

ANNO VICESIMO TERTIO

VICTORIAE REGINÆ.

NEWCASTLE
WALLSEND COAL
COMPANY.

An Act to incorporate "The Newcastle Wallsend Coal Company." [6th February, 1860.]

Preamble.

WHEREAS a joint stock company called "The Newcastle Wallsend Coal Company" has been lately established at Sydney in the Colony of New South Wales under and subject to the rules regulations and provisions contained in a certain deed of settlement bearing date the twentieth day of January in the year of our Lord one thousand eight hundred and fifty-nine purporting to be a deed of settlement of the said company And whereas by the said deed of settlement the several parties thereto have respectively and mutually covenanted and agreed that they whilst holding shares in the capital of the said company should be and continue until dissolved under the provisions in that behalf therein contained a joint stock company or partnership under the name and title of "The Newcastle Wallsend Coal Company" for working the coal or other mines in or upon any land of which the said company might from time to time be owners or lessees for the purchase or leasing of coal or other mineral lands for following up and acting upon any trade or purpose mentioned in any regulations for the management or conduct of coal or other mines in the said Colony then promulgated or thereafter to be promulgated for purchasing the necessary machinery for working the said mines or for testing the mining capabilities of any land purchased or intended to be purchased by the company or for draining any mines or any other purpose in connection therewith for exporting selling or otherwise disposing of all coal or other minerals to be raised from any land belonging to or leased by the said company for disposing of the timber on any such land for leasing or selling any such lands and for constructing railways roads wharves and other matters necessary for the promotion of the objects of the said company and it was by the same deed of settlement agreed that the capital of the said company should consist of one hundred thousand pounds to be contributed in ten thousand shares of ten pounds each and of such further sum or sums as might thereafter be raised by the creation and sale of new shares of the like amount as therein provided And whereas by the said deed of settlement provision has been made for the due management of the affairs of the company by certain directors already appointed and by other directors to be from time to time elected and appointed as their successors by the shareholders of the said company And whereas the said company is desirous of being incorporated and it is expedient that the said company should be incorporated accordingly subject to the provisions hereinafter contained Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows—

Company incorporated.

1. Such and so many persons as have already become or at any time or times hereafter shall and may in the manner provided by and subject

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subject to the rules regulations and provisions contained in the said deed of settlement become proprietors of shares of or in the capital for the time being of the said company shall (subject nevertheless to the conditions regulations and provisions hereinafter contained) be one body politic and corporate in name and in deed by the name of "The Newcastle Wallsend Coal Company" and by that name shall and may sue and be sued by any persons whether members of the said corporation or not and shall and may implead and be impleaded in all Courts whatsoever at law or in equity and may prefer lay and prosecute any indictment information and prosecution against any person whomsoever for any stealing embezzlement fraud forgery or other crime or offence and in all indictments informations and prosecutions it shall be lawful to state the money and goods effects bills notes securities or other property of the said company to be the money goods effects bills notes securities or other property of the said corporation and to designate the said company by its corporate name whenever for the purpose of any allegation of an intent to defraud or otherwise howsoever such designation shall be necessary and the said corporation shall have perpetual succession with a common seal which may be altered varied and changed from time to time at the pleasure of the said corporation.

2. The several laws rules regulations clauses and agreements Deed of settlement confirmed. contained in the said deed of settlement or to be made under or by virtue or in pursuance thereof shall be deemed and considered to be and shall be the by-laws for the time being of the said corporation save and except in so far as any of them are or shall be or may be altered varied or repealed by or are or shall or may be inconsistent or incompatible with or repugnant to any of the provisions of this Act or of any of the laws or statutes now or hereafter to be in force in the said Colony but no rule or by-law shall on any account or pretence whatsoever be made by the said corporation either under or by virtue of the said deed of settlement or of this Act in opposition to the general scope or true intent and meaning of this Act or of any of the laws or statutes in force for the time being in the said Colony.

3. It shall be lawful for the said corporation from time to time Increase of capital. to extend or increase its capital for the time being by the creation and disposal of new shares in the manner specified and set forth and subject to the rules regulations and provisions contained in the hereinbefore in part recited deed of settlement.

4. The capital or joint stock for the time being and all the funds and property of the said corporation and the several shares therein and the profits and advantages to be derived therefrom shall be and be deemed personal estate and be transmissible accordingly subject to the regulations of the said deed of settlement. Capital and shares to be personalty.

5. The corporation shall not be bound in any manner by any trusts or equitable interests or demands affecting any shares of the capital standing in the name of any person as the ostensible proprietor thereof or be required to take any notice of such trusts or equitable interests or demands but the receipt of the person in whose name the shares shall stand in the books of the corporation shall notwithstanding such trusts or equitable interests or demands and notice thereof to the said corporation be a good valid and conclusive discharge to the corporation for or in respect of any dividend or other money payable by the said corporation in respect of such shares and a transfer of the said shares in accordance with the regulations in that behalf contained in the said deed of settlement by the person in whose name such shares shall so stand shall notwithstanding as aforesaid be binding and conclusive as far as may concern the said corporation against all persons claiming by virtue of such trusts or equitable

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equitable interests or demands Provided always that nothing therein contained shall be deemed or taken to interfere with or abridge the right and power of a Court of Equity to restrain the payment of any such dividend or other money payable thereafter by the corporation in respect of any such shares or the transfer thereafter of any such shares or to direct the payment of such dividends or other money by the corporation or the transfer of such shares by the person in whose name they may stand to such other person as such Court may think fit.

