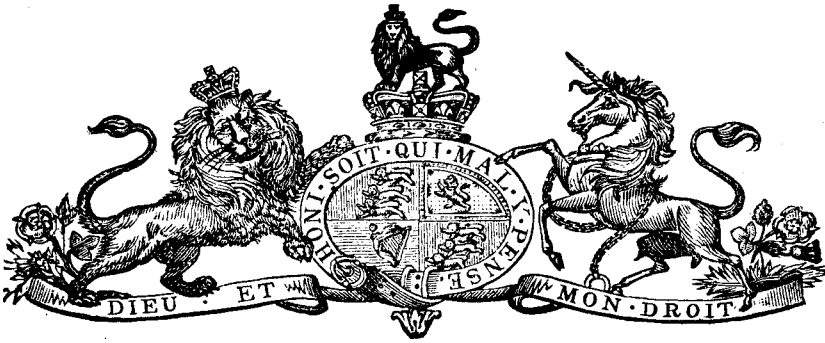


T A S M A N I A.



1895.

ANNO QUINQUAGESIMO-NONO

VICTORIÆ REGINÆ,

No. 19.

Am 2609. No. 35

AN ACT to consolidate and amend certain A.D. 1895.
portions of the Law relating to Companies.

[7 October, 1895.]

WHEREAS it is expedient to consolidate and amend certain portions PREAMBLE.
of the Law relating to Companies:

Be it therefore enacted by His Excellency the Governor of *Tasmania*,
by and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as “The Companies Act, 1895.”

2 In this Act the expression “the principal Act” shall mean *The* Interpretation.
Companies Act, 1869; and the expression “Deed of Settlement”
includes any contract or co-partnery or other instrument constituting
or regulating the Company, and not being an Act of Parliament or
Royal Charter or Letters Patent.

3 On and after the day on which this Act comes into operation, the Repeal of existing
Acts or portions of Acts of the Parliament of *Tasmania* set forth in the Acts.
Schedule (1.) hereto shall be and are hereby repealed: Provided that Schedule (1.).
such repeal shall not affect—

Companies.

A.D. 1895.

- i. Anything duly done under any Act hereby repealed before the date on which this Act comes into operation :
- ii. Any liability accruing under any such repealed Act before the date on which this Act comes into operation.

Application of
Act to matters
and things done.

And, excepting so far as there is anything in this Act inconsistent therewith, this Act shall apply to all matters and things done under any repealed Act and of any force or effect at the date on which this Act comes into operation by virtue of any Act hereby repealed, as if made or done hereunder.

And whenever in any Act the Acts hereby repealed, or any of them, are mentioned such mention shall hereafter be held and construed to mean and refer to this Act.

Articles of Association.

Articles of
Association may
be written or
printed.

4 The Articles of Association of a Company, mentioned in Section Sixteen of the principal Act, may be either written or printed, notwithstanding anything to the contrary contained in the said Section.

Memorandum of Association.

Power for
Company to
alter objects or
form of constitu-
tion, subject to
confirmation by
Court.
33 Vict. No. 22.

5—(1.) Subject to the provisions of this Act, a Company registered under the principal Act may, by special resolution, alter the provisions of its Memorandum of Association or Deed of Settlement with respect to the objects of the Company so far as may be required for any of the purposes hereinafter specified, or alter the form of its constitution by substituting a Memorandum and Articles of Association for a Deed of Settlement, either with or without any such alteration as aforesaid, with respect to the object of the Company; but in no case shall any such alteration take effect until confirmed on petition by the Court which has jurisdiction to make an Order for winding up the Company.

(2.) Before confirming any such alteration the Court must be satisfied—

- i. That sufficient notice has been given to every holder of debentures or debenture stock of the Company, and any person or class of persons whose interests will, in the opinion of the Court, be affected by the alteration; and
- ii. That with respect to every creditor who in the opinion of the Court is entitled to object and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged, or has determined, or has been secured to the satisfaction of the Court:

Provided that the Court may, in the case of any person or class of persons, for special reasons dispense with the notice required by this Section :

(3.) An Order confirming any such alteration may be made, on such terms and subject to such conditions as to the Court seems fit; and the Court may make such Orders as to costs as it deems proper.

