



# SUPPLEMENT

TO THE

NEW SOUTH WALES

# GOVERNMENT GAZETTE,

OF TUESDAY, SEPTEMBER 14, 1841.

Published by Authority.

WEDNESDAY, SEPTEMBER 15, 1841.

ANNO QUINTO,  
VICTORIÆ REGINÆ.  
No. 5.

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 amend, and to extend to Port Phillip, an Act, intituled "An Act to consolidate and amend the Laws relating to the Savings' Bank of New South Wales."*

**W**HEREAS it is expedient to amend, in manner hereafter mentioned, an Act Preamble. of the Governor and Council of New South Wales, passed in the Third Year of the Reign of Her Majesty Queen Victoria, intituled 3 Victoria, "An Act to consolidate and amend No. 12. "the Laws relating to the Savings' Bank of New South Wales;"

and whereas, by reason of the increase of population in the District of Port Phillip, in the Colony of New South Wales, and of the distance thereof from Sydney, in the said Colony, it is expedient to establish in the said District, a Savings' Bank, which shall, in its conduct and management, be distinct from, and independent of, the Savings' Bank of New South Wales, and to extend to the same, and such branches thereof as may from time to time be established in the Country Districts of Port Phillip, the provisions of the said recited Act, as amended by this Act:

Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice of the Port Phillip. Legislative Council thereof, That an Institution, to be called "THE SAVINGS' BANK OF PORT PHILLIP," shall be established at Melbourne, in the said District, for the receipt, management,

and security of such sums as shall be therein deposited, with power to establish Branch Banks in the interior parts of the said District, as occasion may require, and such Bank and Branch Banks shall be regulated respectively in manner hereinafter provided.

*(Appointment of President, Vice-President, and Trustees.)*

II. And be it enacted, That His Honor, the Superintendent of Port Phillip for the time being, shall be the President of the said Institution; and that the management of the affairs of the same shall be vested in Twelve Trustees, to be appointed by the said Superintendent, of whom one shall be styled Vice-President; and that the said Superintendent shall and may from time to time remove from Office, all or any of the Trustees of the said Institution, and re-appoint the same or any of them, or shall and may appoint others, or another, in their or his place or stead; and in case of any vacancy occurring in the number of such Trustees, or of any appointment, removal, re-appointment, or fresh appointment as aforesaid of any such Trustees, the same shall be published in the *New South Wales Government Gazette*, by order of the said Superintendent.

*(The Act of 3 Victoria, No. 12, to extend and apply to Port Phillip, as to the management and conduct of the Bank.)*

III. And be it enacted, That the said recited Act, as amended by this Act, shall extend and apply to the said Savings' Bank, to be established at Port Phillip, under this Act or Ordinance, and to such branches thereof as may from time to time be established, and the several clauses and provisions thereof, shall be held to govern and regulate the said Savings' Bank of Port Phillip, in as full and ample a manner, to all intents and purposes, so far as the same are applicable and can be applied

thereto, as if the said Bank had been established under the said recited Act, and had been specially named therein ; and the President, Vice-President, and Trustees, as well as the Accountants and other Officers of the said Savings' Bank, shall and may exercise and perform respectively the same powers, authority, control, and duties in the management of the concerns of the said Bank, or of any branch thereof which may be established as aforesaid, as the President, Vice-President, Trustees, Accountants, and other Officers of the Savings' Bank of New South Wales, do or may exercise in the management of the affairs of the said Savings' Bank of New South Wales.

(Interpretation of words used in 3 Victoria, No. 12)

IV. And be it enacted, That wherever in the said recited Act, or in this Act, the word "Governor" occurs, the same shall in respect to the said Bank to be established at Melbourne as aforesaid, be held to mean "the Superintendent of the District of Port Phillip," or "the Chief Officer of Government" resident in the said District ; and that wherever in the said recited Act, the words "Supreme Court of New South Wales" or "the Chief Clerk of the Supreme Court of New South Wales" occur, the same shall be held to mean respectively "the Supreme Court established at Port Phillip, under the jurisdiction of the resident Judge," or "the Chief Officer of that Court ;" and that wherever the words "Colonial Bank" or "Banks in Sydney" occur, the same shall, in respect to the said Savings' Bank, to be established at Melbourne, be held to mean "Colonial Bank or Banks in Melbourne."