Power to take and hold lands &c.

6. It shall be lawful for the said corporation notwithstanding any statute or law to the contrary to purchase take hold and enjoy to them and their successors for any estate term of years or interest and under license any coal or other mineral lands whatsoever and all such houses offices buildings and other lands and hereditaments as may be necessary or proper for the purpose of managing and conducting and carrying on the affairs concerns and business of the said corporation and to sell convey assign assure lease and otherwise dispose of or act in respect of such coal or other mineral lands houses offices buildings and other lands and hereditaments as occasion may require.

Conveyance to the corporation.

7. It shall and may be lawful to and for all persons who are or shall be otherwise competent so to do to grant sell alien and convey demise assign assure and dispose of unto and to the use of the said corporation and their successors for the purposes aforesaid or any of them any such houses offices lands mines hereditaments and other real estate whatsoever as aforesaid accordingly.

Dividend from the profits.

8. No dividend or bonus shall in any case be declared or paid out of the subscribed capital for the time being of the said company or otherwise than out of the declared surplus capital net gains and profits of the business.

Actions or suits for calls.

9. In any action or suit to be brought by the said corporation against any proprietor of any shares in the capital of the said corporation to recover any sum of money due and payable to the said corporation for or by reason of any call made by virtue of this Act or of the said deed of settlement it shall be sufficient for the corporation to declare and allege that the defendant being a proprietor of such or so many shares in the capital of the said corporation is indebted to the said corporation in such sum of money (as the call in arrears shall amount to) for such call of such sum of money upon such or so many shares belonging to the said defendant whereby an action hath accrued to the said corporation without setting forth any special matter and on the trial of such action or suit it shall not be necessary to prove the appointment of the directors who made such call or any other matters except that the defendant at the time of making such call was a holder or proprietor of one or more share or shares in the capital of the said corporation and that such call was in fact made and that such notice thereof and of the time fixed for the payment thereof was given as is directed by the said deed of settlement and the said corporation shall thereupon be entitled to recover what shall appear due.

Share register to be evidence of ownership.

10. The share register of the said company shall at all times be *prima facie* evidence to shew who are the proprietors for the time being of the capital thereof and the number of shares held by each proprietor.

Contracts &c. under the deed of settlement before Act.

11. Nothing herein contained shall prejudice or be deemed to prejudice any call made or any contract or other act deed matter or thing entered into made or done by the said company prior to or under or by virtue of the said deed of settlement before this Act shall come into operation but the same call contract act deed matter or thing shall be as valid and effectual to all intents and purposes as if this Act had not been passed and may be enforced in like manner as if the said company had been incorporated before the same call contract act deed matter or thing had been made entered into or done.

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12. In the event of the assets of the corporation being insufficient to meet its engagements the shareholders shall in addition to the amount of their subscribed shares in the capital of the said corporation be responsible to the extent only of a sum equal to the amount of their said shares.

13. The directors for the time being shall have the custody of the common seal of the said corporation and the form thereof and all other matters relating thereto shall from time to time be determined by the directors in the same manner as is provided in and by the said deed of settlement for the determination of other matters by the board of directors and the directors present at a board of directors of the said corporation shall have power to use such common seal for the affairs and concerns of the said corporation and under such seal to authorize and empower any person without such seal to execute any deeds and do all or any such other matters and things as may be required to be executed and done on behalf of the said company in conformity with the provisions of the said deed of settlement and of this Act but it shall not be necessary to use the corporate seal in respect of any of the ordinary business of the company or for the appointment of an attorney or solicitor for the prosecution or defence of any action suit or proceeding.

14. The directors and secretary of the said company appointed by the said deed of settlement shall go out of office at the general meeting of the shareholders of the said company to be held in the month of January one thousand eight hundred and sixty and thereupon a new board of directors shall be elected of the number and in the manner provided by the said deed of settlement. And thereafter the said board of directors shall be changed and all vacancies therein filled up at the times and in manner provided by the said deed of settlement.

15. It shall and may be lawful for the directors in pursuance of a resolution to that effect to be passed at special general meetings of the shareholders to be called for the purpose from time to time to borrow upon mortgage of the property of the company or upon debentures chargeable thereon issued under the hands of any two of the directors named in such resolutions any sum or sums of money not exceeding in the whole an amount equal to one-half of the paid up capital of the company. Provided always that the shareholders present at any such meeting either in person or by proxy specially given for the occasion shall hold shares representing not less than one-third of the paid up capital of the company.

16. 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 and the same whenever cited shall be sufficiently described as "The Newcastle Wallsend Coal Company's Incorporation Act 1859."

17. And be it enacted that in this Act the following words shall have the following meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction (that is to say) words importing the plural number shall include the singular number and words importing the masculine gender shall include females and bodies corporate as well as individuals.