(4.) The Court shall, in exercising its discretion under this Act, have regard to the rights and interests of the members of the Company, or of any class of those members, as well as to the rights and interests of the creditors; and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members; and the Court may give such directions and make such Orders as it may think expedient for the purpose of facilitating any such arrangement or

Companies.

carrying the same into effect: Provided always, that it shall not be lawful to expend any part of the Capital of the Company in any such purchase. A.D. 1895.

(5.) The Court may confirm, either wholly or in part, any such alteration as aforesaid with respect to the objects of the Company if it appears that the alteration is required in order to enable the Company—

- i. To carry on its business more economically or more efficiently; or
- ii. To attain its main purpose by new or improved means; or
- iii. To enlarge or change the local area of its operations; or
- iv. To carry on some business or businesses which, under existing circumstances, may conveniently or advantageously be combined with the business of the Company; or
- v. To restrict or abandon any of the objects specified in the Memorandum of Association or Deed of Settlement.

6—(1.) Where a Company has altered the provisions of its Memorandum of Association or Deed of Settlement with respect to the objects of the Company, or has altered the form of its constitution by substituting a Memorandum and Articles of Association for a Deed of Settlement, and such alteration has been confirmed by the Court, an office copy of the Order confirming such alteration, together with a printed copy of the Memorandum of Association or Deed of Settlement so altered, or together with a printed copy of the substituted Memorandum and Articles of Association (as the case may be), shall be delivered by the Company to the Registrar within Fifteen days from the date of the Order, and the Registrar shall register the same, and shall certify under his hand the registration thereof, and his certificate shall be conclusive evidence that all the requisitions of this Act with respect to such alteration and the confirmation thereof have been complied with; and thenceforth (but subject to the provisions of this Act) the Memorandum or Deed of Settlement so altered shall be the Memorandum of Association or Deed of Settlement of the Company, or, as the case may be, such substituted Memorandum and Articles of Association shall apply to the Company in the same manner as if the Company were a Company registered under Part I. of *The Companies Act, 1869*, with such Memorandum and Articles of Association, and the Company's Deed of Settlement shall cease to apply to the Company.

Registration of Order together with Memorandum as altered or substituted Memorandum and Articles, and consequences thereof.

33 Vict. No. 22.

(2.) If a Company makes default in delivering to the Registrar any document required by this Act to be delivered to him, the Company shall be liable to a penalty not exceeding Ten Pounds during every day during which it is in default.

Registration of Companies.

7 With the exceptions and subject to the Regulations specified in Section Two hundred and ten of the principal Act, every Company existing at the time of the commencement of the principal Act, including any Company registered under *The Joint Stock Companies Act* consisting of Seven or more Members, and any Company hereafter formed in pursuance of any Act of the Parliament of *Tasmania*, other than the principal Act, or any Act of the Imperial Parliament, or of Letters Patent, or being otherwise duly constituted by Law or contract, and consisting of Seven or more Members, and whether or not formed for the acquisition of gain, may at any time hereafter register itself under the principal Act as an Unlimited Company, or a Company

Companies capable of being registered.

Companies.

A.D. 1895.

limited by Shares, or a Company limited by Guarantee; and no such registration shall be invalid by reason that it has taken place with a view to the Company being wound up.

Registration
valid in certain
cases.

8 Where any Company has been registered under Part VII. of the principal Act before the commencement of this Act, and a Certificate of Incorporation has been given to such Company so registered as aforesaid, such registration shall be as valid and effectual in all respects as if such Company had been registered in pursuance of the principal Act, and the Certificate of Incorporation before mentioned shall be conclusive evidence that all the requisitions contained in the principal Act in respect of registration under the principal Act have been complied with, and that the Company is authorised to be registered thereunder as a Limited or Unlimited Company, as the case may be; and the date of incorporation mentioned in such Certificate shall be deemed to be the date of the incorporation of the Company under the principal Act.

Special provisions
as to Associations
formed for
purposes not of
gain.
[30 & 31 Vict.,
c. 31. s. 23.]

