



SUPPLEMENT
TO THE
NEW SOUTH WALES
GOVERNMENT GAZETTE.

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ANNO OCTAVO
GULIELMI QUARTI REGIS.
No. 7.

By His Excellency Lieutenant-General Sir Richard Bourke, Knight Commander of the Most Honorable Military Order of the Bath, Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, with the advice of the Legislative Council.

An Act to regulate the Temporal Affairs of Presbyterian Churches and Chapels connected with the Church of Scotland, in the Colony of New South Wales.

WHEREAS by an Act of the Governor of New South Wales, with the advice of the Legislative Council thereof, passed in the seventh year of the Reign of His present Majesty King William the Fourth, intituled "*An Act to promote the Building of Churches and Chapels, and to provide for the Maintenance of Ministers of Religion in New South Wales*;" it is among other things provided that, "Before any sum of money shall be issued from the Colonial Treasury towards the building of any Church or Chapel and Minister's Dwelling, Trustees not less than three, nor more than five, shall be nominated by the persons contributing towards the building of the same for the approval of the Governor and Executive Council, and that the real estate in the site of such Church, Chapel, or Minister's Dwelling, and of any lands or hereditaments thereunto belonging, shall be conveyed to

"the said Trustees, when approved, and to the heirs of the survivor of such Trustees upon trust, for the erection, maintenance, and repair of the said Church or Chapel, or Minister's dwelling, and for the provision out of the Revenues belonging to, or arising from, the use of the said Church or Chapel, in such manner as shall be lawfully appointed of all things necessary for the celebration of Divine Worship therein;" and whereas with regard to Churches, Chapels, and Minister's Dwellings, of the Presbyterian Church connected with the Church of Scotland, it is considered expedient that further provision should be made, as well for the mode of their original nomination, as for maintaining from time to time by filling up vacancies as hereinafter mentioned, a proper number of duly qualified Trustees, and for defining the manner in which the trusts thereby created shall be fulfilled, and otherwise regulating the affairs of Churches, Chapels, and Minister's Dwellings of the said Presbyterian Church: Be it therefore enacted, by the Governor of New South Wales, with the advice of the Legislative Council thereof, that the Trustees of Presbyterian Churches and Chapels as aforesaid, shall be elected and appointed in the manner following; that whenever any person or persons, shall at his, her, or at their own cost and expense, erect or provide a Church, or Chapel, which shall be approved by the Presbytery of the said Colony, for the celebration of Public Worship according to the use of the Established Church of Scotland, or any Minister's Dwelling, Burial Ground, or Glebe Land, or whenever any number of Persons shall by subscription, contribute any sum not less than Three Hundred pounds, for

or towards erecting, or providing a Church, or Chapel, and Minister's Dwelling, or Burial Ground, or Glebe Land, as aforesaid, it shall and may be lawful for the person or persons so erecting, or providing the same, at his, her, or their cost, to nominate as Trustees of such Church or Chapel, any number of persons not less than three, nor more than five, to be transmitted to the Presbytery for approval as hereinafter provided; and for the Subscribers erecting or providing such Church or Chapel, and Minister's Dwelling, Burial Ground, or Glebe Land, as aforesaid, to elect by plurality of votes, from among themselves, any number of Trustees within the limits aforesaid, in manner following, that is to say, at a special meeting of Subscribers and Seat-holders for that purpose to be called, the names of ten persons qualified to act as Trustees as hereinafter is provided, shall be placed on a *Leet* or *List*, agreeably to such local regulations as the said subscribers may appoint; and the Chairman of such meeting shall, after signing the said *Leet* or *List*, transmit the same to the Presbytery of the said Colony, for the selection and appointment of not less than three, nor more five, of the said ten persons; and the said Presbytery shall, after making such selection, transmit the names so selected, for the approval of His Excellency the Governor and the Executive Council.

(The Minister for the time being shall ex-officio be entitled to be present and vote at all meetings of the Trustees.)

