

An Act to incorporate the "Moruya Silver Mining Company." [11th April, 1864.]

MORUYA SILVER
MINING COMPANY.

WHEREAS a joint stock Company called "The Moruya Silver Mining 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 tenth day of July one thousand eight hundred and sixty-two 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 would remain and continue until dissolved under the provisions in that behalf therein contained a joint stock Company under the name style and title of "The Moruya Silver Mining Company" for the purpose of working or contracting for the working of all the lodes veins and strata of metallic ore and minerals upon or under the surface of certain lands and hereditaments in the said deed of settlement mentioned or such other lands and hereditaments as might thereafter be taken on lease or license by the said Company under the provisions of the said deed of settlement and to purchase any metallic ores or minerals and to make advances on deposit or consignment thereof wash or otherwise render merchantable the ores and minerals won or obtained therefrom and also to smelt and refine such ores and minerals and to sell export or otherwise dispose of all such ores and minerals either in a natural or manufactured condition And whereas it was by the said deed of settlement agreed that the capital of the Company should consist of twenty thousand pounds sterling to be divided into four thousand shares of the amount of five pounds each and of such further sum or sums of money as should or might be raised by the creation of new shares as therein provided And whereas by the said deed of settlement provision has been made for the due management of the affairs of the said Company by certain directors and auditors already appointed and by other directors and auditors to be from time to time elected and appointed as their successors by the shareholders of the said Company And whereas the whole of the capital of twenty thousand pounds has been subscribed for And whereas the said Company is desirous of being incorporated and it is expedient that the said Company should be incorporated accordingly 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:—

1. The following words and expressions in the Act shall have Interpretation the several meanings hereby assigned to them unless there be something in the subject or the context repugnant to such construction (that is to say):—

The expression "the Company" shall mean the Company incorporated by this Act.

The expression "the Directors" shall mean the Board of Directors of the Company duly appointed under the provisions of the said deed of settlement.

The word "Shareholder" shall mean shareholder proprietor or member of the Company.

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Company incorporated.

2. Every person who has already become or at any time hereafter shall or may in the manner provided by and subject to the rules regulations and provisions contained in the said deed of settlement become holders of shares of or in the capital for the time being of the said Company shall for the purposes aforesaid but 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 Moruya Silver Mining Company" and by that name shall and may grant and receive sue and implead any person whether a member of the Company or not and may be sued and impleaded in all Courts whatsoever at law or in equity and may prefer lay and prosecute any indictment information or prosecution against any person whomsoever for any crime or offence whatsoever and in all indictments informations and prosecutions it shall be lawful to state that any property of the Company relative to which such indictment information or prosecution is preferred laid or prosecuted is the property of the Company and generally to designate the Company by its corporate name whenever for any purpose whatsoever such designation shall be necessary and the Company shall have perpetual succession with a common seal which may be altered varied and changed from time to time at the pleasure of the Company.

Deed of settlement confirmed and clauses &c. therein to be the by-laws for the time being of the Company.

3. The several laws rules regulations clauses and agreements contained in the said deed of settlement and such rules by-laws or regulations as from time to time may be made in pursuance of the provisions for that purpose therein contained are and shall be the by-laws for the time being of the Company save and except in so far as any of them are or shall or may be altered varied or repealed by or are or shall or may be inconsistent with or repugnant to any of the provisions of this Act or of any of the laws or statutes in force in the said Colony subject nevertheless as to the rules by-laws or regulations which may from time to time be made in pursuance of the provisions of the said deed of settlement to be and the same may be amended altered or repealed either wholly or in part in the manner provided by the said deed of settlement but no rule or by-law shall on any account or pretence whatsoever be made by the Company 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 the said deed of settlement or of this Act or of any of the laws or statutes in force in the said Colony.

Evidence of by-laws.

4. The production of a written or printed copy of the said deed of settlement or of any rules by-laws or regulations to be made in pursuance thereof or in pursuance of this Act having the common seal of the Company affixed thereto shall be sufficient evidence in every Court of civil or criminal jurisdiction of such deed of settlement or of such rules by-laws or regulations.

General business of the Company.

5. It shall be lawful for the Company subject to the restrictions and provisions herein and in the said deed of settlement contained to work or contract for working all the lodes veins and strata of metallic ores and minerals upon or under the surface of the lands and hereditaments in the said deed of settlement mentioned or such other lands and hereditaments as may hereafter be purchased or taken on lease or license by the said Company under the provisions hereinafter contained and to purchase any metallic ores or minerals and to make advances on deposit or consignment thereof and to wash or otherwise render merchantable the ores and minerals won or obtained therefrom and also to smelt and refine such ores and minerals and to sell export or otherwise dispose of all such ores and minerals either in a natural or manufactured condition.