9 When any Association desires to be registered under the principal Act as a Limited Company, if it proves to the Governor in Council that it is formed for the purpose of promoting commerce, art, science, religion, charity, or any other useful object, and that it is the intention of such Association to apply the profits (if any) or other income of the Association in promoting its objects, and to prohibit the payment of any dividend to the Members of the Association, the Governor in Council may, by Licence under the hand of the Chief Secretary, direct such Association to be registered with limited liability without the addition of the word "Limited" to its name; and such Association may be registered accordingly, and upon registration shall enjoy all the privileges and be subject to the obligations by the principal Act imposed on Limited Companies, with the exceptions that none of the provisions of the said Act that require a Limited Company to use the word "Limited" as any part of its name, or to publish its name, or to send a list of its members, directors, or managers to the Registrar, shall apply to an Association so registered.

The Licence of the Governor in Council may be granted, upon such conditions and subject to such regulations as the Governor in Council thinks fit to impose, and such conditions and regulations shall be binding on the Association, and may, at the option of the Governor in Council, be inserted in the Memorandum and Articles of Association, or in both or one of such documents.

Transfer of Shares.

Transfer may be
registered at
request of
transferor.

10 A Company shall, on the production of a duplicate transfer or any other reasonable evidence, on the application of the transferrer of any share or interest in the Company, enter in its Register of Members the name of the transferee of such share or interest, in the same manner and subject to the same conditions as if the application for such entry were made by the transferee.

Winding-up of Registered Companies.

Statement of
Company's affairs.

11—(1.) Where the Court has made an Order for winding up a Company, there shall be made out and submitted to the official liquidator a statement as to the affairs of the Company in the prescribed

Companies.

form, verified by affidavit, and showing the particulars of the assets, debts, and liabilities of the Company, the names, residences, and occupations of the creditors of the Company, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the official liquidator may require. A.D. 1895.

(2.) The statement shall be submitted and verified by one or more of the persons who are at the time of the winding-up Order the directors, and by the person who is at that time the secretary or other chief officer of the Company, or by such of the persons being or having been directors or officers of the Company, or having taken part in the formation of the Company at any time within One year before the order for winding up the Company, as the official liquidator, subject to the direction of the Court, may require to submit, and verify the same.

(3.) The statement shall be submitted within Fourteen days from the date of the Order, or within such extended time as the official liquidator or the Court may for special reasons appoint.

(4.) Any person making or concurring in making the statement and affidavit required by this Section shall be allowed, and shall be paid by the official liquidator out of the assets of the Company, such costs and expenses incurred in and about the preparation and making of such statement and affidavit as the official liquidator may consider reasonable, subject to an appeal to the Court.

(5.) If any person, without reasonable excuse, makes default in complying with the requirements of this Section, he shall be liable to a fine not exceeding Ten Pounds for every day during which the default continues.

(6.) Any person stating himself in writing to be a creditor or contributory shall be entitled by himself or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement submitted in pursuance of this Section, and to a copy thereof or extract therefrom; but any person untruthfully stating himself to be a creditor or contributory shall be guilty of a contempt of Court, and shall be punishable accordingly on the application of the liquidator.

12—(1.) Where the Court has made an Order for winding up a Company, the official liquidator shall, as soon as practicable after receipt of the statement of the Company's affairs, submit a preliminary report to the Court— Report on winding up and proceedings thereupon.

- i. As to the amount of capital issued, subscribed, and paid up, and the estimated amount of assets and liabilities; and
- ii. If the Company has failed, as to the causes of failure; and
- iii. Whether in his opinion further enquiry is desirable as to any matter relating to the promotion, formation, or failure of the Company, or the conduct of the business thereof.

(2.) The official Liquidator may also, if he thinks fit, make a further report or further reports stating the manner in which the Company was formed, and whether in his opinion any fraud is being committed by any person in the promotion or formation of the Company, or by any director or other officer of the Company in relation to the Company since the formation thereof, and any other matters which, in his opinion, it is desirable to bring to the notice of the Court.

(3.) The Court may, after consideration of any such report, direct that any person who has taken any part in the promotion or formation

Companies.