II. And be it further enacted, that the Minister for the time being lawfully appointed, and recognized by the Presbytery of New South Wales as the ordained Minister of the said Church, shall *ex-officio* be entitled to be present at all meetings of the Trustees, or other meetings concerning the affairs of the Church or Chapel of which he shall be the officiating Minister, and shall at all such Meetings be privileged to vote upon any question concerning the affairs of the Church or Chapel of which he is the officiating Chaplain as aforesaid, or concerning the Minister's Dwelling thereof: And in case there should, at any such Meeting, be an equality of votes, the Chairman shall have a casting vote.

(That every Trustee shall be a member of the congregation, and free, and above the age of twenty-one.)

III. And be it further enacted, that every person who shall be nominated or appointed as Trustee for any Presbyterian Church or Chapel in connexion with the Church of Scotland as aforesaid, shall be a member of the Congregation of the Church or Chapel for which he shall be so nominated or appointed, either as a seat holder, or a communicant, being free, and above the age of twenty-one years.

(Any Trustee being absent from the Colony, or in a part of the Colony remote from the Church, &c., for more than six months, another to be elected in his place.)

IV. And be it enacted, that if any Trustee shall be absent from the said Colony, or be in a part of the said Colony remote from the Church or Chapel for which he is such Trustee,

for more than six months in succession, or shall be a confirmed lunatic, or shall be, or shall become disqualified by reason of improper conduct, or otherwise, within the meaning of this Act, of which disqualification, so far as regards Spiritual matters, the Presbytery, at the suit of the other Trustees, or of the Kirk Session, shall be the Judge, it shall and may be lawful, after notice given to the Presbytery, and the sanction of the said Presbytery having been obtained, for the Subscribers to such Church or Chapel, and the seat-holders therein, to proceed to the selection, in manner as aforesaid, of the names of not less than three persons qualified as aforesaid, one of whom shall be selected, by the Presbytery, and the person so selected shall be the new Trustee for such Church or Chapel.

(Any Trustee dying or being removed, Trustees shall call a Meeting for the purpose of nominating a new Trustee.)

V. And be it enacted, that whenever and as often as any Trustee nominated and appointed to any Church or Chapel under the provisions of this Act, shall die or shall resign his office with the consent of his Co-trustees, or shall be removed as aforesaid, the survivors or continuing Trustees shall forthwith call a meeting of the Subscribers to, and Seat-holders in such Church or Chapel for the purpose of nominating a new Trustee, and the same proceedings shall be observed in all respects as to such nomination and selection, as upon the original appointment of Trustees: Provided, however, that no Trustee shall be permitted to resign his office until he shall duly have accounted to the satisfaction of his Co-trustees, for all sums of money at any time received by him in his said Trust.

(That in case the surviving or continuing Trustees shall not within two months after the death, &c., give Public notice of meeting for filling up the vacancy, it shall be lawful for the Presbytery to nominate and send the name for approval to the Governor and Executive Council.)

VI. And be it enacted, that if the surviving or continuing Trustees of any such Church or Chapel, shall not within two months after the death, resignation, absence, infirmity or removal from office as aforesaid, give Public notice of a meeting to be held for filling up the vacancy as aforesaid, it shall and may be lawful for the Presbytery of said Colony, by writing under their hand and seals, to nominate from the congregation a person duly qualified as aforesaid, and transmit the name of the person so nominated, for the approval of the Governor and Executive Council.

(The freehold estate in fee simple of any Church, &c., to be vested in the Trustees.)

VII. And be it enacted, that the new Trustee to be nominated or selected as aforesaid, pursuant to this Act, shall become jointly with the continuing or surviving Trustees or Trustee, a Trustee of the site of the Church or Chapel, Minister's Dwelling, Burial Ground or Glebe Land, in respect whereof he shall be appointed, and all such Deeds and Assurances shall be made and executed, as shall be neces-

sary legally to effectuate and complete his appointments as such new Trustee as aforesaid.