(Provision for a Security or Rest Fund.)

V. And whereas, it is deemed expedient to amend the said recited Act, by establishing a Rest or Security Fund, to meet any deficiency or loss which may unexpectedly occur : Be it therefore enacted, That out of the profits of the business of the Savings' Bank of New South Wales, and of the Savings' Banks to be established at Port Phillip, the Trustees of the said Banks respectively, shall and may annually set apart such sums, not being less than one-twentieth nor more than one-tenth part of the whole amount of interest divisible for the year among the depositors, as such Trustees may think proper, towards the establishment of a Rest or Security Fund for such Banks respectively, for the purpose of meeting any loss or deficiency which may unexpectedly occur, until such Rest or Security Fund shall amount to one-twentieth part of the whole sum which shall at that time be in deposit in the said Banks respectively ; and thereafter the Trustees of the said Banks respectively shall, at the end of each and every year, add to or take from the said Rest or Security Fund, such a sum as shall cause the amount thereof, at the commencement of each succeeding year, to be, as nearly as conveniently practicable, one-twentieth part of the whole amount then in deposit.

(Executors, &c., of Officers of Savings' Banks to pay money due to Savings' Banks, before any other Debts.)

VI. And whereas it is expedient further to amend the said recited Act, by providing for the more easy recovery of monies and securities in the hands of Officers of the said Banks, or their Executors, in the event of insolvency, or death of such Officers : Be it therefore enacted, That

if any person, now or hereafter holding any Office in either of the said Savings' Banks, or any Branch thereof, and having in his hands or possession any monies or effects belonging to such Savings' Bank, or any Deeds or Securities relating to the same, shall become Bankrupt or Insolvent, or shall make any assignment of his lands, goods, chattels, or effects for the benefit of his Creditors, or against whose lands, goods, chattels, or effects any execution, attachment, or other process shall have issued, or if any such Officer shall die, then and in any such case, it shall and may be lawful for any two or more of the Trustees of the said Savings' Banks respectively, to apply to such Officer or to his Assignees, or to the Sheriff or other person executing such process, or to his executors or administrators, or to any other person or persons having legal right, as the case may require, and to demand that such monies or effects belonging to such Savings' Bank, and all Deeds, Securities, or papers relating to the same, shall be paid over or delivered up to the said Trustees, or to such person as they shall appoint ; and the party or parties so applied to, and having the same, shall, within forty days after such demand as aforesaid, deliver over to such Trustees, or to any person or persons whom they may appoint to receive the same, all effects or other things belonging to such Savings' Bank, and all Deeds, Securities, or papers relating to the same, and shall pay out of the Estate, Assets, or Effects of such person so being, or having been an Officer of the said Bank, all sums of money belonging, or due by such Officer to the said Bank, before any other of the Debts of the said Officer are paid or satisfied, or before the money directed to be levied by such process as aforesaid, is paid over to the party issuing such process, as the case may be ; and all assets, lands, goods, chattels, estates and effects, shall be bound to the payment and discharge thereof accordingly.

"GEORGE GIPPS,"

Passed the Legislative Council, }  
this first day of September, } Governor.  
One thousand eight hundred }  
and forty-one. }

WM. MACPHERSON,  
Clerk of Councils.

ANNO QUINTO,

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 to facilitate Proceedings by and against the Proprietors of a certain Joint Stock Company, lately carrying on business in Sydney, in the Colony of New South Wales, under the name, style, or firm, of the 'AUSTRALIAN AUCTION COMPANY;' and for other purposes therein mentioned."

WHEREAS a certain Joint Stock Company, which lately carried on business as Auctioneers in Sydney, in the Colony of New South Wales, under the name, style, or firm, of the "AUSTRALIAN AUCTION COMPANY," have met with great difficulty in the Prosecution of Actions, brought for

the recovery of debts justly due to the said Company; and whereas it would facilitate the settlement of the affairs of the said Company, and be of public utility and advantage, that all claims for and against the said Company, existing before the passing of this Act, should be sued for by, and prosecuted against the said Company, in the name of some one Member thereof, whose name and description should be recorded for the information of the Public; but as these purposes cannot be

Actions and Suits to be in the name of the Chairman of the Court of Directors.