A.D. 1895.

of the Company, or has been a director or officer of the Company, shall attend before the Court on a day appointed by the Court for that purpose, and be publicly examined as to the promotion or formation of the Company, or as to the conduct of the business of the Company, or as to his conduct and dealings as director or officer of the Company.

(4.) The official Liquidator shall take part in the examination, and for that purpose may employ a Solicitor with or without Counsel.

(5.) The Court may put such questions to the person examined as to the Court may seem expedient.

(6.) The person examined shall be examined on oath, and it shall be his duty to answer all such questions as the Court may put or allow to be put to him. The person examined shall at his own cost prior to such examination be furnished with a copy of the official liquidator's report, and shall also at his own cost be entitled to employ at such an examination a Solicitor with or without Counsel, who shall be at liberty to put such questions to the person examined as the Court may deem just for the purpose of enabling that person to explain or qualify any answer given by him. Provided also, that if such person is in the opinion of the Court exculpated from any charges made or suggested against him the Court may allow him such costs as the Court in its discretion may think fit. Notes of the examination shall be taken down in writing and shall be read over to, or by, and signed by the person examined, and may thereafter be used as evidence against him. They shall also be open to the inspection of any creditor or contributory of the Company at all reasonable times.

(7.) The Court may if it thinks fit adjourn the examination from time to time.

Power of Court to assess damages against delinquent directors, officers, and promoters.

13—(1.) Where in the course of the winding-up of a Company it appears that any person who has taken part in the formation or promotion of the Company, or any past or present director, manager, liquidator, or other officer of the Company, has misapplied or retained, or become liable or accountable for any moneys or property of the Company, or been guilty of any misfeasance or breach of trust in relation to the Company, the Court may on the application of any liquidator of the Company, or of any creditor or contributory of the Company, examine into the conduct of such promoter, director, manager, liquidator, or other officer of the Company, and compel him to repay any moneys or restore any property so misapplied or retained, or for which he has become liable or accountable, together with interest after such rate as the Court thinks just, or to contribute such sums of money to the assets of the Company by way of compensation in respect of such misapplication, retainer, misfeasance, or breach of trust as the Court thinks just.

(2.) The provisions of this Section shall apply in the winding-up of any Company where the same is being wound up by or subject to the supervision of the Court, or is being wound up voluntarily, and whether the winding-up commenced before or after the passing of this Act and notwithstanding that the offence is one for which the offender may be criminally responsible.

Attorney-General may apply to Court to wind up Company.

14 Where a Company is being wound up voluntarily or subject to the supervision of the Court, the Attorney-General may present a petition that the Company be wound up by the Court, and thereupon if the Court is satisfied that the voluntary winding-up or winding-up subject

Companies.

to supervision cannot be continued with due regard to the interests of the creditors or contributories, it may make an Order that the Company be wound up by the Court. A.D. 1895.

15—(1.) If the winding-up of a Company is not concluded within One year after its commencement, the liquidator of the Company shall, at such intervals as may be prescribed until the winding-up is concluded, send to the Registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation. Any person stating himself in writing to be a creditor or contributory of the Company shall be entitled, by himself or by his agent, at all reasonable times on payment of the prescribed fee to inspect the statement submitted in pursuance of this Section, and to a copy thereof or extract therefrom. But any person untruthfully stating himself to be a creditor or contributory shall be guilty of a contempt of Court, and shall be punishable accordingly on the application of the liquidator. Information as to pending liquidations.

(2.) If a liquidator makes default in complying with the requirements of this Section he shall be liable to a fine not exceeding Fifty Pounds for each day during which the default continues.

(3.) If it appears from any such statement or otherwise that any liquidator of the Company has in his hands or under his control any money representing unclaimed or undistributed assets of the Company which have remained unclaimed or undistributed for Six months after the date of their receipt, the liquidator shall forthwith pay the same into a Bank to be approved by the Court to the Company's liquidation account. Every such liquidator shall be entitled to the prescribed certificate of receipt for the money so paid, and that certificate shall be an effectual discharge to him in respect thereof.

(4.) Any person claiming to be entitled to any money paid into any Bank in pursuance of this Section may apply to the Court for the payment of the same, and the Court may, on a certificate by the liquidator that the same person claiming is entitled, make an Order for the payment to that person of the sum due.

