

Australasian Sugar Company.

ANNO SEXTO

VICTORIÆ REGINÆ.

AUSTRALASIAN
SUGAR COMPANY.

An Act for facilitating Proceedings by and against a certain Joint Stock Company called "The Australasian Sugar Company" and for other purposes therein mentioned. [7th September, 1842.]

Preamble.

WHEREAS a certain joint stock company was some time since formed in the Colony of New South Wales under the style or firm of "The Australasian Sugar Company" for the purpose of carrying on the trade or business of purchasing and refining raw sugar the sale of sugar whether raw or refined by the company the sale of molasses the manufacture of animal charcoal ivory black soda sal ammonia blacking and such other business connected with the general objects of the company as the directors shall think fit and whereas the joint stock of the said company is held by proprietors partly residing in the said Colony of New South Wales and partly elsewhere and whereas the said joint stock company is under the management and superintendence of a Manager appointed by the directors of the said company and of a Board of Directors in or near Sydney in the said Colony of New South Wales the said board having its Chairman such directors being severally shareholders in the said company possessing ten shares or upwards in their own right who conduct and superintend the affairs of the said company in the carrying on the said business and whereas for enabling the said company the more readily to enforce payment of moneys that may become due to them from time to time and also to provide an easy remedy against the said company and the several proprietors of shares therein for moneys that may be due to them also for facilitating any prosecution that may hereafter be instituted by the said company it is expedient to simplify all proceedings both at law and in equity by or against the said company by allowing one member thereof to sue and be sued in the place and stead of the whole which cannot be effected without the aid and authority of the Legislature Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That all actions or suits against any person or persons indebted to the said joint stock company whether a member thereof or otherwise and all other proceedings at law or in equity to be instituted or prosecuted by or on behalf of the said joint stock company or wherein the said company is or shall be in any way concerned against any person or persons body or bodies politic or corporate shall and may be lawfully instituted and prosecuted in the name of the Manager for the time being of the said company and in the event of his death or absence from the said Colony in the name or names of any one of the board of directors in Sydney at the time any such action suit or other proceeding shall be instituted as the nominal plaintiff complainant or petitioner for and on behalf

Company to sue in the name of the Manager or one of the directors.

of

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of the said company and that all actions suits and other proceedings at law or in equity to be commenced instituted and prosecuted against the said company shall be instituted and prosecuted against the said Manager or one of the said directors for the time being of the said board of direction as the nominal defendant for and on behalf of the said company and that in all prosecutions to be instituted or carried on by or on behalf of the said company for fraud upon or against the said company or for embezzlement forgery robbery or stealing or other offence against the said company or any felony or misdemeanor in which the said company shall be concerned it shall be lawful to state the property of the said company to be the property of such Manager or director for the time being of the said board of direction and any offence committed with intent to injure or defraud the said company shall and lawfully may in such prosecutions or proceedings be stated or laid to have been committed with intent to injure or defraud such Manager or director for the time being of the said company and any offender or offenders may thereupon be lawfully convicted of any such offence and generally that in all cases wherein it would otherwise have been necessary to mention the names of the members composing the said company it shall be sufficient to use the name of such Manager or director for the time being of the board of direction.

2. And be it enacted That neither the death resignation nor removal of any such Manager or director for the time being shall abate or prejudice any such action suit prosecution or proceeding but the same may be continued in the name of the next or other succeeding Manager or director for the time being of the said company Provided always that no second suit action or other proceeding shall be at any time commenced by or against any such Manager or director for the same cause of action where the merits shall have been tried and decided in the first suit or action.

The death of any Manager or director not to abate or prejudice any action.

3. And be it enacted That a memorial of the name of the Manager of the said company and also of all the directors for the time being of the board of direction in the form of or to the effect set forth in the Schedule hereto annexed signed by the said Manager and by each of the directors of the board shall be recorded upon oath in the Supreme Court of New South Wales within thirty days after the passing of this Act and when and as often as any person shall be newly elected Manager or director of the said board of directors in Sydney a memorial of the name of such newly elected Manager or director in the same form or to the same effect as the above-mentioned memorial signed by such newly elected Manager or director shall in like manner be recorded upon oath in the said Supreme Court within thirty days next after such new Manager or director shall be elected Provided always that until such memorial as hereinbefore first mentioned shall be recorded in the manner herein directed no action suit or other proceeding shall be instituted or prosecuted by the said company under the authority of this Act.

Memorial of the name of the Manager and directors to be recorded.

4. And whereas also it is deemed expedient and necessary that the names residences and descriptions of all the members of the said company should be recorded for public information Be it enacted That the Manager for the time being shall within thirty days after the passing of this Act and within fifteen days from the first day of July in each succeeding year cause a true list of all the then existing members of the said company with their respective places of abode (as far as the same may be known to him) and descriptions to be recorded on oath in the Supreme Court of New South Wales and that the same shall be open for inspection at all reasonable times by any person requiring the same on payment of a fee of one shilling and if any such Manager of the said Company shall fail to cause such list to be recorded in manner

List of members &c. to be recorded.

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manner aforesaid he shall be liable to a penalty of one hundred pounds to be recovered by action of debt in the said Supreme Court by any person or persons suing for the same.

Members of the company shall be competent witnesses.

5. And be it enacted That any person whose name shall be so recorded shall be considered a member of the said Company and be liable to be sued as such until a new list of members' names shall be recorded as aforesaid or until he shall give notice of his retirement in the *New South Wales Government Gazette* Provided always that in all actions suits prosecutions or other proceedings in which the said Manager or director for the time being of the board of direction shall be on behalf of the said company and under and by virtue of this Act plaintiff complainant petitioner or defendant it shall and may be lawful for the said Manager or director or for any other officer engaged in the executive duties of the said company to give evidence in such action suit petition or other proceeding notwithstanding such Manager or director for the time being or other officer aforesaid shall or may be interested in the said action as a shareholder or copartner in the said company or otherwise.