obtained without the aid and authority of the Legislature, 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, Suits, or Proceedings, whether at Law or in Equity, in Bankruptcy, or Sequestration, or otherwise howsoever, to be commenced, instituted, or prosecuted by or on behalf of the said Company, or any person or persons as Trustee or Trustees of the said Company, against any Body or Bodies, Politic or Corporate, or against any person or persons, whether a Member or Members of the said Company or otherwise, in respect of any debt, claim, right, cause of action, interest or liability whatsoever now subsisting, or to arise hereafter out of, or in respect of, or relating to any such debt, claim, right, cause of action, interest or liability, mediately or immediately, shall and may be commenced, instituted, or prosecuted in the name of the Chairman of the Court of Directors for the time being of the said Company, as the nominal Plaintiff, Complainant or Petitioner for and on behalf of the said Company; and that all Actions, Suits, or Proceedings at Law or in Equity, or otherwise as aforesaid, to be commenced, instituted, or prosecuted against the said Company, by or on behalf of any Body or Bodies, Politic or Corporate, or by or on behalf of any person or persons, whether a Member or Members of the said Company or otherwise, shall and may be commenced, instituted, or prosecuted against the Chairman of the Court of Directors for the time being of the said Company, as the nominal defendant for and on behalf of the said Company, then and in that case against any Member or Members of the said Company:

Plaintiffs may join any one or more Members of the Company with the Chairman as Defendants in Equity.

A Member's share in Capital of Co-partnership not to be set off against any demand which such Co-partnership may have against him.

Equity against any demand which such Company may have against such Member on account of any

other matter or thing whatsoever, but all proceedings in respect of such matter or thing may be carried on as if no claim or demand existed in respect of such Capital or Joint Stock, or of any dividends, interest, profits, or bonus, payable or apportionable in respect thereof.

*(Prosecutions and other Criminal proceedings to be in the name of the Chairman of the Court of Directors.)*

II. And be it enacted, That all Criminal Informations and Prosecutions to be brought, instituted, or carried on by or on behalf of the said Company, for fraud upon or against the said Company, or for embezzlement or robbery, or for counterfeiting or stealing the bills, notes, bonds, monies, securities, goods, chattels, effects, or other property of or belonging to the said Company, or for any felony, misdemeanor, or other offence committed against or with intent to injure or defraud the said Company, shall and lawfully may be brought, instituted, or carried on in the name of the Chairman of the Court of Directors for the time being of the said Company; and in all Indictments, Informations, and other proceedings as aforesaid, it shall and may be lawful and sufficient to describe the Property of the said Company as the Property of the Chairman of the Court of Directors for the time being of the said Company; and that any offence committed with intent to injure or defraud the said Company, shall and lawfully may, in any prosecution for or on account of the same, be stated to have been committed with intent to injure or defraud the Chairman of the Court of Directors for the time being of the said Company; and any Offender or Offenders may thereupon be lawfully convicted of any such Offence; and in any other allegations or indictments, informations, or other proceedings, for or on behalf of the said Company, it shall and may be lawful and sufficient, from and after the passing of this Act, from time to time, to state the name of the Chairman of the Court of Directors for the time being of the said Company, as the nominal plaintiff, complainant, or petitioner; and the death, resignation, or removal, or other act of such Chairman, or change in the Members of the said Company by transfer of shares, or otherwise, shall not abate any such action, suit, or prosecution, or other proceeding, but the same may be continued, prosecuted, and carried on in the name of any person who may be or become Chairman of the Court of Directors for the time being of the said Company.

*(Memorial of the name of the Chairman of the Court of Directors to be recorded in the Supreme Court of New South Wales.)*

III. And be it enacted, That a Memorial of the name of the Chairman of the Court of Directors for the time being of the said Company, in the form or to the effect of the form set forth in the Schedule to this Act annexed, signed by the said Chairman and by a majority of the said Court of Directors, shall be recorded upon oath in the Supreme Court of New South Wales, within thirty days after the passing of this Act; and when and so often as any Chairman of the Court of Directors of the said Company shall be newly elected, or a Chairman shall be substituted for the Chairman of the Court of Directors for the time being of the said Company, a Memorial of the name of such

newly elected or substituted Chairman of the said Court of Directors, in the same form, or to the same effect as the hereinbefore-mentioned Memorial, signed by such newly elected or substituted Chairman, and by a majority of the said Court of Directors, shall in like manner be recorded upon oath in the said Supreme Court, within thirty days after such election or substitution.

