lawful for the committee, or any member, officer, or servant thereof summarily to interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to any penalty incurred by the infraction of any such by-law.

Offence against
by-laws.

17. Whosoever shall wilfully obstruct or impede any officer, servant, or agent of the committee in the execution of his duty upon any land leased under this Act for the time being vested in the chairman, or upon or in any building or premises thereon, or remove or wilfully injure any building, enclosure, post, tree, or shrub upon any such land shall, on conviction thereof before any Stipendiary or Police Magistrate or any two Justices, forfeit and pay for every such offence, over and above the amount of the injury done, any sum not exceeding ten pounds.

Obstructing officers
of committee, or
trespassing on the
racecourse.

18. Any member or officer or servant of the committee and all persons called by him to his assistance may seize and detain any person

Transient of an
offender may be
arrested.

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who shall have committed any offence against the provisions of this Act or by-laws made under this Act, and whose name and residence shall not be given to such member, officer, or servant upon his requiring same to be given, and give such offender in charge to a police constable, who shall convey him with all despatch before some Justice without any warrant or authority other than this Act, to be dealt with according to law.

Liability to penalty not to relieve from other liability.

19. Notwithstanding the liability of any person to any penalty under the provisions of this Act or by-laws made thereunder, he shall not be relieved from any other liability to which he would have been subject if this Act had not been passed.

Committee may fix by-laws and charges.

20. The committee or a majority of them may by any by-law to be made and come into operation as hereinbefore provided, from time to time prescribe, and vary at pleasure the scale of tolls and charges to be levied or taken for admission to any lands leased under this Act and for the time being vested in the chairman, or to any building standing or being thereon, and the conditions for such admission, and may demand, sue for, recover, and receive such tolls and charges from any person coming upon such land or into or upon any such building.

Chairman may let lands, buildings, or tolls.

21. The chairman may demise for any particular race meeting or meetings, or for any other amusement or sport, the whole or any portion of the lands for the time being vested in him, or any building erected thereon, or all or any of the tolls or charges demandable under and by virtue of this Act; and the lessee, his collectors, servants, and agents shall have the same powers of demanding, recovering, and receiving the said tolls and charges as are hereby given to the committee.

Club not to be incorporated.

22. Nothing herein contained shall extend or be deemed, taken, or considered to extend to incorporate the club, or the members thereof, or to relieve or to discharge them or any of them from any responsibility, debts, contracts, or obligations whatsoever which they would be subject or liable to, either between the club and others, or between the individual members of the club or any of them if this Act had not been passed.

SCHEDULE.

Club.

MEMORIAL of the names of the chairman and of the committee of the Club to be recorded in the Supreme Court of New South Wales pursuant to an Act of Parliament of the said Colony passed in the fifty-fourth year of the reign of Her Majesty Queen Victoria.

A.B. Chairman.
 C.D. }
 E.F. } Committee.
 &c. }
 (Signed) A.B., Chairman.

I, _____ of _____ make oath and say—

1. I am the Secretary (or acting-secretary) of the Club.
2. The above memorial is correct in all its particulars and was duly signed by _____, the abovenamed chairman in my presence.

Sworn this _____ day of _____