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6. It shall be lawful for the Company notwithstanding any statute or law to the contrary to purchase take hold and enjoy to them and their successors any mineral lands and all such houses offices and buildings and other lands and hereditaments as may be necessary for the purpose of carrying on the business of the Company for any estate term of years or interest or upon any license and to sell demise or otherwise dispose of the same as occasion shall require.

7. It shall be lawful for any person who is competent so to do to sell or demise to the Company any such mineral lands houses offices buildings lands and hereditaments or to grant a license for working any such mineral lands or hereditaments.

8. It shall be lawful for the Company from time to time to extend or increase its capital for the time being by the creation and disposal of new shares or preference shares in the manner specified in the said deed of settlement.

9. It shall be lawful for the directors from time to time as they shall see fit in the manner specified in the said deed of settlement to make accept and endorse such promissory notes or bills of exchange on behalf of the Company for any purposes connected with the affairs and business of the Company and the making accepting and endorsing of any such promissory notes or bills of exchange by the Chairman of the Company or other person authorized in that behalf by the directors for and on behalf of the Company shall be binding against every shareholder and it shall be also lawful for the directors to procure advances and to borrow money and to pay off and discharge such advances in the manner for the purposes and subject to the restrictions specified in the said deed of settlement.

10. All the land securities covenants debts moneys choses in action and things at present vested in the trustees of the Company or any other person on behalf of the Company shall immediately after the passing of this Act become vested in the Company for the same estate and interest and with the like powers and authorities as the same are now vested in the said trustees or other person without any assignment or conveyance whatsoever.

11. Every call made and every contract act deed matter or thing entered into or done by the Company or by any person on behalf of the Company under the provisions of the deed of settlement prior to the passing of this Act shall be as valid and effectual to and for all intents and purposes and may be enforced in like manner as if the Company had been incorporated before such call contract act deed matter or thing had been made entered into or done.

12. The shares in the capital of the Company and all the funds and property of the Company and all shares therein shall be personal estate and transmissible as such subject to the restrictions for that purpose contained in the said deed of settlement and shall not be of the nature of real estate.

13. Subject to the restrictions for this purpose in the said deed of settlement contained every shareholder may sell and transfer all or any of his shares in the capital of the Company (but not a fractional part of a share) and every such transfer shall be by deed and according to a form to be approved of by the directors and the transferee of such shares shall so soon as he has complied with the provisions relative to the transfer of shares contained in the said deed of settlement become a shareholder in respect of the same shares in every respect.

14. The Company shall not be bound to see to the execution of any trust whether express implied or constructive to which any share may be subject and the receipt of the party in whose name any such share shall stand in the books of the Company or if it stands in the name

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name of more parties than one the receipt of one of the parties named in the shareholders' register book hereinafter mentioned shall from time to time be a sufficient discharge to the Company for any dividend or other sum of money payable in respect of such share notwithstanding any trust to which such share may then be subject and notwithstanding the Company have had notice of such trusts and the Company shall not be bound to see to the application of the money paid upon such receipt.

The Assignee of insolvent shareholder and the Trustees of assigned estates to nominate some person to become proprietor in respect of shares of such insolvent or assigned estate.

15. In case the Assignees of any insolvent shareholder shall elect to accept the shares of such insolvent or in case the Trustees of any estate assigned for the benefit of creditors shall elect to accept the shares belonging to such assigned estate such Assignees or Trustees shall forthwith nominate some other person to become a proprietor in respect of such shares such nominee to be subject to the approval of the directors but in no case shall such Assignees be themselves entitled to become shareholders in respect of the shares of any insolvent shareholder nor shall such Trustees be themselves entitled to become shareholders in respect of the shares belonging to any estate assigned for the benefit of creditors.

Declaration in action for calls.

16. In any action or suit to be brought by the Company against any shareholder to recover the money due for any call made by virtue of this Act or of the said deed of settlement it shall not be necessary to set forth the special matter but it shall be sufficient for the Company to declare that the defendant is the holder of one share or more in the capital of the Company (stating the number of shares) and is indebted to the Company in the sum to which the calls in arrear shall amount in respect of one call or more upon one share or more (stating the number and amount of each of such calls) whereby an action hath accrued to the Company.

Matter to be proved in action for calls.