*(No Action to be brought in the name of the Chairman of the Court of Directors until Memorial recorded.)*

IV. Provided always and be it enacted, That until such Memorial, as hereinbefore first mentioned, be recorded in manner hereinbefore directed, no action, suit, or other proceeding shall be brought by the said Company, in the name of the Chairman of the Court of Directors thereof, as aforesaid, under the authority of this Act.

*(Evidence of Chairman, Members, and Officers, to be admissible.)*

V. And be it enacted, That in all actions, suits, petitions, or other proceedings, whether civil or criminal, in which the said Chairman of the Court of Directors for the time being of the said Company, or any Member of the said Company, shall be on behalf of such Company, and under and by virtue of this Act, Plaintiff, Complainant, Petitioner, or Defendant, it shall and may be lawful for such Chairman, or Member, or for any Officer engaged in the executive duties of the said Company, to give evidence in such action, suit, petition, or other proceeding, notwithstanding the name of such Chairman or Member shall be used as Plaintiff, Complainant, Petitioner, or Defendant, and notwithstanding that such Chairman, Member, or Officer as aforesaid, shall or may be interested in the result of such action, suit, petition, or other proceeding, as a Shareholder or Co-partner, in the said Company.

*(Company may make Contracts and Conveyances in the name of the Chairman.)*

VI. And be it enacted, That all contracts, agreements, conveyances, leases, releases, assignments, surrenders, covenants, receipts, and other documents made or to be made, given, or granted, by, or to, or on behalf of the said Company, relating to any such now subsisting debt, claim, right, cause of action, interest, or liability as aforesaid, shall and may be made and executed, and enforced by, or to, or against the Chairman of the Court of Directors for the time being of the said Company; and the same shall be binding upon the said Company, and the Capital Stock thereof, and pass all the Estate and Interest of the said Company.

*(Execution may issue against any Member of the Company.)*

VII. And be it enacted, That execution upon any decree or judgment in any action, suit, petition, or other proceeding, obtained against the Chairman of the Court of Directors for the time being, or other Member of the said Company as aforesaid, whether as Plaintiff or Defendant, may be issued against, and levied and satisfied upon and out of the goods, chattels, lands, and tenements, of any Member or Members whomsoever of the said Company for the time being, as if such decree or judgment had been obtained against such Member or Members personally.

*(List of Members to be recorded on oath in the Office of Registrar of Supreme Court.)*

VIII. And be it enacted, That for the purpose of giving better effect to the provision last hereinbefore contained, the Chairman of the Court of Directors for the time being of the said Company shall, within thirty days from the passing of this Act, and thereafter in the month of January in each year, so long as this Act shall remain in force, cause a true List of the names of all the then existing Members of the said Company, with their respective places of abode and descriptions, to be recorded on oath in the Office of the Registrar of the Supreme Court; and the same shall be open for inspection at all reasonable times, by any person requiring the same, on payment of a fee of one shilling; and if such Chairman shall fail to cause such List to be recorded in manner 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 who shall sue for the same.

*(Every person included in such List to be considered a Member until new List recorded, or until he shall have given notice in the Government Gazette of his retirement.)*

IX. And be it enacted, That every person whose name shall be so recorded, shall be considered a Member of the said Company, and be liable as such, until a new List of the Members' names shall be recorded as aforesaid, or until he shall have given notice, in the *New South Wales Government Gazette*, of his retirement from the said Company: Provided always, that every Chairman of the Court of Directors for the time being of the said Company, in whose name any action, suit, petition, or other proceeding shall be commenced, prosecuted, carried on, or defended, and every Member or Members of the said Company against whose goods, chattels, lands, or tenements, execution shall be so issued as aforesaid, shall always be reimbursed and paid out of the funds of the said Company, all such damages, costs, and expenses, as by the event of any such proceedings, such Chairman, or Member, or Members, shall or may be put unto in respect thereof; 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; Provided, nevertheless, that the body of such Chairman shall not, by reason of his being Defendant in any such action, suit, or proceeding, be liable to be arrested, seized, or taken in execution.

