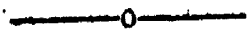




1847.

No. 5.



*ORDINANCE enacted by the Governor of South Australia, with the advice and consent of the Legislative Council thereof.*

*To consolidate in one Ordinance certain Provisions usually inserted in Acts with respect to the Constitution of Companies incorporated for carrying on Undertakings of a Public Nature.*

[26th March, 1847.]

**W**HEREAS it is expedient to comprise in one general Act or Ordinance sundry provisions relating to the constitution and management of Joint Stock Companies, usually introduced into Acts of Parliament authorising the execution of undertakings of a public nature by such Companies, and that as well for the purpose of avoiding the necessity of repeating such provisions in each of the several Ordinances relating to such undertakings, as for ensuring greater uniformity in the provisions themselves :

Preamble.

BE IT THEREFORE ENACTED by the Governor of South Australia, with the advice and consent of the Legislative Council thereof: THAT this Ordinance shall apply to every Joint Stock Company which shall by any Ordinance which shall hereafter be passed, be incorporated for the purpose of carrying on any undertaking, and this

Ordinance to apply to all Companies incorporated by Ordinances hereafter to be passed.

this Ordinance shall be incorporated therewith; and all the clauses and provisions hereof, save so far as they shall be expressly varied or excepted by any such Ordinance, shall apply to the Company which shall be incorporated by such Ordinance, and to the undertaking for carrying on which such Company shall be incorporated, so far as the same shall be applicable thereto respectively; and such clauses and provisions, as well as the clauses and provisions of every other Ordinance which shall be incorporated with such Ordinance shall, save as aforesaid, form part of such Ordinance, and be construed together therewith as forming one Act.

*Interpretations in  
this Act.*

AND with respect to the construction hereof, and of other Ordinances to be incorporated therewith—BE IT ENACTED as follows:

II. THE expression "Act" used herein shall be construed to mean Ordinance enacted by the Governor of South Australia, with the advice and consent of the Legislative Council thereof; and the expression "the Special Act" shall be construed to mean any Act which shall be hereafter passed, incorporating a Joint Stock Company for the purpose of carrying on any undertaking, and with which this Act shall be so incorporated as aforesaid; the word "prescribed" used in this Act, in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the Special Act; and the sentence in which such word shall occur shall be construed as if instead of the word "prescribed," the expression "prescribed for that purpose in the Special Act" had been used; and the expression "the undertaking" shall mean the undertaking or works, of whatever nature, which shall by the Special Act be authorised to be executed.

*Interpretations in  
this and the Special  
Act.*

III. THE following words and expressions both in this and the Special Act shall have 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)

Words importing the singular number only shall include the plural number; and words importing the plural number only shall include the singular number:

Words importing the masculine gender only shall include females:

The word "Lands" shall extend to messuages, lands, tenements, and hereditaments of any tenure:

The

The word "Lease" shall include an agreement for a lease:

The word "Month" shall mean calendar month:

The expression "Superior Courts" shall mean Superior Courts of Record in the Province:

The word "Oath" shall include affirmation in the case of Quakers, or other Declaration lawfully substituted for an Oath in the case of any other persons exempted by Law from the necessity of taking an Oath:

The word "Justice" shall mean any Justice of the Peace for the Province who shall not be interested in the matter; and where any matter shall be authorised or required to be done by two Justices, the expression "Two Justices" shall be understood to mean two Justices assembled and acting together:

The expression "the Company" shall mean the Company constituted by the Special Act:

The expression "the Directors" shall mean the Directors of the Company, and shall include all persons having the direction of the undertaking, whether under the name of Directors, Managers, Committee of Management, or under any other name:

The word "Shareholder" shall mean Shareholder, Proprietor, or Member of the Company; and in referring to any such Shareholder, expressions properly applicable to a person shall be held to apply to a Corporation: and

The expression "the Secretary" shall mean the Secretary of the Company, and shall include the word "Clerk."

IV. AND BE IT ENACTED, that in citing this Act in other Acts, and in legal instruments, it shall be sufficient to use the expression "The Companies Clauses Consolidation Act."

*Interpretations in this and the Special Act.*

Short title of the Act.

