



S U P P L E M E N T
TO THE
NEW SOUTH WALES
GOVERNMENT GAZETTE

OF WEDNESDAY, SEPTEMBER 11, 1839.

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SATURDAY, SEPTEMBER 14, 1839.

ANNO TERTIO
VICTORIÆ REGINÆ.

No. 6.

By His Excellency Sir George Gipps, Knight, 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 establish Courts of Requests at the Towns of Melbourne and Port Macquarie, in the Colony of New South Wales.”

WHEREAS, by an Act of the Governor and Legislative Council of the Colony of New South Wales, it was enacted that Courts of Civil Jurisdiction, called Courts of Requests, should be holden at certain towns or places therein named, at such times as the Governor of the said Colony should, by proclamation to be issued for that purpose, from time to time, direct and appoint: And whereas the increase of population in the towns of Melbourne and Port Macquarie, respectively, makes it expedient and necessary for the interests of the said towns and their neighbourhoods that Courts of Requests should be holden in each, respectively: Be it therefore enacted, that Courts of Civil Jurisdiction, to be called

Courts of Requests, shall be holden at the towns of Melbourne and Macquarie, in and for the said towns and neighbourhoods, respectively, at such times as the Governor of the said Colony shall, by proclamation to be issued for that purpose, from time to time, direct and appoint. (*Jurisdiction of said Courts and Commissioner, and other Officers, how to be appointed.*)

II. And be it further enacted, That the said Courts of Requests shall exercise the same jurisdiction, and be holden by a Commissioner, to be appointed by the Governor of the said Colony, for and on behalf of Her Majesty, and shall have such ministerial or other Officers as shall be necessary for the administration of Justice in the said Courts, respectively, and for the execution of the orders and process thereof, as the Courts of Requests, respectively have in virtue of the said recited

Act; and the said ministerial and other Officers shall, from time to time, be appointed to, and removed from, their respective offices, in such manner as the Governor of the said Colony shall direct.

(3 Wm. IV., No. 2, to apply in all its provisions to said Courts.)

III. And be it enacted, That the said recited Act of the Governor and Council, (except so much thereof as relates to the appointment of a Commissioner,) shall be taken to extend and apply to the said Courts of Requests, to be holden at Melbourne and Macquarie, respectively, and that the said recited Act, in all its clauses and provisions, shall be held to govern and regulate the form of proceeding, and the jurisdiction of the said Courts, respectively, in as full and ample a manner as if the said Towns were specially named in said recited Act, among the places at which Courts of Requests were by it particularly appointed to be held.

“ GEORGE GIPPS.”

*Passed the Legislative Council
this thirteenth day of August,
One thousand eight hundred
and thirty-nine.*

WM. MACPHERSON,
Clerk of the Council.

ANNO TERTIO
VICTORIÆ REGINÆ.

By His Excellency Sir George Gipps, Knight, 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 for facilitating Proceedings by and against the ‘ Sydney Alliance Marine and Fire and Life Assurance Company.’ ”

WHEREAS, several Persons have formed themselves into a Company or Society, established at Sydney, under the Name, Style, or Firm of “*The Sydney Alliance Marine and Fire and Life Assurance Company,*” for the purpose

of effecting Marine Assurances of Vessels in Harbour and at Sea, and of the Cargoes and Property in and on board the same; and also Assurances upon Life; and also for the purpose of effecting Insurances against loss or damage by Fire, and against other risks; and also for the purpose of employing the accumulating Funds belonging, and which may hereafter belong to the said Company, and in the hands of the Directors, in the discounting of Bills of Exchange and Promissory Notes, and in Loans upon real or other Security within the said Colony: And whereas difficulties may arise in recovering Debts due to the said Company, and in maintaining Actions or Proceedings for damages done to their Property; and also in prosecuting Persons who may steal or embezzle the Bills, Notes, Bonds, Mortgages, Monies, Goods, Chattels, or Effects of the said Company: And whereas it would be convenient and just that Persons having demands against the said Company should be entitled to sue some Member thereof in place and stead of the whole; but as these purposes cannot be effected without

the aid and authority of the Legislature: **Actions at Law, &c. to be in the name of the Chairman.** Be it therefore enacted, By His Excellency the Governor of New South Wales, with the Advice of the Legislative Council thereof, That from and after the passing of this Act, all Actions and Suits, and all Proceedings at Law or in Equity to be commenced, instituted, prosecuted, or carried on by or on behalf of the said Company, or wherein the said Company is or shall be in any way concerned against any Person or Persons, Body or Bodies, Politic or Corporate, or whether a Member or Members of the said Company, or otherwise, shall and may be lawfully commenced, instituted, and prosecuted, or carried on in the name of the Person who shall be Chairman of the Board of Directors of the said Company at the time any such Action, Suit, or Proceeding shall be commenced or instituted, as the nominal Plaintiff, Complainant, or Petitioner, for or on behalf of the said Company; and that all Actions, Suits, or Proceedings as aforesaid, to be commenced, instituted, or prosecuted against the said Company, shall be commenced, instituted, and prosecuted against the Chairman for the time-being of the Board of Directors of the said Company, as the nominal Defendant for and on behalf of the said Company; and that in all Criminal Prosecutions to be instituted or carried on by or on behalf of the said Company for fraud upon or against the said Company, or for embezzlement, robbery, or stealing the Bills, Notes, Bonds, Monies, Goods, Chattels, Effects, or any other Property of the said Company, or for any felony, misdemeanor, or other offence in which the said Company shall sustain any loss or damage, it shall be lawful to state that such Bills, Notes, Bonds, Monies, Goods, Chattels, Effects, or any other Property of the said Company, to be the Property of such Chairman for the time-being of the Board of Directors of the said Company, notwithstanding it shall be proved at the trial that the same belongs to the said Company; and any offence committed with intent to injure or defraud the said Company, shall and lawfully may in any Prosecution for the same, be stated or laid to have been committed with intent to injure or defraud such Chairman for the time-being of the Board of Directors of the said Com-

