

An Act to enable “The Colonial Sugar Refining Company” to sue and to be sued in the name of such Company and to vest the property of the Company in the Trustees for the time being of such Company. [30th December, 1863.]

COLONIAL SUGAR
REFINING COMPANY.

WHEREAS a Joint Stock Company was in the year one thousand eight hundred and fifty-five established in Sydney by the name of “The Colonial Sugar Refining Company” for the purpose of purchasing and refining of raw sugar the importation purchase and sale of sugar whether raw or refined the purchase and sale of molasses the distillation of molasses and other articles into spirits the purchase and sale of spirits the manufacture of animal charcoal ivory black and the sale of any such and such other business and purposes as the Board of Directors of such Company should from time to time think fit and most beneficial for the interest of the said Company And whereas by the deed of settlement of the said Company bearing date the first day of January one thousand eight hundred and fifty-five Sir Daniel Cooper Baronet and William Fanning Esquire were appointed trustees of the said Company And it was thereby provided that all lands tenements and hereditaments belonging to the said Company should be vested in such trustees their heirs and assigns upon certain trusts being trusts for the benefit of the Company as therein mentioned And whereas Edward Knox and Benjamin Walker are the present trustees of the said Company in whom all the lands tenements and hereditaments belonging to the said Company are now vested upon the trusts of the said indenture of settlement And whereas in consequence of the death resignation or departure from the Colony of the local trustees or any of them it may become necessary from time to time to appoint new trustees in the place of those so dying resigning or leaving the Colony and upon every such new appointment the lands tenements hereditaments securities and property of the said Company would in the absence of any special enactment in relation thereto have to be transferred from time to time to the new trustee or trustees as the case may be whereby the titles thereto would become unnecessarily complicated and great expense would be occasioned to the Company And whereas it is expedient that provision should be made for enabling the said Company to sue and be sued in this Colony in the name of the said Company but without incorporating the same and that the lands tenements hereditaments securities

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securities and property of the Company should be vested by operation of law in the trustees for the time being of the said Company without requiring the same to be assigned transferred or conveyed to the new trustee or trustees on every change of trustees And whereas these objects cannot be effected without the aid and authority of the Legislature 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 :—

Actions suits and prosecutions to be in the name of the Company.

1. All actions suits and proceedings at law or in equity or in bankruptcy or insolvency to be commenced instituted or carried on in this Colony by or on behalf of or against the said Company or wherein the said Company is or shall be concerned or interested whether any person being defendant or plaintiff in such action suit or proceeding shall be a member or proprietor of or in the said Company or not shall be commenced instituted presented prosecuted carried on or defended in the name of the said Company in the same manner as if the same had been incorporated by such name and all prosecutions indictments or informations to be brought instituted laid or carried on on behalf of the said Company against any person whomsoever whether a member or proprietor of or in the said Company or not for any stealing embezzlement fraud forgery crime or offence and all prosecutions indictments or informations to be brought instituted laid or carried on by any person whomsoever whether a member or proprietor of or in the said Company or not for any fraud crime or offence against the said Company shall be so brought instituted laid or carried on in the name of the Company as if the same were incorporated and in all indictments informations and prosecutions on behalf of the said Company it shall be lawful to state the money goods effects bills notes securities and other property of the said Company to be the property of the said Company by its name as if incorporated and it shall be sufficient to allege an intent to defraud or injure the said Company by its name as if incorporated and any offender may thereupon be lawfully convicted of any such offence and in all other allegations prosecutions indictments informations and other proceedings whatsoever in which in the absence of legislative provision as herein contained it would have been necessary to state the names of the persons composing the said Company it shall be lawful and sufficient to state the name of the Company and no change in the persons composing the Company shall abate any such action suit proceeding or prosecution and no action suit prosecution indictment or information or proceeding for and on behalf or against the said Company shall be in any wise affected or defeated by or by reason of the defendant or plaintiff or complainant therein or of any other person in whom any interest may be averred or who may be in any wise interested or connected in such action suit prosecution indictment information or proceeding being or having been a proprietor or a partner in the said Company or of such action suit indictment prosecution or proceeding arising out of the partnership relation of the defendant plaintiff or complainant or other person as aforesaid and the Company but the said Company and any proprietor or partner or late proprietor or partner in the said Company either alone or jointly with any other person or persons shall and may be subject and liable to and possess prosecute and have the same right of action or suit and remedy or other civil or criminal proceeding and the same may be proceeded in and enforced in the same manner as if such proprietor or partner or late proprietor or partner were a stranger and not a proprietor or partner in the said Company.