(That the duties of Trustees shall be confined to temporal affairs of the Churches, &c., such as collection of Pew-rents, &c., repair of Churches, &c.)

VIII. And whereas, for the more effective discharge of the duties of Trustees of Presbyterian Churches or Chapels, it is expedient that their powers and duties should be defined: Be it declared and enacted, that the duties of the said Trustees shall be solely confined to the temporal concerns of said Churches and Chapels, such as the collection of Pew rents, receiving subscriptions, donations, devises, or bequeathments of lands or other property, for the erection, maintenance, and repair of the Church, Chapel, or Minister's Dwelling, for which they shall be appointed, or for a Burial Ground or Glebe thereunto annexed; also the payment of stipends or salaries of Church Officers, expenses attending the dispensation of Divine Ordinances, and the faithful performance of ministerial, clerical, and parochial duty connected therewith; and it is also hereby declared that the said Trustees shall have no power or authority to appoint or dismiss the Minister of any such Church or Chapel to which they are or shall be appointed.

IX. And be it enacted, That it shall and may be lawful for the Clergyman duly inducted by the Presbytery, into any Church or Chapel, under this Act, so long as he shall be recognised as such Minister, by the Presbytery, to have free access and admission, to, and in, such Church or Chapel, and the Burial Ground belonging thereto, and every part thereof respectively, at all times, as he shall think fit, and freely to exercise his spiritual functions therein, respectively, without any hindrance, or disturbance of the Trustees of the same, or any person whatever, and such officiating Minister shall or may, during such times as aforesaid, freely use, have, possess and enjoy, the Minister's Dwelling House, Garden, Appurtenances, and Glebe belonging to such Church or Chapel, and receive, have and take the Rents, profits, and issues thereof respectively; Provided that no such liberty of access and admission to such house of residence as aforesaid, nor occupation of the same, for any length of time whatever, shall be constructed to confer any right of property in the same, upon the Clergyman, or other parties, by whom such House of residence, and the Appurtenances may have been so occupied, nor any right or title to retain possession of the same, after such Clergyman shall have been removed from his office, by the decision of the Presbytery, nor shall the same be pleaded in bar of any Ejectment which may be brought by, or on behalf of the Trustees of any Church or Chapel as aforesaid, for recovering possession of such House of Residence, and the Appurtenances thereof.

X. And be it enacted, That whenever and as often as it shall happen, that the Glebe or other Land belonging to any Church or Chapel under this Act, not being in the possession or occupation of any Clergyman inducted by the

Presbytery into such Church or Chapel, or with the consent of the Clergyman being in such possession or occupation, may be improved by building upon the same or otherwise, so as to admit a greater yearly profit than One Hundred and Fifty Pounds, and security being given &c., payment to the Clergyman who shall next be inducted by the Presbytery to officiate in such Church or Chapel, and also to the present officiating Clergyman, of the said sum of one hundred and fifty pounds annually, it shall and may be lawful for the Trustees of such Church or Chapel, with the consent of the Presbytery, to enter into and upon the said Glebe or other Land, belonging to the said Church or Chapel, and to let the same upon leases for any term not exceeding twenty-eight years, reserving the said issues and profits to the said Trustee or Trustees for the time being, upon trust, in the first place to pay to the Officiating Minister of the said Church or Chapel, one hundred and fifty pounds out of the profits and issues as and for an allowance for the said Glebe or other Land, and in the next place with the consent of the Presbytery to apply the remainder of the said rents, issues and profits, or any part thereof in or towards building or enlarging the Church or Chapel, or Minister's dwelling, or for religious or educational purposes: Provided nevertheless, that in cases where the residence appropriated for the Clergyman officiating in any Church or Chapel, shall be situated upon the Glebe pertaining to the same, it shall and may be lawful for the Trustees of such Church or Chapel, and they are hereby required to reserve any portion of such Glebe or other Land, not exceeding one-fifth of the whole, which shall be approved by the Presbytery to be appropriated to the personal use and occupation of the said Clergyman, in addition to the sum of one hundred and fifty pounds per annum to be secured to him as aforesaid, from the rents and proceeds of such Glebe or other Lands.