17. On the trial or hearing of such action or suit it shall be sufficient to prove that the defendant at the time of making such call was a holder of one share or more in the capital of the Company and that such call was in fact made and such notice thereto given as is provided for that purpose in the said deed of settlement and it shall not be necessary to prove the appointment of the directors who made such call nor any other matter whatsoever and thereupon the Company shall be entitled to recover what shall be due upon such call with interest thereon.

Registry of shareholders.

18. The Company shall keep a book to be called "The Shareholders' Register Book" and in such book shall be fairly and distinctly entered from time to time the names and additions of the several persons entitled to shares in the Company together with the number of shares to which such shareholders shall be respectively entitled.

Shareholders' register book to be evidence.

19. The production of the shareholders' register book shall be admitted in all Courts of civil and criminal jurisdiction as *prima facie* evidence of the person named therein as a shareholder being such shareholder and of the number of his shares and every shareholder or other person having a judgment at law or a decree in equity against the Company may at all convenient times peruse the shareholders register book gratis and may require a copy thereof or any part thereof and for every one hundred words so required to be copied the Company may demand a sum not exceeding one shilling.

Dividend to be paid from profits only.

20. In every case dividends or bonuses shall be declared and paid out of the net gains and profits of the Company and not out of the capital for the time being of the Company or any portion thereof.

Execution against shareholders.

21. If any execution either at law or in equity shall have been issued against the property or effects of the Company and if there cannot be found after due diligence sufficient whereon to levy such execution then such execution may be issued against any of the shareholders

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shareholders for the time being or any former shareholder until such execution shall be fully satisfied. Provided always that no such execution shall issue against any such shareholder or former shareholder except upon an order of the Court in which the action suit or other proceeding shall have been brought or instituted made upon motion in open Court after sufficient notice in writing to the person sought to be charged and upon such motion such Court may order execution to issue accordingly. Provided further that in the case of execution against any former shareholder it shall be shewn that such former shareholder was a shareholder of the Company at the time when the contract or engagement was entered into for breach of which contract or engagement such execution shall have issued or become a shareholder during the time such contract or engagement was unexecuted or unsatisfied or was a shareholder at the time the judgment or decree was obtained upon which judgment or decree such execution shall have issued. Provided also that in no case shall such execution be issued against the person property or effects of any former shareholder after the expiration of one year after the person sought to be charged shall have ceased to be a shareholder of the Company.

22. Every shareholder against whom or against whose property or effects execution upon any judgment decree or order obtained as aforesaid shall have been issued as aforesaid shall be entitled to recover against the Company all loss damages costs and charges which such shareholder may have incurred by reason of such execution and that after due diligence used to obtain satisfaction thereof against the property and effects of the Company such shareholder shall be entitled to contribution for so much of such loss damages costs and charges as shall remain unsatisfied from the several other shareholders against whom execution upon such judgment decree or order obtained against the Company might also have been issued under the provision in that behalf aforesaid and that such contribution may be recovered from such shareholders as aforesaid in like manner as contribution in ordinary cases of co-partnership.

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

24. In all cases in which by any Act of Parliament or of the Colonial Legislature or by any rule or order or the practice of the Supreme Court or any other Court now or hereafter to be in force in this Colony the plaintiff complainant or defendant in any action suit or other proceeding civil criminal or otherwise or any creditor of an insolvent estate or any person being a party to or interested in any process or proceeding whatsoever is or shall be authorized empowered or required to make any affidavit deposition or information or to sign or present any petition or to do any other act it shall be lawful and competent for the manager or other officer or agent of the Company (where such Company shall be such plaintiff complainant defendant or creditor or be a party to or otherwise interested in any process or proceeding whatsoever as aforesaid) for and on behalf of the Company to make any such affidavit deposition or information sign present any such petition or do any such other act as aforesaid.

25. The directors for the time being shall have the custody of the common seal of the Company 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 by the said deed of settlement for the determination of other matters by the directors and the directors present at a Board of Directors of the Company shall have power

Reimbursement of
shareholders.

Limitation of
liability.

Power to manager
or other officer to do
certain acts.

Custody and use of
corporate seal.

Bathurst Market.

power to use such common seal or authorize the same to be used for the affairs and concerns of the Company 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 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 or of any officer or servant of the Company and such seal may be affixed to any deed or document by the hand of any person whom the directors shall appoint in that behalf and the affixing thereof shall be attested by at least one director and such person so appointed.

Short title of Act.

26. In citing this Act in other Acts of Parliament and in legal instruments it shall be sufficient to use the expression "The Moruya Silver Mining Company's Incorporation Act 1864."