V. AND WHEREAS it may be convenient in some cases to incorporate with Acts hereafter to be passed some portion only of the provisions of this Act: BE IT THEREFORE ENACTED, that for the purpose of making any such incorporation, it shall be sufficient in any such Act to enact that the clauses and provisions of this Act, with respect to the matter so proposed to be incorporated (describing such matter as it is described in this Act, in the words introductory to the enactment with respect to such matter), shall be incorporated with such Act; and thereupon all the clauses and provisions of this Act, with respect to the matter so incorporated, shall, save so far as they shall be

Form in which portions of this Act may be incorporated with other Acts.

be expressly varied or excepted by such Act, form part of such Act; and such Act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such Act shall relate.

*Distribution of  
Capital.*

AND with respect to the Distribution of the Capital of the Company into Shares—BE IT ENACTED as follows:

*Capital to be divided  
into shares.*

VI. THAT the capital of the Company shall be divided into shares of the prescribed number and amount, and such shares shall be numbered in arithmetical progression, beginning with number one; and every such share shall be distinguished by its appropriate number.

*Shares to be personal  
estate.*

VII. THAT all shares in the undertaking shall be personal estate, and transmissible as such, and shall not be of the nature of real estate.

*Shareholders.*

VIII. THAT every person who shall have subscribed the prescribed sum or upwards to the capital of the Company, or shall otherwise have become entitled to a share in the Company, and whose name shall have been entered on the Register of Shareholders hereinafter mentioned, shall be deemed a Shareholder of the Company.

*Registry of Share-  
holders.*

IX THAT the Company shall keep a book, to be called the "Register of Shareholders;" and in such book shall be fairly and distinctly entered from time to time the names of the several Corporations, and 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, distinguishing each share by its number, and the amount of the subscriptions paid on such shares, and the surnames or corporate names of the said Shareholders shall be placed in alphabetical order; and such book shall be authenticated by the common Seal of the Company being affixed thereto; and such authentication shall take place at the first ordinary meeting, or at the next subsequent meeting of the Company, and so from time to time at each ordinary meeting of the Company.

*Addresses of Share-  
holders.*

X. THAT in addition to the said Register of Shareholders, the Company shall provide a book, to be called the "Shareholders' Address Book," in which the Secretary shall from time to time enter in alphabetical order the corporate names and places of business of the several Shareholders of the Company, being Corporations, and the surnames of

of the several other Shareholders, with their respective Christian names, places of abode and descriptions, so far as the same shall be known to the Company; and every Shareholder, or if such Shareholder be a Corporation, the Clerk or Agent of such Corporation may, at all convenient times, peruse such book *gratis*, and may require a copy thereof, or of any part thereof; and for every hundred words so required to be copied, the Company may demand a sum not exceeding Sixpence.

*Distribution of Capital.*

XI. THAT on demand of the holder of any share, the Company shall cause a certificate of the proprietorship of such share to be delivered to such Shareholder; and such certificate shall have the common Seal of the Company affixed thereto; and such certificate shall specify the share in the undertaking to which such Shareholder is entitled; and the same may be according to the form in the Schedule A to this Act annexed, or to the like effect; and for such certificate the Company may demand any sum not exceeding the prescribed amount; or if no amount be prescribed, then a sum not exceeding Two shillings and sixpence.

Certificates of shares to be issued to the Shareholders.

XII. THAT the said certificate shall be admitted in all Courts as *prima facie* evidence of the title of such Shareholder, his executors, administrators, successors, or assigns, to the share therein specified: NEVERTHELESS the want of such certificate shall not prevent the holder of any share from disposing thereof.

Certificate to be evidence.

XIII. THAT if any such certificate be worn out or damaged, then, upon the same being produced at some meeting of the Directors, such Directors may order the same to be cancelled, and thereupon another similar certificate shall be given to the party in whom the property of such certificate, and of the share therein mentioned, shall be at the time vested; or if such certificate be lost or destroyed, then, upon proof thereof to the satisfaction of the Directors, a similar certificate shall be given to the party entitled to the certificate so lost or destroyed; and in either case, a due entry of the substituted certificate shall be made by the Secretary in the Register of Shareholders; and for every such certificate so given or exchanged, the Company may demand any sum not exceeding the prescribed amount; or if no amount be prescribed, then a sum not exceeding Two shillings and sixpence.