(Trustees to collect all Sums of Money due for Pews, &c., and to sue for same.)

XI. And be it further enacted, That it shall and may be lawful for the Trustees appointed, or to be appointed, according to the provisions of this Act, to collect and gather all and every sum or sums of money which may be due and payable for Pews or Sitings in such Church or Chapel for which they have been so appointed, according to the rent or rate assessed for the same, or any other sum or sums of money due on account of the said Church or Chapel, or of the Minister's Dwelling, Burial Ground, or Glebe Land annexed thereto, and to sue for the recovery of the same from all persons who shall fail or refuse to pay the same according to the terms of their engagement; and the Trustees, out of the monies so received or recovered, as far as the same will extend, shall regularly apply the same for the purposes before-mentioned.

(Trustees to furnish accounts annually.)

XII. And be it further enacted, That the said Trustees shall, if required to do so, furnish to the Presbytery before the first day of May

in every year, a true and correct account to the close of the preceding year, of all receipts and disbursements of money belonging to the Church or Chapel of which they may be Trustees.

(The time for the appointment of Trustees of Presbyterian Churches already built, to be extended to six months after the passing of this Act.)

XIII. And whereas, by the said recited Act, it is amongst other things enacted, That with regard to Churches or Chapels already built, and repaired or maintained at the public expense, or for the Ministers whereof stipends were issued from the Colonial Treasury, it shall and may be lawful for the Governor, with the advice of the Executive Council, within six months after the passing of that Act, to nominate not less than three nor more than five of the Pewholders of the said Church or Chapel belonging to the religious denomination for whose use the said Church or Chapel is maintained, to be Trustees thereof, and to whom, and the heirs of the survivor of such Trustees, shall be conveyed as soon as conveniently may be, the real estate in the said Church or Chapel and Minister's Dwelling, upon trust, for the maintenance and repair of such Church and Minister's Dwelling, and for the provision out of the revenues belonging to or arising from the use of the said Church or Chapel, in such manner as shall be lawfully appointed, of all things necessary for the celebration of Divine Worship therein; and whereas, the Trustees for Presbyterian Churches and Chapels as aforesaid, were appointed without the selection of the Presbytery of New South Wales, and it is expedient to appoint new Trustees for such Churches or Chapels conformably to the provisions of this Act: Be it therefore enacted, That the former appointment of Trustees under the provisions of the said recited Act, is hereby declared null and void, and that the election and appointment of Trustees for Presbyterian Churches and Chapels already built, shall and may be made as in this Act directed, within six months from the passing thereof.

RICHARD BOURKE.

Passed the Legislative Council
this Ninth Day of September,
One Thousand Eight
Hundred and Thirty-seven.

W. MACPHERSON,
Clerk of Council.

ANNO OCTAVO
GULIELMI QUARTI REGIS.
No. 8.

By His Excellency Lieutenant-General Sir Richard Bourke, Knight Commander of the Most Honorable Military Order of the Bath, Captain General and Governor in Chief of the Territory of New South Wales, and Vice-Admiral of the same, with the Advice of the Legislative Council.

"An Act to stay certain proceedings under an Act intituled, "An Act for Licensing Public-houses, and for regulating the

"Retail of fermented and Spirituous
"Liquors in New South Wales, and for
"making further provision for granting
"such Licenses."