Decrees against the Company to have effect against the Company.

2. All and every judgment decree or order made or pronounced in any action suit or proceeding in any court of law or equity against the said Company shall have the like effect and operation upon and against the property and funds of the said Company and upon and against the persons

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persons and property of every proprietor thereof as if all the proprietors of such Company were parties before the Court to and in such action suit or proceeding and it shall be lawful for any Court in which such judgment order or decree shall have been made to cause such judgment order or decree to be enforced against all and every or any proprietor of such Company in like manner as if all the proprietors of such Company were parties before such Court to and in such action suit or proceeding.

3. The Directors of the said Company for the time being shall within thirty days after the passing of this Act cause a memorial of the names of the said trustees of the said Company for the time being in the form or to the effect for that purpose set forth in the Schedule to this Act annexed to be recorded in the office of the Supreme Court of this Colony at Sydney And when and so often as any new trustee shall be appointed then the directors shall within thirty days thereafter cause a like memorial of the names of the then trustees including such new trustee in lieu of the trustee in whose place he shall have been appointed to be recorded as aforesaid.

Memorial of the names of the trustees to be recorded.

4. Every such memorial shall be verified by the solemn declaration of the manager of the Company for the time being or in case there shall at any time be no such manager at the time or in case of his absence then by the solemn declaration of one of the directors of the Company for the time being.

Memorial to be verified by declaration.

5. The memorial last recorded shall be conclusive evidence against the Company of the persons named in such memorial as the trustees thereof being such trustees of the Company for the time being and of the regularity of their or his appointment and the acts and deeds of the persons so named in such memorial shall be binding on the Company notwithstanding that they shall not be trustees thereof.

Memorial recorded to be conclusive evidence.

6. From and after the passing of this Act the lands tenements hereditaments moneys securities property and effects of the said Company which now belong to the Company in this Colony and which are now vested in the said Edward Knox and Benjamin Walker or which may hereafter belong to or be acquired or obtained within this Colony by the said Company whether as absolute owners thereof or otherwise shall vest and be vested in the trustees of the said Company for the time being by force of this Act and by virtue of their appointments merely without conveyance assignment or transfer and the said trustees for the time being shall have the same powers and rights both at law and in equity with respect to the said lands tenements hereditaments moneys securities property and effects of the Company so vested in them as aforesaid as they would have if the same had been duly conveyed assigned or transferred to them or him.

Trust moneys land and other property to be vested in the trustees for the time being.

7. 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 or present any such petition or do any such other act as aforesaid.

Power to manager or other officer to do certain acts.

8. Nothing in this Act contained shall be construed to affect or prejudice any action suit prosecution indictment information or proceeding commenced

Act not to prejudice previous or pending proceeding.

Parnell's Trust.

commenced laid or prosecuted by or against the Company before this Act shall have come into operation but the same may be carried on to conclusion and enforced as if this Act had not been passed.

Manager to sign
certain deeds.

9. In all cases where under the deed of settlement the directors of the said Company are authorized or empowered to execute any deed or other instrument it shall be lawful for the manager of the said Company when duly authorized by a resolution of the directors to execute such deed or instrument for and on behalf of the Company and such deed or instrument shall be deemed as valid and effectual as if the same had been executed by the directors or by the shareholders of the said Company.

Company not incor-
porated by this Act.

10. Provided always that nothing herein contained shall extend or be deemed construed or taken to extend to incorporate the said Company or to relieve or discharge the said Company or any of the proprietors thereof or subscribers thereto from or to limit any liability responsibility duties contracts or obligations whatsoever which by law they now are or at any time hereafter may be subject or liable to either between the said Company and others or between the individual proprietors of the said Company or any of them and others or amongst themselves or in any manner whatsoever except so far as the same is effected by the provisions of this Act and the true intent and meaning thereof.

The SCHEDULE referred to in the foregoing Act.

MEMORIAL of the names of the trustees of "The Colonial Sugar Refining Company" to be recorded in the Supreme Court of New South Wales pursuant to an Act of the Parliament of the said Colony passed in the _____ year of the reign of Her present Majesty intituled "*An Act to enable 'The Colonial Sugar Refining Company' to sue and be sued in 'the name of such Company and to vest the property of the Company in the Trustees for 'the time being of the said Company.'*"

I _____ of _____ do solemnly and sincerely declare that the above memorial contains the names of the present trustees of the abovenamed Company.

Made and declared at Sydney before me this _____ day of _____ in the year of Our Lord one thousand eight hundred and _____
