

*Public Parks.*

## Act No. 40, 1902.

An Act to consolidate the enactments for the better regulation and protection of Public Parks or places of public recreation, and of lands dedicated, purchased, or resumed for public purposes, for bringing certain lands within the operation of such enactments, and for other purposes. [20th August, 1902.]

PUBLIC PARKS.

BE it enacted by the King'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. This Act may be cited as the "Public Parks Act, 1902." Short title.

2. (1) The Act forty-eight Victoria number twenty-two is hereby repealed. Repeal.

(2) All trustees appointed under the authority of the Act hereby repealed or of the Public Parks Act of 1854, and holding office at the time of the passing of this Act, shall be deemed to have been appointed hereunder. Savings. 48 Vic. No. 22, ss. 2 and 11.

(3) All bodies corporate, constituted and incorporated under the authority of the Act hereby repealed or under the authority of the Public Parks Act of 1854, and in existence at the time of the passing of this Act, shall continue to be bodies corporate, and shall be deemed to have been constituted and incorporated hereunder, and shall be capable of exercising all powers and authorities conferred on trustees by this Act.

(4) All by-laws, rules, and regulations made under the authority of the Act hereby repealed or of the Public Parks Act of 1854, and in force at the time of the passing of this Act, shall be deemed to be by-laws made hereunder.

3. In this Act, unless the context or subject-matter otherwise indicates or requires,— Interpretation. Ibid. ss. 13 and 14.

"Minister" means the Minister for Lands.

"trustee" means a trustee in whom any park or place of public recreation, convenience, health, or enjoyment is vested by law.

4. (1) The Governor may appoint trustees of any lands which— Appointment of trustees. Ibid. ss. 2 and 3.  
 (a) have been or are hereafter dedicated by proclamation or notification in the Gazette;

(b)

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- (b) have been or are hereafter purchased for the purposes of public recreation, convenience, health, or enjoyment; or
- (c) have been used by the public with the acquiescence of the Crown for such purposes.

(2) Such trustees and their successors shall be a body corporate.

(3) All bodies corporate constituted and incorporated, or deemed to have been constituted and incorporated, under this Act, shall, under their respective corporate names as the same may have been or may from time to time be prescribed by the Governor, have perpetual succession and a common seal, and may sue and be sued by such names in all courts whatsoever, and shall be capable of holding real and personal property.

Municipal councils  
may be trustees.  
48 Vic. No. 22, s. 5.

5. (1) The Governor may appoint the council of any municipality within the limits of which any land—

- (a) dedicated or granted under the Public Parks Act of 1854, or the Act hereby repealed; or
- (b) now or hereafter resumed for a public park or ground for public recreation under the Act forty-four Victoria number sixteen, or the Public Works Act, 1900; or
- (c) now or hereafter purchased for such purposes, or dedicated under this Act,

is situated to be the trustees of such land in the corporate name of such council.

(2) Thereupon such council shall be trustees of such land for all purposes of this Act.

Vacancies how  
supplied.  
*Ibid.* s. 8.

6. When any trustee not being a member of a municipal council appointed to execute any trust under this Act, dies or is absent from the State for more than twelve months, or resigns, or refuses or becomes incapable to act in the trusts or powers reposed in him, the Governor may appoint a new trustee in his place.

Estate of trustees.  
*Ibid.* s. 6.

7. Trustees shall, for all purposes of this Act and of any by-law thereunder, be deemed to hold an estate in fee-simple in the land for which they were appointed, but shall not be capable of alienating, charging, or in any way disposing of such land or any part thereof:

Provided that trustees may, with the consent of the Minister, lease or grant grazing or other temporary licenses to occupy or use any portion of such land for such purposes on such terms and subject to such conditions as the Minister approves.

By-laws.  
*Ibid.* s. 9.

8. (1) Trustees may make by-laws—
- (a) regulating their meetings and the conduct of business thereat;
  - (b) for the protection of shrubs, trees, and herbage growing upon the land vested in them;
  - (c) regulating the use and enjoyment of such land; and
  - (d) for the removal of trespassers and other persons causing annoyance or inconvenience upon such land.

(2)

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(2) Trustees may by such by-laws impose a penalty not exceeding ten pounds for any breach thereof.

(3) No such by-law shall be of any force until—

- (a) such by-law has been approved by the Governor ;
- (b) a copy thereof has been posted in some conspicuous place on such land ; and
- (c) such by-law has been twice published in the Gazette.

9. (1) The Governor may declare that any land now or here- Resumed lands.  
after to be resumed for public parks or grounds for public recreation, 48 Vic. No. 22, s. 4.  
or as places for bathing, and vested in the Minister for Public Works as a corporation sole by virtue of the Act forty-four Victoria number sixteen, or by virtue of the Public Works Act, 1900, shall be as to the whole or any portion of such lands subject to the provisions of this Act.

(2) After the publication of a notification in the Gazette to that effect, the estate of the said Minister, and all powers, authorities, and liabilities in connection therewith in such land, shall, upon the appointment of trustees under this Act, be held by and attach to such trustees for the purposes mentioned in the Gazette notification in the same manner and with the same powers and liabilities as if such land had originally been dedicated under this Act.

10. (1) The Governor may, by notification in the Gazette, Extinguishment of ways, &c.  
declare that any public highway or thoroughfare, public or private, or Ibid. s. 7.  
right-of-way on over or affecting any land now or hereafter dedicated as a public park or place of public recreation, convenience, health or enjoyment, or any land purchased for any public purpose or resumed under the Act forty-four Victoria number sixteen or the Public Works Act, 1900, shall be extinguished.

(2) After the publication of such notification in the Gazette, and after the same has been laid before Parliament for a period of thirty days, and has not within such period been disallowed by resolution of either House, such public highway, thoroughfare, or private right-of-way shall be extinguished accordingly.

11. The trustees or any ranger or other officer appointed by Aid of police may be called in if necessary.  
them may call in the aid of the police for the removal, by force if Ibid. s. 12.  
necessary, of any person who is found committing a breach of any by-law, or who by disorderly or insulting conduct upon or in the immediate neighbourhood of the lands vested in such trustees, causes annoyance or inconvenience to persons being on the said lands, or going to or coming from the same.

12. (1) Proceedings for the recovery of any penalty imposed Legal proceedings.  
for the breach of any by-law made under this Act, may be taken in a Ibid. s. 10.  
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.

(2) The whole amount of all such penalties shall be paid to the trustees for the purposes of their trust. (2)

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*Sydney Mint.*

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(3) In any such proceedings, the person prosecuting shall not be called upon to prove such by-laws, or the boundaries of such public park or place of public recreation, convenience, health or enjoyment, where the complaint is for an act committed in such park or place, but the production of the Gazette containing any proclamation or notification of such by-laws or of such boundaries shall be conclusive evidence thereof, and it shall be presumed that such by-laws were duly posted and published until the contrary be shown.

Prosecution under  
other Acts.

48 Vic. No. 22, s. 15.

**13.** Nothing in this Act shall prevent any prosecution or proceeding under any other Act:

Provided that no person shall be twice punished or proceeded against in respect of the same offence.

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