WHEREAS by an Act of the Governor and Council of New South Wales, passed in Preamble. the third year of the reign of His Majesty King William the Fourth, intituled, "An Act for licensing Public Houses, and for regulating the retail of fermented and spirituous Liquors in New South Wales," it is enacted, that if any person shall from and after the thirtieth day of June, one thousand eight hundred and thirty-three, sell or dispose of by retail in any quantity less than two gallons, any ale, beer, or other malt Liquor or any wine, cider, ginger beer, spruce beer, brandy, rum, or other fermented or spirituous Liquor, in any house or place within the Colony of New South Wales or its Dependencies; or shall permit or suffer any such Liquors as aforesaid to be sold or disposed of by retail as aforesaid by any other person in his or her house, or other place within the said Colony or its Dependencies, without having first obtained a License in the manner and form herein-after directed, every such person shall forfeit for every such first offence the sum of thirty pounds, and for every subsequent offence the sum of fifty pounds, together with the costs of prosecution in every case, to be recovered before any two Justices of the Peace as hereinafter provided; and every such person shall further upon conviction of any such offence, be rendered incapable of holding any License to keep a Public-House for the period of three years from the time of such conviction: And whereas it is also by the said Act provided that every License granted for Selling and Retailing Liquors under the provisions of the said recited Act, shall be valid for one year, or until the next General Licensing Day after the date of such License, and no longer: And whereas the Justices acting in and for each district in the said Colony, are empowered to grant certificates in the form contained in the schedule to the said Act annexed: And whereas it is by the said Act further enacted, that every certificate which shall be granted by the justices to authorize the issuing of a License as aforesaid, shall after the passing of the said recited Act be null and void, unless the same and the sum required to be paid for such License, be lodged in the office of the Collector of Internal Revenue, or in such other office as may hereafter be appointed by the said Governor for that purpose, within fourteen days after the date of such certificate: And the said Collector of Internal Revenue, or other officer who may be appointed for that purpose, is thereby authorized and required forthwith, after the receipt of every such certificate, to issue a license in the form contained in the schedule to the said recited Act annexed, and register the same in his office upon payment being made to the said Collector of Internal Revenue, or other officer, of the sum of twenty-five pounds sterling for every such License: And whereas Licenses have been heretofore issued upon the certificate so granted by the Justices as aforesaid, and upon receiving payment of the said sum of twenty-five pounds as aforesaid, notwithstanding that such certificate and the sum required to be paid for such License, have not been lodged in the proper office or within fourteen days after the date of such certificate, and such Licenses

have been and now are considered by the persons holding the same as good and valid Licenses for the present year, and until the next general Licensing day, and the several persons to whom such Licenses have been issued as aforesaid upon certificates so declared by the said Act of Council to be null and void as aforesaid, have, under colour of such Licenses so obtained as last aforesaid, sold by retail, fermented or spirituous Liquors, and thereby inadvertently incurred and become liable to the penalties and disabilities by the said Act imposed, and inasmuch as such persons may have been misled by the granting of such Licenses, upon certificates not lodged within fourteen days after the date thereof, as required by the said Act, for remedy thereof: Be it enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, that every such person who at any time before the passing of this Act shall have obtained from the said Colonial Treasurer such License for the Selling and Retailing Liquors as aforesaid, upon a certificate so declared null and void as aforesaid, under and in pursuance of the provisions of the said recited Act, and who at any time since the obtaining such License, by selling or disposing of, by Retail, in any quantity less than two gallons, any ale, beer, or other malt Liquor, or any wine, cider, ginger-beer, spruce-beer, brandy, rum, or other fermented or spirituous Liquor, in any house or place as aforesaid, or who shall have permitted or suffered any such Liquors as aforesaid to be sold or disposed of by Retail as aforesaid, and thereby shall have incurred the penalty and disability aforesaid, shall from and immediately after the passing of this Act be altogether freed, acquitted, and discharged of and from every such penalty and disability, and all proceedings now pending for the recovery thereof shall be null and void, the said recited Act or any other Act to the contrary thereof, notwithstanding.

(Licenses issued by Colonial Treasurer upon such Certificates to be valid until next General Licensing Day.)