pany; and any offender or offenders may thereupon be lawfully convicted of any such offence; and the death, resignation, or removal, or other act of such Chairman, shall not abate any such Action, Suit, or Prosecution, 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 Chairman of the Board of Directors of the said Company for the time-being; and that where it shall be necessary for any Person to serve any Summons, Notice, Writ, or other Proceedings at Law or in Equity upon the said Company, service thereof respectively shall be made upon such Chairman for the time-being, or at his usual place of abode.

(Memorial of the name of the Chairman to be recorded in the Supreme Court of New South Wales, and renewed when any new Chairman shall be elected.)

II. And be it enacted, that a Memorial of the name of the Chairman of the Board of Directors of the said Company, in the form or to the effect for that purpose set forth in the Schedule hereunto annexed, signed by the said Chairman of the Board of Directors of the said Company, and by a majority of the other Directors of the said Company, shall be recorded upon the Oath of the Secretary of the said Company for the time-being, in the Supreme Court of New South Wales, within thirty days after the passing of this Act; and when and as often as any Director of the said Company shall be duly elected Chairman thereof, a Memorial of the name of such newly elected Chairman, in the same form or to the same effect as the above-mentioned Memorial, signed by such newly-elected Chairman, and by a majority of the several other Persons who shall be Directors of the said Company at the time of the election of such new Chairman, shall in like manner be recorded upon the Oath of the Secretary of the said Company for the time-being, in the said Supreme Court, within thirty days next after such Chairman shall be elected.

(No Action to be brought until Memorial recorded.)

III. Provided always, and be it enacted, That until such Memorial as hereinbefore first mentioned be recorded in the manner herein directed, no Action, Suit, or other Proceeding shall be brought by the said Company in the name of the Chairman of the Board of Directors of the said Company, as aforesaid, under the authority of this Act.

(Chairman and other Officers and Proprietors of the Company competent Witnesses.)

IV. Provided always, and be it enacted, That in all Actions, Suits, Petitions, or other Proceedings in Law or Equity in which the said Chairman for the time-being shall be on behalf of the said Company, and under and by virtue of this Act, Plaintiff, Complainant, or Petitioner, or Defendant, it shall and may be lawful for the said Chairman for the time-being, or for a Director, Auditor, Treasurer, Secretary, Clerk, or any other Officer engaged in the executive duties of the said Company, or for any Proprietor of the said Company, to give evidence in such Action, Suit, Petition, or other Proceeding, notwithstanding the name of such Chairman for the time-being shall be used as Plaintiff, Complainant, Petitioner, or Defendant, and notwithstanding that such Persons giving evidence as aforesaid shall or may

be interested in the result of such Action as a Member of the said Company.

(Execution upon any judgment may be issued against any Member of the Company, who shall have his remedy against the other Members, &c.)

V. Provided always, and be it enacted, That Execution upon any Decree, Order, or Judgment in any such Action, Suit, Petition, or other Proceeding obtained against the Chairman for the time-being of the Board of Directors of the said Company, whether he be Plaintiff or Defendant therein, may be issued against and levied upon the Goods and Chattels, Lands and Tenements of any Member or Members whomsoever of the said Company for the time-being, in like manner and not otherwise than as if such Decree or Judgment had been obtained against such Member or Members personally: Provided always, That every such Chairman 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 and Tenements, 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 Company, all such Damages, Dues, Expenses, Costs, and Charges, as by the event of any such Proceedings such Chairman or Member or Members shall or may be put unto, or become charged therewith, and all such remedies shall be allowed as between the several Members of the said Company for the time-being as if this Act had not been passed.

(Names of the then existing Members of the Company and their places of abode, to be recorded on oath in the Office of the Registrar of the Supreme Court, within fifteen days from the first day of January in every year. Lists to be open for inspection at reasonable times.)