(5.) This Section shall apply whether the winding-up of the Company has commenced before or after the commencement of this Act.

16—(1.) Subject to the provisions of the principal Act, the Liquidator of a Company which is being wound up by order of the Court shall, in the administration of the property of the Company, and in the distribution thereof among its creditors, have regard to any directions that may be given by resolution at any general meeting of the creditors or contributories summoned as hereinafter provided. Discretionary powers of Liquidator and control thereof.

(2.) The Liquidator may from time to time summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or contributories by resolution, either at the meeting appointing the Liquidator or otherwise, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories, as the case may be.

(3.) The Liquidator may apply to the Court in manner prescribed for directions in relation to any particular matter arising under the winding-up.

(4.) Subject to the provisions of the principal Act, the Liquidator shall use his own discretion in the management of the estate and its distribution among the creditors.

Companies.

A.D. 1895.

Appeal to Court
against Liqui-
dator.

17 If any person is aggrieved by any act or decision of the Liquidator of a Company which is being wound up by order of the Court, he may apply to the Court, and the Court may confirm, reverse, or modify the act or decision complained of, and make such Order in the premises as it thinks fit.

Liquidators may
summon meetings
of creditors of any
Company being
voluntarily
wound up.

18 Whenever a Company is being wound up voluntarily under the provisions of the principal Act, the Liquidators may from time to time during the continuance of such winding up summon meetings of the creditors of the Company for the purposes of this Act in the same manner as General Meetings of the Shareholders of the same Company may be summoned under the provisions of the principal Act.

Authority of
creditors may be
obtained to
compromises.

19 Whenever a Company is being wound up voluntarily under the provisions of the principal Act, the Liquidators may obtain the authority of a majority in number and two-thirds in value of the creditors of the Company present at any meeting of such creditors duly summoned in accordance with the provisions of this Act to make any compromise or arrangement with any contributory or contributories or other debtor or debtors of the Company, or with any creditor or creditors of the Company; and every such compromise or arrangement made in pursuance of such authority as aforesaid shall be binding on all the creditors of the Company.

Provided always, that any creditor or contributory of a Company affected by any such resolution may, within Twenty-one days from the date of the passing of the resolution granting such authority as aforesaid, appeal to the Court against any such resolution, and the Court may thereupon, if it thinks fit, declare such resolution null and void, or may amend or vary the same.

Provisions of
this Act to apply
to Bank of *Van
Diemen's Land*.

The provisions of this Section shall apply to "*The Bank of Van Diemen's Land, Limited*," now being wound up under the provisions of "*The Bank of Van Diemen's Land Winding-up Acts*"; and the word "Liquidators" as used in this Act shall include the Trustees appointed to wind up the business and affairs of the said Bank, and their successors; and in any case in which the said Trustees have obtained the authority of a majority in number and two-thirds in value of the creditors of the said Bank present at a meeting duly summoned in accordance with the provisions of "*The Companies Act, 1892*," or by deed or other document signed by such a majority of creditors as aforesaid, to make any compromise or arrangement with any contributory or contributories or other debtor or debtors of the said Bank, or with any creditor or creditors of the said Bank, such authority shall be deemed to have been obtained in accordance with the provisions of this Act; and every contributory who has any claim against the said Bank for money lent to or deposited in the said Bank by such contributory on or before the First day of *October*, One thousand eight hundred and ninety-one, may set off such claim at a value of Fifteen Shillings for every Twenty Shillings thereof against any call or calls made after the passing of this Act, and which such contributory shall at any time become liable to pay in respect of any share or shares held by him in the said Bank; and every compromise or arrangement made by the said Trustees with any creditor or contributory or other debtor of the said Bank before or after the passing of this Act in pursuance of any extraordinary resolutions of the shareholders of the said Bank shall be binding on all the shareholders thereof.

Companies.

A.D. 1895.

Winding up of unregistered Companies.

