

ANNO QUINTO

VICTORIAE REGINÆ.

HUNTER'S RIVER
STEAM NAVIGATION
COMPANY.

An Act for facilitating Proceedings by and against
 “The Hunter's River Steam Navigation Company” and for other purposes therein mentioned. [1st September, 1841.]

Preamble.

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 moneys 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 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 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 moneys goods chattels effects or any other property of the said company or for any felony misdemeanor or other offence in which

Actions at law &c.
to be in the name of
the Secretary.

the

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the said company shall sustain any loss or damage it shall be lawful to state such bills notes bonds moneys 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.

2. 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 and 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.

3. 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.

4. 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.

5. And be it enacted That in all actions suits petitions or other proceedings at law or in 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

Proceedings not to abate on account of the death &c. of the Secretary.

Funds of the company not to be employed in discounting.

Under penalty of treble the sum so advanced or discounted &c.

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.

No action to be brought until memorial recorded.

Secretary and other officers and proprietors of the company competent witnesses.

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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 person 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.

6. 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 in January in every year.

Lists to be open for inspection at reasonable times.

7. 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*.

Act to be at all times valid notwithstanding change of members of the company.

8. 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.

9. 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

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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.

10. 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.

11. 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.

12. 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 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.

13. 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.

14. 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

Company not incorporated by this Act.

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.

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.

Rights of the Crown not affected.

Mutual Fire Insurance.

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.

15. 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.

16. 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.

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. } Directors. J. K.
 E. F. } L. M.
 G. H. } N. O.

of Sydney gentleman

P. Q.

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 184 . day of }