*(Bankruptcy of individual Members not to affect the Company.)*

X. And be it enacted, That the bankruptcy, insolvency, or stopping payment of any Officer, Director, Chairman, or other Member of the said Company, in his individual capacity, shall not be construed to be the bankruptcy, insolvency, or stopping payment of the said Company; and that the property and effects of the said Company, and the persons, property, and effects of the individual Members thereof, shall, notwithstanding such bankruptcy, insolvency, or stopping payment, be liable to execution in the same manner as if such bankruptcy, insolvency, or stopping payment had not taken place.

*(Act to continue in force notwithstanding change of Members.)*

XI. And be it enacted, That the provisions of

this Act shall extend to the said Company at all times during the continuance of the same, notwithstanding any change in the Members thereof, by transfer of shares or otherwise howsoever.

*(Company not incorporated by this Act.)*

XII. Provided always and be it enacted, That nothing herein contained shall extend, or be deemed, taken, or construed to incorporate the Members 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.

*(Securities and Contracts to be put in suit by the Chairman of the Court of Directors for the time being.)*

XIII. And be it enacted, That all bonds, mortgages, warrants of attorney, and other securities, not being assignable in law, and all contracts and agreements, whether parol or under seal, which have been, or shall or may at any time hereafter be taken in the name of the Chairman of the Court of Directors for the time being of the said Company, for or on account of the said Company, in any way relating to or arising out of such now subsisting debt, claim, right, cause of action, interest or liability as aforesaid, shall and may be put in suit, and enforced, sued, and prosecuted upon, at Law or in Equity, in the name of the Chairman of the Court of Directors for the time being of the said Company in whose name the same may have been taken or entered into, or in the name of any person who shall or may succeed to that office and be the Chairman of the Court of Directors for the time being of the said Company, at the time such proceeding or proceedings shall be instituted, carried on, or continued, notwithstanding the name of any such succeeding Chairman be not inserted in any such bond, mortgage, warrant of attorney, or other such security, or in any such contract or agreement, as an obligee, mortgagee, assignee, or payee of the sum or sums of money therein respectively mentioned or secured; and the death, resignation, removal, or other act of any Chairman of the Court of Directors for the time being of the said Company in whose name any such bond, mortgage, warrant of attorney, or other such security as aforesaid, or any such contract or agreement, shall be so put in suit, shall not abate any action, suit, or other proceeding had thereon, but the same may be continued and carried on where it left off, in the name of any person who may be or become the Chairman of the Court of Directors for the time being of the said Company; and the legal estate in all lands, tenements, and all property real and personal belonging or mortgaged to the said Company, for all legal rights and capacities in respect of the said Company, shall and may become vested in the succeeding Chairman of the Court of Directors for the time being, immediately upon the recording of the Memorial hereinbefore required of the name of such succeeding Chairman of the Court of Directors for the time being of the said Company

in the said Supreme Court; and so on *toties quoties* whensoever any new appointment, election, or substitution of a Chairman of the Court of Directors for the time being of the said Company shall take place, and such Memorial thereof shall be recorded as aforesaid.

*(Plaintiff not to be non-suited for want of proof of record of the Memorial.)*

XIV. And be it enacted, That in any action to be brought by any Chairman of the Court of Directors for the time being of the said Company, by virtue of this Act, the Plaintiff therein shall not be non-suited, nor shall a verdict be given against the Plaintiff, for want of proof of the record of such Memorial or Memorials as hereinbefore mentioned, nor shall the existence of such Memorial be taken to be in issue, unless specially desired by any Defendant; but in case the Defendant in any such action shall specially deny on the record that any such Memorial has been duly recorded as aforesaid, and shall make it appear on such trial that no such Memorial has been so recorded, then a non-suit shall be entered in such action.

*(Saving the rights of Her Majesty and others.)*

XV. 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 or Successors, or of any Body Politic or Corporate, or of any person or persons excepting such as are mentioned therein, or of those claiming by or under him, her, or them.

*(Commencement and duration of Act.)*

XVI. And be it enacted, That this Act shall commence and take effect from and after the passing thereof, and shall continue in force for two years thereafter, and not longer, save and except as to any action, suit, prosecution, or other proceeding at Law or in Equity actually commenced or instituted, which, notwithstanding this Act shall have expired, may be carried on in all respects whatsoever as if the same had continued in force.

*(Act to be deemed a Public Act.)*

XVII. 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 of the several Circuit Courts throughout the Colony, 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, } Governor.  
this first day of September, }  
One thousand eight hundred }  
and forty-one.*

WM. MACPHERSON,  
Clerk of Councils.