20 Subject as hereinafter mentioned, any partnership, association, or company consisting of Seven or more members, and not registered under the principal Act or under any other Act, and whether or not formed for the acquisition of gain, shall be included under the term "unregistered Company" hereinafter used, and may be wound up under the provisions of the principal Act, with the following exceptions and additions:—

Winding up of unregistered Companies.

- i. Where proceedings for winding up an unregistered Company are instituted, the principal place of business of such Company shall, for all purposes of this Act, be deemed to be the registered Office of the Company :
- ii. No unregistered Company shall be wound up under this Act otherwise than by order of the Court :
- iii. The circumstances under which an unregistered Company may be wound up by order of the Court are as follows :—
 - (a) When the Company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs :
 - (b) When the Company is unable to pay its debts :
 - (c) When the Company, by reason of being unable to enforce contribution of capital from its members, or by reason of insufficient capital, or for any other reason is unable satisfactorily to continue its business :
 - (d) When the Court is of opinion that it is just and equitable that the Company should be wound up.
- iv. An unregistered Company shall, for the purposes of this Act, be deemed unable to pay its debts—
 - (a) When a creditor to whom the Company is indebted at law or in equity, by assignment or otherwise, in a sum not less than Fifty Pounds then due, has served on the Company, by leaving the same at the principal place of business of the Company, or by delivering to the Secretary, or some Director or principal officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, a demand under his hand, or, if such creditor be a corporation then under its common seal, requiring the Company to pay the sum so due, and the Company has, for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor :
 - (b) When any action or other legal proceeding has been instituted against any member of the Company for any debt or demand due, or claimed to be due, from the Company, or from him in his character of member of the Company, and notice in writing of the institution of such action or other legal proceeding having been served upon the Company, by leaving the same at the principal place of business of the Company, or

Companies.

A.D. 1895.

by delivering it to the Secretary or some Director or principal officer of the Company, or by other wise serving the same in such manner as the Court may approve or direct, the Company has not, within ten days after service of such notice paid, secured, or compounded for such debt or demand, or procured such action or other legal proceedings to be stayed, or indemnified the defendant to his reasonable satisfaction against all costs, damages, and expenses to be incurred by him by reason of the same:

- (c) When execution or other process issued on a judgment, decree, or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company, or against any member thereof as such, or against any person authorised to be sued as nominal defendant on behalf of the Company, is returned unsatisfied:
- (d) When it is otherwise proved to the satisfaction of the Court that the Company is unable to pay its debts.

Who to be deemed a contributory in the event of the Company being wound up.

21—(1.) In the event of an unregistered Company being wound up, every person shall be deemed to be a contributory who is liable at law or in equity to pay or contribute to the payment of any debt or liability of the Company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves, or to pay or to contribute to the payment of the costs, charges, and expenses of winding up the Company; and every such contributory shall be liable to contribute to the assets of the Company in the course of the winding-up all sums due from him in respect of any such liability as aforesaid.

(2.) In the event of the death or the insolvency of any contributory, or the marriage of any female contributory, the provisions of the principal Act with respect to the representatives of a deceased contributory, and to the trustees of an insolvent contributory, and to the consequences of the marriage of a female contributory, shall apply.

Power of Court to restrain further proceedings.

22 The Court may, at any time after the presentation of a petition for winding up an unregistered Company, and before making an Order for winding up the Company, upon the application of any creditor of the Company, restrain further proceedings in any action or legal proceeding against any contributory of the Company as well as against the Company, upon such terms as the Court thinks fit.

Effect of order for winding-up Company.

23 When an Order has been made for winding up an unregistered Company no action or other legal proceeding shall be commenced or proceeded with against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court, and subject to such terms as the Court may impose.

Provision in case of unregistered Company.

24—(1.) If any unregistered Company has no power to sue and be sued in a common name, or if for any other reason it appears expedient, the Court may, by the Order made for winding up such Company or by

Companies.

any subsequent Order, direct that all such property, real and personal, including all interest, claims, and rights into and out of the property, real and personal, including choses in action, as may belong to or be vested in the Company, or to or in any person or persons in trust for or on behalf of the Company, or any part of such property, is to vest in the official liquidator by his official name, and thereupon the same, or such part thereof as may be specified in the Order, shall vest accordingly. A.D. 1895.

