

New Parliament.

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and having this day passed as now printed is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives, 19th September, 1884.

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Hon. Mr. Stout.

FOREIGN COMPANIES.

ANALYSIS.

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A BILL INTITULED

AN ACT to enable Foreign Trading Corporations to efficiently carry on Business in New Zealand, to sue and be sued, and otherwise have a legal status in the Colony. Title.

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Foreign Companies Act, 1884." Short Title.

2. In this Act,

10 "Foreign company" means any joint-stock company or corporation duly incorporated for trading or other business purposes according to the laws in force in the country in which it is incorporated, other than a joint-stock company incorporated in Great Britain and Ireland or New Zealand;

15 "Attorney" includes "attorneys," and also joint and several appointments, or appointments made for separate purposes.

3. Any foreign company may from time to time, by any instrument in writing under its common seal, or executed in such manner as to be binding on the company, empower any person in New Zealand, either generally or in respect of any specified matters, as its attorney, to sue and be sued, or otherwise appear or be impleaded in any court of judicature in any civil or criminal proceedings whatsoever, or before any arbitrator or person having by law or consent of parties authority to hear evidence, and generally on behalf of such company to do all acts and to execute deeds and instruments on its behalf within the colony. Foreign company may appoint attorney within the colony.

Acts of attorney to be binding on company.

4. Every act or thing done or purported to be done, and every deed or instrument executed or signed by such attorney, on behalf of the company by whom he is appointed, shall bind the same company in the same way and to the same extent, and have the same force and effect in every respect, as if such act had been done by the company, and as if such deed or instrument had been duly sealed with the common seal of the company, or otherwise executed or signed in such manner as to bind such company. 5

Certified copies of power of attorney and certificate of incorporation to be deposited in office of Registrar of Supreme Court.

5. Before any foreign company shall commence business in New Zealand, the attorney so appointed shall deposit, in the office of the Supreme Court nearest to the place where such company purposes commencing business, a certified copy of the original power of attorney under which he claims to represent such company, together with a like copy of the certificate of the incorporation of such company as is hereinafter mentioned. 10 15

It shall be the duty of the Registrar of the Supreme Court to ascertain that such copies so deposited are true copies of the original instruments, and every such copy so deposited shall be open to the inspection of the public on payment of a fee of *one* shilling.

Where company carries on business in several places copies to be deposited in each place.

6. If the company proposes to carry on business in different places in the colony, or after having commenced business therein shall extend its operations to other parts of the colony, the attorney shall deposit like copies of the power of attorney and certificate of incorporation at each office of the Supreme Court in the district constituted under "The Supreme Court Act, 1882," comprising each place where the company so proposes to carry on or desires to extend its business; and all the provisions of the last-preceding section shall apply accordingly. 20 25

New clause.

Foreign company to have office in the colony where notices, &c., may be served.

7. Every foreign company shall have an office or place of business in the colony, where legal proceedings of any kind may be served upon it, and to which notices of any kind may be addressed or given; and for the purposes of this Act the following provisions shall have effect:— 30

- (1.) Before any foreign company commences or carries on business in New Zealand the attorney of every such company shall cause a notice to be inserted in the *New Zealand Gazette*, and in at least one public newspaper circulating at the town or place where it is proposed to commence or carry on business, stating the situation and locality of such office or place of business. 35 40
- (2.) Such notice shall be inserted in at least three consecutive issues of such *Gazette* and newspaper.
- (3.) If any change shall be made in the situation or locality of such office or place of business, the attorney shall cause a like notice of such change to be given in the manner hereinbefore provided. 45
- (4.) The preceding provisions of this section shall extend and apply to every place where the company may at any time carry on business in the colony. 50
- (5.) Service of legal proceedings or the delivery of any notice at any such office or place of business upon an attorney of

any such foreign company shall for all purposes be deemed good service on the company; but nothing herein shall be deemed to control or affect any statute or rule now or hereafter in force regulating the service of legal process upon any person or corporate body according to the practice of the Court whence such process shall issue.