Copy of deed attested by Manager to be recorded.

6. And be it enacted That a copy of the deed of copartnership and settlement attested by the Manager for the time being to be a true transcript of the original deed of copartnership and settlement of the said company shall be recorded in the Supreme Court of New South Wales within thirty days after the passing of this Act and that the same shall be open for inspection at all reasonable times by any person requiring the same on payment of a fee of one shilling and if such Manager shall fail so to record such attested copy of the original deed of copartnership and settlement of the said company as aforesaid he shall be liable to a penalty of one hundred pounds to be recovered by action of debt in the said Supreme Court by any person or persons suing for the same.

Judgment decree or order against the Manager or director to affect the persons and separate property of the company.

7. And be it enacted That every judgment decree or order in any action suit or other proceeding at law or in equity against any such Manager or director for the time being as aforesaid shall have the same effect and operation upon the joint stock company and the persons and separate property of every shareholder or proprietor thereof as if every such shareholder or proprietor had been party to such action suit or proceeding and such judgment decree or order had been obtained against him or them jointly and severally and may be enforced accordingly against either such joint stock and property or against the persons and separate property of any such Manager or director for the time being as aforesaid or of any proprietor or shareholder of the said company Provided always that every such Manager director proprietor or shareholder shall be reimbursed all such costs damages and expenses as by any such event of any such suit action or other proceeding he shall sustain and be made liable to out of the joint stock and funds of the said company or in failure thereof out of the separate funds and property of the other members of the said company in due proportion as in ordinary case of copartnership.

Act to extend to all future proprietors.

8. And be it enacted That this Act and the powers and provisions herein contained shall at all times extend to the said company and every person who shall be a member thereof for the time being at whatever time he may have become a member of the said company and whether originally a member thereof or not.

Act not to affect the rights of Her Majesty.

9. Provided always and be it enacted That nothing in this Act contained shall be deemed to affect or apply to any right title or interest of Her Majesty Her Heirs and Successors or of any body or bodies politic or corporate of any person or persons excepting such as are mentioned therein or of those claiming by from or under him or them.

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10. Provided always and be it enacted That nothing herein contained shall extend or be construed to incorporate the members of the said company or to relieve or discharge them or any of them from any responsibility duty contract or obligation whatsoever which by law they now are or at any time hereafter shall be subject or liable to either between the said company or any of them and others or among themselves or in any other manner whatsoever except so far as the same is affected by the provisions of this Act and the true intent and meaning of the same.

Not to incorporate the members of the company.

11. And be it enacted That the said company shall upon the death resignation removal or retirement of any such Manager or directors proceed with as little delay as possible to elect some other person in his stead and unless such election shall take place within one calendar month from the date of such death resignation or removal then all the privileges of the said company conferred upon them by this Act or to be conferred by any Act of the said Governor and Council shall utterly cease and determine and thenceforth it shall and may be lawful for any person or persons to commence and sustain an action against any individual shareholder or against any number of shareholders in or belonging to the said company.

Company to elect Manager or directors in case of death &c. with as little delay as possible.

12. Provided however and be it enacted That if the said company shall at any time engage in the business of the distillation of spirits or commit or suffer to be committed by any person in their employ any offence against the law in force within the Colony for the regulation of distilleries all the privileges granted to the said company by this Act shall thenceforth cease and determine and thenceforth it shall and may be lawful for any person or persons to commence and sustain an action against any individual shareholder or against any number of shareholders in or belonging to the said company.

Company not to engage in the business of distillation nor to infringe any law for the regulation of distilleries.

13. And be it enacted That a copy of the deed of copartnership and settlement of the said company certified and attested under the hand and seal of some notary public to be a true transcript of the original deed of copartnership and settlement of the said company shall be received as legal evidence of the contents of such deed of copartnership and settlement in all Courts of Law Equity Admiralty Vice-Admiralty and in all Courts of inferior jurisdiction in the Colony of New South Wales without any further proof thereof.

Notarial copy of deed of copartnership to be received as legal evidence in any Court of Law or Equity &c.

14. And be it enacted That this Act shall not commence or take effect until the same shall have received the Royal approbation and the notification of such approbation shall have been made by His Excellency the Governor in the *New South Wales Government Gazette*.

Act not to take effect till after Royal assent thereto.

15. And be it enacted That when and as soon as this Act shall have received the Royal approbation and the notification of such approbation shall have been made as aforesaid by His Excellency the Governor in the *New South Wales Government Gazette* 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.

After Royal assent to be deemed a public Act.

Foster's Trustees.

SCHEDULE REFERRED TO.

MEMORIAL of the name of the Manager of "The Australasian Sugar Company" and of the Directors for the time being of the Board of Directors of the said company to be recorded in the Supreme Court of New South Wales pursuant to an Act of the Governor and Council passed in the sixth year of the reign of Her Majesty Queen Victoria intituled "*An Act for facilitating Proceedings by and against a certain Joint Stock Company called 'The Australasian Sugar Company' and for other purposes therein mentioned.*"

A. B. Manager.

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| C. D.) | Directors. | { I. K. |
| E. F.) | | { L. M. |
| G. H.) | | { N. O. |

P. Q. of Sydney in the Colony of New South Wales maketh oath and saith that he was present and did see the foregoing memorial signed by the above-named Manager and Directors respectively whose names appear thereto.

Sworn this day }
of 184 . }