(2.) The official liquidator may, in his official name, and after giving such indemnity, if any, as the Court directs, bring or defend any actions or other legal proceeding relating to any property vested in him, or any actions or other legal proceedings necessary to be brought or defended for the purposes of effectually winding up the Company and recovering the property thereof.

25 The provisions made by this Act with respect to unregistered Companies are in addition to, and not in restriction of, any provisions contained in the principal Act with respect to winding up Companies by order of the Court; and the Court or official liquidator may, in addition to the powers conferred by this Act, exercise any powers or do any act in the case of unregistered Companies which might be exercised or done by it or him in relation to the winding up of Companies formed under the principal Act; but an unregistered Company shall not, except in the event of its being wound up, be deemed to be a Company under the principal Act, and then only to the extent provided by this Act. Provisions cumulative.

26 Every partnership, association, or company consisting of Seven or more members, and existing at the time of the commencement of this Act, or which may hereafter be formed, and whether or not for the acquisition of gain, may be wound up as an unregistered Company under this Act, notwithstanding the same is constituted solely by contract between the members. Company formed solely by contract may be wound up.

Evidence.

27 Any Certificate of the Incorporation of any Company given by the Registrar or by any Assistant Registrar for the time being shall be received in evidence as if it were the original Certificate; and any copy of or extract from any of the documents or part of the documents kept and registered at the Office for the Registration of Joint Stock Companies, if duly certified to be a true copy under the hand of the Registrar or one of the Assistant Registrars for the time being, and whom it shall not be necessary to prove to be the Registrar or Assistant Registrar, shall, in all legal proceedings, civil or criminal, and in all cases whatsoever, be received in evidence as of equal validity with the original document. Reception of certified copies of documents as legal evidence.

28 Nothing in "The Bills of Sale Act, 1892," shall apply to any debentures issued by any Company registered under the Principal Act and secured upon the capital, stock, goods, chattels, effects, rights, claims, and property of such Company, or upon any part of such capital, stock, goods, chattels, effects, rights, claims, and property, or to any trust deed or other deed or instrument for securing any such debentures issued by any such Company. Bills of Sale Act not to apply to Debentures issued by Company.

Companies.

A.D. 1895.

Distribution of Assets.

Wages and salary to be preferential claims, and to rank equally.

29 In the distribution of the assets of any Company being wound up under the principal Act or this Act, there shall be paid, in priority to other debts—

- i. All wages or salary of any clerk or servant in respect of services rendered to the Company during four months before the commencement of the winding-up, not exceeding Fifty Pounds ; and
- ii. All wages of any labourer or workmen in respect of services rendered to the Company during two months before the commencement of the winding-up.

The foregoing debts shall rank equally among themselves, and shall be paid in full, unless the assets of the Company are insufficient to meet them, in which case they shall abate in equal proportions between themselves.

Liability of Directors and others.

Liability for statements in prospectus.

30—(1.) Where after the passing of this Act a prospectus or notice invites persons to subscribe for shares in or debentures or debenture stock of a Company, every person who is a Director of the Company at the time of the issue of the prospectus or notice, and every person who having authorised such naming of himself is named in the prospectus or notice as a Director of the Company either immediately or after an interval of time, and every Promoter of the Company, and every person who has authorised the issue of the prospectus or notice, shall be liable to pay compensation to all persons who shall subscribe for any shares, debentures, or debenture stock on the faith of such prospectus or notice for the loss or damage they may have sustained by reason of any untrue statement in the prospectus or notice, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein, or issued therewith, unless it is proved—

- i. With respect to every such untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable ground to believe, and did up to the time of the allotment of the shares, debentures, or debenture stock, as the case may be, believe that the statement was true ; and
- ii. With respect to every such untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an engineer, valuer, accountant, or other expert, that it fairly represented the statement made by such engineer, valuer, accountant, or other expert, or was a correct and fair copy of or extract from the report or valuation. Provided always, that notwithstanding that such untrue statement fairly represented the statement made by such engineer, valuer, or accountant, or other expert, or was a correct and fair copy of or extract from the report or valuation, such director, person named, promoter, or other person who authorised the issue of the prospectus or notice as aforesaid shall be liable to pay com-

Companies.

pensation as aforesaid if it be proved that he had no reasonable ground to believe that the person making the statement, report, or valuation was competent to make it; and

A.D. 1895.