SCHEDULE REFERRED TO.

Memorial of the name of the Chairman of the Court of Directors of “THE AUSTRALIAN AUCTION COMPANY,” to be recorded in the Supreme Court of New South Wales, pursuant to an Act of the Governor and Council, passed in the Fifth year of the Reign of Her Majesty Queen Victoria, intitled “An Act to facilitate proceedings by and against the Proprietors of a certain Joint Stock Company, lately carrying on business in Sydney,

in the Colony of New South Wales, under the name, style, or firm of the 'AUSTRALIAN AUCTION COMPANY;' and for other purposes therein mentioned."

A. B.,  
 Chairman of the Court of Directors.  
 C. D.)  
 E. F.) Directors. } I. K.  
 G. H.) } L. M.  
 } N. O.

P. Q., of Street,  
 Sydney, Merchant, Proprietor 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 184 .

ANNO QUINTO,  
 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 HUNTER'S RIVER STEAM NAVIGATION COMPANY,' and for other purposes therein mentioned."

**WHEREAS** several persons have formed themselves into a Joint Stock Company or Society, established at Sydney, in the Colony of New South Wales, under the name, style, or firm of the "HUNTER'S RIVER STEAM NAVIGATION COMPANY," for the purpose of trading with steam vessels between Sydney and Hunter's River, and the rivers adjacent thereto, in the said Colony; and whereas, for such purposes, the said Company have subscribed amongst themselves by way of capital, or joint stock, the sum of forty thousand pounds, in four thousand shares, of ten pounds each, the whole of which capital stock, or sum of forty thousand pounds, has been paid up; 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, 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 authority of the Legislature: 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 body or bodies, politic or corporate, or against any person or persons, 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 the Secretary of the said Company at the time any such action, suit, or proceeding shall be com-

menced 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 Secretary for the time being 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 such bills, notes, bonds, monies, goods, chattels, effects, or any other property of the said Company, to be the property of such Secretary for the time being 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 the 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 Secretary for the time being of the said Company, 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 Secretary, 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, or against any person who may be or become, the Secretary 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 proceeding at Law or in Equity, upon the said Company, service thereof respectively shall be made upon such Secretary for the time being, or at his usual place of abode.

(Funds of the Company not to be employed in discounting.)

II. Provided always, and be it enacted, That the said Company shall not, either by the Directors, or by any Member or Members thereof, or by their Agent, or by any other person on their behalf, employ any funds whatever of the said Company in discounting Bills of Exchange, or Promissory Notes payable in the Colony, under penalty or forfeiture of treble the sum or sums so discounted, lent, or advanced by or on behalf of the said Company, to be recovered in the Supreme Court, or any Circuit Court of the said Colony, by Action of Debt, Bill, Plaint, or Information, one moiety or half of such penalty or forfeiture, when recovered, shall, after deducting the charges of prosecution, be paid to the Colonial Treasurer of the said Colony, for the use of Her Majesty, Her Heirs and Successors, for the public uses of the said Colony, and in support of the Government thereof, and the other moiety shall be paid to the Informer suing for the said penalty.

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

III. And be it enacted, That a Memorial of

the name of the Secretary of the said Company, in the form or to the effect for that purpose set forth in the Schedule to this Act annexed, signed by the said Secretary and by a majority of the 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 from and after the passing of this Act; and when and as often as any person shall be duly elected Secretary of the said Company, a Memorial of the name of such newly elected Secretary, in the same form or to the same effect as the hereinbefore-mentioned Memorial, signed by such newly elected Secretary, and by a majority of the several persons who shall be Directors of the said Company at the time of the election of such newly elected Secretary, 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 Secretary shall be elected.

*(No Action to be brought until Memorial recorded.)*

IV. Provided always, and be it enacted, That until such Memorial of the name of the Secretary for the time being of the said Company, be recorded in manner hereinbefore directed, no action, suit, or other proceeding, shall be brought or continued by or on behalf of the said Company, under the authority of this Act.