Certificate to be renewed when destroyed.

AND with respect to the Transfer or Transmission of Shares— *Transfer of Shares.*  
BE IT ENACTED as follows:

XIV. THAT

*Transfer of Shares.**Transfer of Shares to be by Deed.*

XIV. THAT subject to the regulations herein or in the Special Act contained, every Shareholder may sell and transfer all or any of his shares in the undertaking, or all or any part of his interest in the capital stock of the Company, in case such shares shall, under the provision hereinafter contained, be consolidated into capital stock; and every such transfer shall be by deed, in which the consideration shall be truly stated; and such deed may be according to the form in the Schedule B to this Act annexed, or to the like effect.

*Transfers of Shares to be registered, &c.*

XV. THAT the said deed of transfer (when duly executed) shall be delivered to the Secretary, and be kept by him; and the Secretary shall enter a memorial thereof in a book to be called the "Register of Transfers," and shall endorse such entry on the deed of Transfer, and shall, on demand, deliver a new certificate to the purchaser; and for every such entry, together with such endorsement and certificate, the Company may demand any sum not exceeding the prescribed amount; or if no amount be prescribed, then a sum not exceeding Two shillings and sixpence; and on the request of the purchaser of any share, an endorsement of such transfer shall be made on the certificate of such share, instead of a new certificate being granted; and such endorsement, being signed by the Secretary, shall be considered in every respect the same as a new certificate; and until such transfer has been so delivered to the Secretary as aforesaid, the vendor of the share shall continue liable to the Company for any calls that may be made upon each share, and the purchaser of the share shall not be entitled to receive any share of the profits of the undertaking, or to vote in respect of such share.

*Transfers not to be made until calls paid.*

XVI. THAT no Shareholder shall be entitled to transfer any share after any call shall have been made in respect thereof, until he shall have paid such call, nor until he shall have paid all calls for the time being due on every share held by him.

*Closing of Transfer Books.*

XVII. THAT it shall be lawful for the Directors to close the Register of Transfers for the prescribed period; or if no period be prescribed, then for a period not exceeding Fourteen days previous to each ordinary meeting, and they may fix a day for the closing of the same, of which Seven days' notice shall be given by advertisement in some Newspaper as after mentioned; and any transfer made during the time when the transfer books are so closed shall, as between the Company and the party claiming under the same, but not otherwise, be considered as made subsequently to such ordinary meeting.

XVIII. THAT

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XVIII. THAT if the interest in any share have become transmitted in consequence of the death or bankruptcy or insolvency of any Shareholder, or in consequence of the marriage of a female Shareholder, or by any other lawful means than by a transfer according to the provisions of this or the Special Act, such transmission shall be authenticated by a declaration in writing as hereinafter mentioned, or in such other manner as the Directors shall require; and every such declaration shall state the manner in which and the party to whom such share shall have been so transmitted, and shall be made and signed by some credible person before a Justice, or before the Master or other proper Officer of the Supreme Court; and such declaration shall be left with the Secretary, and thereupon he shall enter the name of the person entitled under such transmission in the Register of Shareholders; and for every such entry the Company may demand any sum not exceeding the prescribed amount; and where no amount shall be prescribed, then not exceeding Five shillings; and until such transmission has been so authenticated, no person claiming by virtue of any such transmission shall be entitled to receive any share of the profits of the undertaking, nor to vote in respect of any such share as the holder thereof.

*Transfer of Shares.*

Transmission of shares by other means than transfer to be authenticated by a declaration.

XIX. THAT if such transmission be by virtue of the marriage of a female Shareholder, the said declaration shall contain a copy of the register of such marriage, or other particulars of the celebration thereof, and shall declare the identity of the wife with the holder of such share; and if such transmission have taken place by virtue of any testamentary instrument, or by intestacy, the probate of the will or the letters of administration, or an official extract therefrom, shall, together with such declaration, be produced to the Secretary; and upon such production in either of the cases aforesaid, the Secretary shall make an entry of the declaration in the said Register of Transfers.