III. With respect to every such untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of such statement or copy of or extract from such document;

or unless it is proved that having consented to become a Director of the Company he withdrew his consent before the issue of the prospectus or notice, and that the prospectus or notice was issued without his authority or consent, or that the prospectus or notice was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was so issued without his knowledge or consent, or that after the issue of such prospectus or notice and before allotment thereunder he, on becoming aware of any untrue statement therein, withdrew his consent thereto, and caused reasonable public notice of such withdrawal, and of the reason therefor to be given.

(2.) A Promoter in this Section means a Promoter who was a party to the preparation of the prospectus or notice, or of the portion thereof containing such untrue statement, but shall not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the Company.

(3.) Where any Company existing at the passing of this Act, which has issued shares or debentures, shall be desirous of obtaining further capital by subscriptions for shares or debentures, and for that purpose shall issue a prospectus or notice, no Director of such Company shall be liable in respect of any statement therein unless he shall have authorised the issue of such prospectus or notice, or have adopted or ratified the same.

(4.) In this Section the word "expert" includes any person whose profession gives authority to a statement made by him.

31 Where any such prospectus or notice as aforesaid contains the name of a person as a Director of the Company, or as having agreed to become a Director thereof, and such person has not consented to become a Director, or has withdrawn his consent before the issue of such prospectus or notice, and has not authorised or consented to the issue thereof, the Directors of the Company, except any without whose knowledge or consent the prospectus or notice was issued, and any other person who authorised the issue of such prospectus or notice, shall be liable to indemnify the person named as a Director of the Company, or as having agreed to become a Director thereof, as aforesaid, against all damages, costs, charges, and expenses to which he may be made liable by reason of his name having been inserted in the prospectus or notice, or in defending himself against any action or legal proceedings brought against him in respect thereof.

Indemnity where name of person has been improperly inserted as a Director.

32 Every person who, by reason of his being a Director, or named as a Director, or as having agreed to become a Director, or of his having authorised the issue of the prospectus or notice, has become liable to make any payment under the provisions of this Act, shall be entitled to recover contribution as in cases of contract from any other person who if sued separately would have been liable to make the same payment.

Contribution from co-director, &c.

Companies.

A.D. 1895.

*Provisions relating to Newspapers.*Affidavit or
declaration not
required.

33 None of the provisions of any Act of Council or Act of Parliament relating to any affidavit, affirmation, or declaration to be made and delivered by the printers or printer, and publishers or publisher, and proprietors or proprietor of any newspaper in *Tasmania* shall apply to the case of any newspaper which belongs to a Company duly incorporated under and subject to the provisions of the principal Act.

Recognizance
may be entered
into by Manager
or Secretary.

34 The Recognizance required by the Act of Council 8 *William 4*, No. 11, may in the case of any incorporated Company carrying on the business of a newspaper proprietor, printer, or publisher be entered into by the manager or secretary of such Company for and on behalf of such Company together with the sureties required by the said Act, and such Company together with such sureties shall be liable in respect of any such recognizance; but such manager or secretary shall not by reason of entering into any such recognizance incur any personal liability whatsoever.

Acts to be read
together.

35 This Act and *The Companies Act*, 1869, shall be read and construed together as one Act.

SCHEDULE.

(1.)

REPEAL.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>	<i>Extent of Repeal.</i>
33 Vict. No. 22	<i>The Companies Act</i> , 1869.	Part VIII. and Sections 187 and 200.
47 Vict. No. 8	"The Companies Act, 1883."	The whole Act.
55 Vict. No. 6	"The Directors' Liability Act, 1891."	The whole Act.
55 Vict. No. 8	"The Companies (Memorandum of Association) Act, 1891."	The whole Act.
56 Vict. No. 23	"The Companies Act, 1892."	The whole Act.
57 Vict. No. 19	"An Act to further amend <i>The Companies Act</i> , 1869."	The whole Act.