VI. And be it enacted, That the Secretary or other Principal Officer for the time-being of such Company, shall, within fifteen days from the first day of January in each year, cause a true list of the names of all the then existing Members of such Company, with their respective places of abode and designation, to be recorded upon Oath in the Office of the Registrar of the Supreme Court; and that the same shall be open for inspection at all reasonable times by any Persons requiring the same, on payment of a Fee of One Shilling; and if any such Secretary or Principal Officer of the said Company shall fail to cause such List to be recorded in manner as aforesaid, he shall be liable to a Penalty of One Hundred Pounds, to be recovered by Action of Debt in the said Supreme Court by any Person or Persons suing for the same: Provided always, That nothing herein contained shall make liable such Secretary or other Principal Officer to the payment of such Penalty for any omission on account of any Member changing his name or place of abode, or any female Member marrying, or any Member becoming bankrupt or insolvent or departing this life, if such Secretary or Principal Officer shall not have received notice of the same, respectively.

(Persons whose names are so recorded, to be considered Members of the Company until new list made out, or notice given in the Government Gazette.)

VII. And be it enacted, That every person whose name shall be so recorded, shall be con-

sidered a Member of the said Company, and be liable to be sued as such until a new list of the Members' names shall be recorded as aforesaid, or until he shall have given notice of his retirement, in the *New South Wales Government Gazette*.

(Act to be at all times valid, notwithstanding change of the Members of the Company.)

VIII. And be it enacted, That the provisions in this Act contained, shall extend and be construed, deemed, and taken to extend to the said Company, at all times during the continuance of the same, whether the said Company be now or hereafter composed of some or all or any of the persons who were the original, or are the present Members thereof, or of all or some of those persons, together with some other person or persons, or shall be composed altogether of persons who were not original nor are now Members of the same.

(Company not incorporated by this Act.)

IX. Provided always, and be it enacted, That nothing herein contained shall extend, or be deemed, taken, or construed, to incorporate the Members or Proprietors of the said Company, or to relieve or discharge them, or any of them, from any responsibility, duties, contracts, or obligations, whatsoever, which by law they now are, or at any time hereafter, shall be subject or liable to, either between the said Company and others, or between the individual Members of the said Company, or any of them and others, or among themselves, or in any other manner whatsoever, except so far as the same is affected by the provisions of this Act, and the true intent and meaning of the same.

(Bonds, Mortgages, and other Securities, may be put in suit, &c., in the name of the Chairman for the time being, though not named in such security.)

X. And be it enacted, That all Bonds, Covenants, Mortgages, Warrants of Attorney, and other securities, not being assignable in law, which have been, or which shall or may at any time hereafter be taken in the name of any person as Chairman, or in the name of any Director or Directors of the said Company, for or on account of the said Company, shall and may be put in suit and be held, sued, or prosecuted upon, at law or in equity, in the name of the Chairman for the time being of the Board of Directors of the said Company, notwithstanding the name of any such Chairman be not inserted in such Bond, Covenant, Mortgage, Warrant of Attorney, or other such security, as an Obligee, Covenantee, Mortgagee, Assignee, or Payee, of the sum or sums of money therein respectively secured; and the death, resignation, removal, or other act of any such Chairman of the Board of Directors of the said Company for the time being, shall not abate any action, suit, 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 succeed to that office, or be or become the Chairman of the Board of Directors of the said Company; and all legal rights and capacities in respect of the said Company, shall become vested in such new Chairman as aforesaid, to all intents and purposes, immediately upon the recording of the memorial of the name of the new Chairman in the said Supreme Court, and so on *toties quoties* whensoever any new ap-

appointment or election of a Chairman for the time being of the Board of Directors of the said Company shall take place, and such new memorial thereof shall be enrolled as aforesaid.

(Plaintiff not to be nonsuit for want of proof of the Memorial.)

XI. And be it enacted, That in any action to be brought by any Chairman of the Board of Directors of the said Company by virtue of this Act, the plaintiff therein shall not be nonsuit, nor shall a verdict be given against the plaintiff for want of proof of the record of such memorial or memorials as hereinbefore mentioned; but in case the defendant in any such action shall make it appear on such trial that no such memorial or memorials has or have been recorded, then a nonsuit shall be entered in such action.

(Rights of the Crown not affected.)

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

(This Act not to take effect until the same shall have received the Royal Assent.)

XIII. And be it 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 for the time being, in "The New South Wales Government Gazette."

(This Act to be deemed a Public Act.)

XIV. And be it enacted, That 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.

"GEORGE GIPPS."

*Passed the Legislative Council
this Twenty-eighth Day of
August, One thousand Eight
Hundred and Thirty-nine.*

WILLIAM MACPHERSON,
Clerk of the Council.

SCHEDULE REFERRED TO.

Memorial of the Name of the Chairman of the Board of Directors of "The Sydney Alliance Marine and Fire and Life Assurance Company," to be recorded in the Supreme Court of New South Wales, pursuant to an Act of the Governor and Council, passed in the third year of the Reign of Her Majesty Queen Victoria, intituled "An Act for facilitating proceedings by and against the Sydney Alliance Marine and Fire and Life Assurance Company."

A. B. Chairman.

C. D. }
E. F. }
G. H. } Directors.
I. K. }
L. M. }
N. O. }
P. Q. }
R. S. }
T. U. }
V. W. }

of Sydney, Gentleman,
of the above-named Company,
maketh oath and saith, that he was present
and did see the foregoing Memorial signed by the
above-named Chairman and Directors respectively,
whose names appear thereto.

Sworn this
day of 183 . }