Proof of transmission by marriage, will, &c.

XX. THAT the Company shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any of the said shares 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 names of more parties than one, the receipt of one of the parties named in the Register of Shareholders 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 trusts to which such share may then be subject, and whether or not 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.

Company not bound to regard trusts.

AND

*Payment of Calls.*

AND with respect to the Payment of Subscriptions and the means of enforcing the payment of Calls—BE IT ENACTED as follows:

*Subscriptions to be paid when called for.*

XXI. THAT the several persons who have subscribed any money towards the undertaking, or their legal representatives respectively, shall pay the sums respectively so subscribed, or such portions thereof as shall from time to time be called for by the Company, at such times and places as shall be appointed by the Company; and with respect to the provisions herein or in the Special Act contained for enforcing the payment of calls, the word "Shareholder" shall extend to and include the legal personal representatives of such Shareholder.

*Power to make calls.**Proviso.*

XXII. THAT it shall be lawful for the Company from time to time to make such calls of money upon the respective shareholders, in respect of the amount of capital respectively subscribed or owing by them, as they shall think fit: PROVIDED that Twenty-one days' notice at the least be given of each call, and that no call exceed the prescribed amount, if any, and that successive calls be not made at less than the prescribed interval, if any, and that the aggregate amount of calls made in any one year do not exceed the prescribed amount, if any; and every Shareholder shall be liable to pay the amount of the calls so made in respect of the shares held by him, to the persons and at the times and places from time to time appointed by the Company.

*Interest to be paid on calls unpaid.*

XXIII. THAT if, before or on the day appointed for payment, any Shareholder do not pay the amount of any call to which he is liable, then such Shareholder shall be liable to pay interest for the same at the rate allowed by law from the day appointed for the payment thereof to the time of the actual payment.

*Power to allow interest on payment of subscriptions before call.*

XXIV. THAT it shall be lawful for the Company, if they think fit, to receive from any of the Shareholders willing to advance the same, all or any part of the moneys due upon their respective shares beyond the sums actually called for; and upon the principal monies so paid in advance, or so much thereof as from time to time shall exceed the amount of the calls then made upon the shares in respect of which such advance shall be made, the Company may pay interest at such rate, not exceeding the legal rate of interest for the time being, as the Shareholder paying such sum in advance and the Company shall agree upon.

*Enforcement of calls by action.*

XXV. THAT if at the time appointed by the Company for the payment



payment of any call any Shareholder fail to pay the amount of such call, it shall be lawful for the Company to sue such Shareholder for the amount thereof in any Court of Law or Equity having competent jurisdiction, and to recover the same, with lawful interest, from the day on which such call was payable.

*Payment of Calls.*

XXVI. THAT in any action or suit to be brought by the Company against any Shareholder to recover any money due for any call, 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 Company (stating the number of shares) and is indebted to the Company in the sum of money 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 by virtue of this and the Special Act.

*Declaration in action for calls.*

XXVII. THAT 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 undertaking, and that such call was in fact made, and such notice thereof given as is directed by this or the Special Act; 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, unless it shall appear either that any such call exceeds the prescribed amount, or that due notice of such call was not given, or that the prescribed interval between Two successive calls had not elapsed, or that calls amounting to more than the sum prescribed for the total amount of calls in One year had been made within that period

*Matter to be proved in action for calls.*

XXVIII. THAT the production of the Register of Shareholders shall be *prima facie* evidence of such defendant being a Shareholder, and of the number and amount of his shares.

*Proof of proprietorship.*

AND with respect to the Forfeiture of Shares for Non-payment of Calls—BE IT ENACTED as follows:

*Non-payment of Calls.*

XXIX. THAT if any Shareholder fail to pay any call payable by him, together with the interest, if any, that shall have accrued thereon, the Directors, at any time after the expiration of Two months from the day appointed for payment of such call, may declare the share in respect of which such call was payable forfeited; and that whether the Company have sued for the amount of such call or not.

*Forfeiture of shares for non-payment of calls.*

XXX. THAT