(6.) If any attorney of a foreign company shall fail to comply with any of the foregoing provisions he shall be liable to a penalty of *five* pounds for every day the business of such company is carried on contrary to this Act, and every such penalty may be recovered in a summary way.

7. 8. A declaration indorsed upon or annexed to any instrument appointing, or purporting to appoint, an attorney as hereinbefore mentioned, made or purported to be made by one of the directors or the general manager of the foreign company so appointing an attorney before a notary public, British Consul, or other person lawfully authorized to take such declaration, to the effect following, that is to say,—

Declaration as to incorporation of company to be evidence.

(1.) The same company is incorporated in [*naming the country in which it has been incorporated*] under the style mentioned in the same instrument, in accordance with the law of the country where it is so incorporated;

(2.) That the seal affixed thereto is the common seal of the same company; and

(3.) That the seal has been so affixed, and the same instrument executed, and the powers and authorities purporting to be conferred by the same instrument upon the person or persons in the same instrument mentioned are authorized to be conferred under the constitution of the same company, or in pursuance of the act of incorporation, articles of association, by-laws, or regulations for the time being thereof, and that the person making such declaration is a director or general manager thereof,

—shall be final and conclusive evidence of the facts set forth therein.

(4.) In cases where, by the law of the foreign country, no seal is necessary, or the company has no seal, a statement may be made in such declaration setting out the existence of such law, or the fact that the company has no seal, and the requirements of the preceding parts of this section may be modified and shall take effect accordingly.

8. 9. Every power of attorney purporting to be granted by any foreign company as before mentioned shall, as between the company, its successors, and assigns on the one hand, and the person or persons dealing with the attorney of such company and all parties claiming through or under such person or persons on the other hand, continue in force (notwithstanding the same power may have been revoked or the company wound up or dissolved) until the attorney of the company or all and every the attorneys, if more than one, to whom the same power is given has or have received notice or information of such revocation, winding-up, or dissolution.

Powers of attorney to continue in force until notice of revocation received.

Foreign company to give due notice of intention to cease carrying on business.

New clause.
10. Before any Foreign company shall voluntarily cease to carry on business in any part of the colony at least three months' notice shall be given by its attorney of its intention so to do, and such notice shall be published in at least three consecutive issues of the *Gazette* and of some newspaper circulating at each place in the colony where the company carries on business. 5

And for a period of three months after the first of such notices shall have been published legal proceedings, notices, or other documents may be served on the attorney of the company under this Act, or, if there shall be no such attorney, by leaving the same at any office or place of business where the company carried on business prior to the giving of such notice as aforesaid, and service effected under this enactment shall be as effectual as if no such notice had been given. 10 15

Statutory declaration of attorney to be sufficient proof of non-revocation.

9. 11. A statutory declaration made by the attorney of any foreign company, whether joint or several, appointed under such instrument, that he has not received any notice or information of the revocation, winding-up, or dissolution of the same, shall be taken to be conclusive proof that no such revocation, winding-up, or dissolution has taken place. 20

Evidence of incorporation of company.

10. 12. A certificate of incorporation given under the hand of any officer who may, by the law of the country in which such company purports to be incorporated, be authorized to grant such certificate, duly certified by declaration made by one of the directors or the general manager of such company before a notary public or British Consul, or other person lawfully authorized to take such declaration, shall be conclusive evidence that such company has been duly incorporated. 25

And the date of incorporation mentioned in such certificate, or in such declaration, or if no such date be mentioned then the date of such certificate, or the date of such declaration as aforesaid, shall be deemed to be the date at which such company was incorporated. 30

Where no certificate of incorporation has been given, a copy of any act of incorporation or document of similar effect to a certificate of incorporation under which the company purports to be incorporated, duly certified as hereinbefore required, shall be sufficient for the purposes of this Act. 35

Act not to authorize issue of bank or promissory notes.

11. 13. Nothing in this Act contained shall be construed to authorize any such company as aforesaid to issue notes or promissory notes payable on demand within the colony. 40

Foreign companies not compelled to comply with Act within six months of passing thereof.

12. 14. No foreign company carrying on business in New Zealand at the date of the passing of this Act shall be compelled, until the expiration of six months from that period, to comply with the provisions of this Act.