*(Secretary and other Officers and Proprietors of the Company, competent witnesses.)*

V. And be it enacted, That in all actions, suits, petitions, or other proceedings, at Law or Equity, in which the said Secretary for the time being shall be, on behalf of the said Company, and under and by virtue of this Act, plaintiff, complainant, petitioner, or defendant, it shall and may be lawful for the said Secretary for the time being, or for a Director, Auditor, Treasurer, 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 Secretary 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.)*

VI. And be it enacted, That execution upon any decree, order, or judgment, in any such action, suit, petition, or other proceeding, obtained against the Secretary for the time being 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 the body or goods, lands or tenements of such Secretary, shall not, by reason of his being defendant in any such action, suit, or proceeding, be liable to be arrested, seized, or taken in execution: And provided further, that every such Secretary 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, chattels, lands, or 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 Secretary, or Member or Members, shall or may be put unto, or become chargeable with; 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 thirty days from the passing of this Act, and thereafter in the month of January in every year.)*

VII. And be it enacted, That the Secretary or other principal Officer for the time being of the said Company, shall, within thirty days from the passing of this Act, and thereafter in the month of January in each and every 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 person 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 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.)*

VIII. And be it enacted, That every person whose name shall be so recorded, shall be considered 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 or she shall have given notice in the *New South Wales Government Gazette* of his or her retirement from the said Company.

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

IX. 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.)*

X. 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 and other securities may be put in suit, &c., in the name of the Secretary for the time being, though not named in such security.)*

XI. And be it enacted, That all bonds, covenants, 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 Secretary, 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 Secretary for the time being of the said Company, notwithstanding the name of any such Secretary be not inserted in such bond, covenant, warrant of attorney, or other 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 Secretary 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 Secretary of the said Company; and all legal rights and capacities in respect of the said Company, shall become vested in such new Secretary as aforesaid, to all intents and purposes, immediately upon the recording of the Memorial of the name of the new Secretary in the said Supreme Court, and so on *toties quoties* whenever any new appointment or election of a Secretary for the time being of the said Company shall take place, and such new Memorial thereof shall be recorded as aforesaid.

*(Plaintiff not to be non-suit for want of proof of the Memorial.)*

XII. And be it enacted, That in any action to be brought by any Secretary of the said Company by virtue of this Act, the plaintiff therein shall not be non-suit, 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 non-suit shall be entered in such action.

*(If any part of capital be withdrawn, or any shares cancelled or created after passing of Act, all privileges and advantages thereby conferred to cease and determine.)*

XIII. Provided always and be it enacted, That if any part of the capital stock of the said Company be withdrawn, or any of the said shares in that capital be cancelled, or if any further number of shares be created after the passing of this Act, then and in such case all the rights, privileges, and advantages conferred by this Act on the said

Company, shall cease and determine: Provided nevertheless, that, subject to the several restrictions hereinbefore contained, it shall be lawful for the said Company at any time to increase their joint stock or capital to any sum not exceeding Sixty thousand pounds, by an addition to each of the said existing shares of any sum or sums not exceeding Five pounds, payable in one or more instalments.

*(Rights of the Crown not affected.)*

XIV. 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 or Successors, or of any Body or Bodies Politic or Corporate, or of any person or persons except such as are mentioned herein, or of those claiming by or under him, her, or them.

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

XV. 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 in the *New South Wales Government Gazette*, by order of His Excellency the Governor for the time being of the said Colony.

*(This Act to be deemed a Public Act.)*

XVI. 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, } Governor.  
this first day of September, }  
One thousand eight hundred }  
and forty-one. }

WM. MACPHERSON,  
Clerk of Councils.

SCHEDULE REFERRED TO.

Memorial of the name of the Secretary of “THE HUNTER’S RIVER STEAM NAVIGATION COMPANY,” to be recorded in the Supreme Court of New South Wales, pursuant to an Act of the Governor of New South Wales, with the advice of the Legislative Council thereof, passed in the Fifth year of the Reign of Her Majesty Queen Victoria, intituled “An Act for facilitating Proceedings by and against ‘THE HUNTER’S RIVER STEAM NAVIGATION COMPANY;’ and for other purposes therein mentioned.”

A. B., Secretary.

C. D. }  
E. F. } Directors. } I. K.  
G. H. } N. O.

P. Q., 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 Secretary and Directors, respectively, whose names appear thereto.

Sworn this            day of            184 .

Sydney:—Printed by WILLIAM JOHN ROW,  
Government Printer, and Published by him at  
the Government Printing Office, Bent-street.—  
September 15, 1841.