II. And be it enacted, That all such Licenses so issued by the said Colonial Treasurer as aforesaid, upon Certificates so declared null and void as aforesaid, shall, and the same are hereby declared to be, as valid and effectual for the Selling and Retailing of Liquors as aforesaid, until the next General Licensing Day after the date of such License and no longer, as if the same had been legally and regularly issued under and in pursuance of the provisions of the said recited Act.

(The Governor shall be authorised to appoint Officers to issue Licenses at distant places.)

III. And whereas, it is expedient and necessary from the extension of the boundaries of the said Colony of New South Wales, and its Dependencies, that provision should be made for the issuing of Licenses for the Selling and Retailing of Liquors under the said recited Act at Port Phillip and other distant places within the said Colony and its Dependencies: Be it therefore enacted, that from and after the passing of this Act, it shall and may be lawful for the Governor of the said Colony for the time being, to nominate and appoint any one or more Officer or Officers at any distant place or places within the said Colony and its Dependencies, to issue Licenses for Selling and Retailing Liquors under the provisions of the said recited Act; and that such Licenses so issued by such Officer or Officers, shall be valid and effectual to all intents and purposes, as if the same were issued

always, that every Person to whom such License shall be so granted as aforesaid, shall in all respects whatsoever, comply with and be subject and liable to the rules, regulations, provisions, penalty, and disability, and shall do and perform all things whatsoever which Persons Licensed under the said recited Act are required to do, or to which such Persons are made subject.

(Making valid Licenses to be granted to individuals at Port Phillip, and discharging them from the penalties.)

V. And whereas, the Justices acting within the District of Port Phillip, in the said Colony of New South Wales, have granted Certificates to certain individuals for the purpose of enabling them to apply for, and obtain such License for the Selling and Retailing Liquors under the provisions of the said recited Act, and such Persons have paid to the Police Magistrate of Port Phillip aforesaid, the sums made payable for such Licenses as aforesaid, and have sold and disposed of Liquors by Retail as aforesaid, under such Certificates, not having been able to procure such Licenses in consequence of the want of communication between Port Phillip and Sydney, in the Colony aforesaid, where the Colonial Treasurer, who is now legally authorised to issue the same, resides; and whereas it is expedient that such Persons, and any other Persons to be approved by the Justices of Port Phillip, be Licensed to Sell and Retail Liquors in the said District for the present year, notwithstanding the time appointed for issuing the same by the said recited Act is now past: Be it therefore enacted, that it shall and may be lawful for the Officer to be appointed by His Excellency the Governor, under the provisions of this Act, to issue Licenses for the Selling and Retailing Liquors as aforesaid, under the provisions of the said recited Act, and of this Act, without reference to the date of the Certificate granted, or to be granted by the said Justices, or the time of granting the same, until the next General Licensing Day to be held within, and for the said District of Port Phillip, after the date of such License and no longer; and that such Licenses when issued, shall be, and are hereby declared to be as valid and effectual in law, as if the same had been legally and regularly issued under the said recited Act; and that every such Person, who at any time before the passing of this Act, by Selling and Retailing Liquors as aforesaid, without having obtained such License as aforesaid, shall have incurred the penalty and disability aforesaid, shall, on taking out and obtaining such License as aforesaid be, and he and every of them is hereby altogether freed, acquitted, and discharged of, and from every such penalty and disability, and all proceedings for the recovery thereof shall be null and void, the said recited Act, or any other Act or Acts to the contrary, notwithstanding: Provided always, that upon the issue of any such License for Port Phillip as aforesaid, it shall be lawful to demand and receive such proportion only of the sum required for a License by the said recited Act as shall be proportioned to the unexpired residue of the year, during which such License shall remain in force.

RICHARD BOURKE.

*Passed the Legislative Council
this Ninth Day of September,
One Thousand Eight
Hundred and Thirty-seven.*

W. MACPHERSON,
Clerk of Council.

