

T A S M A N I A.



1869.

ANNO TRICESIMO-TERTIO

VICTORIÆ REGINÆ,

No. 3.



AN ACT to limit the Liability of Mining Companies. [22 October, 1869.]

WHEREAS it is expedient that encouragement should be given for the investment of Capital in Mining Adventures, and that provision should be made for the limitation of the personal liability of Shareholders in Mining 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 shall be called and may be cited as "The Mining Companies Limited Liability Act, 1869."

2 Notwithstanding anything in any Act which now or hereafter relates to Companies with limited liability, any Company, Association, or Partnership formed for Mining purposes may be formed, and may carry on any Mining business that has for its object the acquisition of gain to such Company, Association, or Partnership, or to the individual Members thereof, without being registered as a Company under any Act as aforesaid, or formed in pursuance of any other Act of the Parliament of *Tasmania* or of Letters Patent.

3 This Act shall extend and apply only to Companies formed or to be formed for Mining purposes; and in the construction and interpretation of this Act the words "Mining purposes" shall mean the purpose of obtaining any precious or other metal or mineral by any mode or

PREAMBLE.

Short title.

Companies may be formed and carry on business without being registered as a Company with limited liability.

Application and interpretation of this Act.

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method whatsoever whereby the soil or earth or any rock or stone may be disturbed, removed, carted, carried, washed, sifted, smelted, refined, crushed, or otherwise dealt with for the purpose of obtaining such metal or mineral, whether such metal or mineral shall be the property of such Company or of any other person whatsoever; the word "Company" shall include any Partnership or Co-adventure; the words "upon the hearing of any petition," wherever the same are used in this Act, shall be construed, deemed, and taken to mean and include an application to a Commissioner, whether made to the said Commissioner upon an *ex parte* application or after service of notice of such application at the Office of the Company, or upon summons so served returnable before the Commissioner; and no order made by a Commissioner shall be deemed to be invalid and impeachable upon the ground that the same was made by the Commissioner upon an *ex parte* application: Provided that the said Commissioner shall have power from time to time, if it should be deemed advisable upon the application of any party claiming to be interested in or affected by such order, to set aside or vary any such order.

Liability limited.

4 Any Shareholder in every Mining Company registered under the provisions of this Act shall only be liable for any debts, liabilities, or obligations incurred on behalf of such Company to the amount of the Share or Shares for which such Shareholder has agreed to subscribe, or of which he becomes the holder by any transfer registered in the books of the Company.

Register of Shareholders.

5 The Manager of every Company registered under this Act shall keep or cause to be kept a book or books containing the names in full and residences of the Shareholders, an account of the number of Shares held by each of them the said Shareholders, and of the amount or amounts paid thereon, and every transfer of a Share or part of a Share, together with the name and residence of the transferee; and such book or books shall at all times be open free of charge for the inspection of Creditors or Shareholders.

Unpaid Calls to be a debt.

6 The amount of Calls which for the time being may be unpaid upon any Share shall be deemed to be a debt due from the holder of such Share to the Company.

Appointment of Manager.

7 Every such Company shall appoint a Manager; and no action or suit at Law or in Equity shall be brought against any Member of such Company for the recovery of any debts contracted for or by the Company.

Contracts made by the Manager to be binding on the Company.

8 Every Contract made by the Manager for the time being for the purchase of goods or the performance of work, and the supply of the materials for the same, to an amount respectively not exceeding Fifty Pounds for the purposes of the said Company, shall be binding upon the Company and upon the assets thereof as herein provided, and such assets may be seized and sold in execution in any action against such Company upon any such Contract.

Contracts how made, varied, or discharged.

9 Contracts on behalf of any Company under this Act may be made, varied, or discharged as follows; (that is to say,)

1. Any Contract which, if made between private persons, would be by Law required to be in writing under seal, may be

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made, varied, or discharged in the name and on behalf of the Company in writing under the Common Seal of the Company:

2. Any Contract which, if made between private persons, would be by Law required to be in writing and signed by the parties to be charged therewith, may be made, varied, or discharged in the name and on behalf of the Company in writing signed by any person acting under the express or implied authority of the Company :
3. Any Contract which, if made between private persons, would by Law be valid although made by parol only and not reduced into writing, may be made, varied, or discharged by parol in the name and on behalf of the Company by any person acting under the express or implied authority of the Company :

And all Contracts made according to the provisions herein contained shall be effectual in Law, and shall be binding upon the Company and their successors, and all other parties thereto, their heirs, executors, or administrators (as the case may be).

10 Any Company which may hereafter be formed under the provisions of this Act shall lodge with the Gold Commissioner nearest to the place of operations or proposed operations, and such Commissioner shall safely keep, a Memorial in the form or to the effect in the Schedule (1) signed by the Manager of such Company ; and the said Memorial shall be published in the *Gazette* and in One newspaper published in the District or nearest to the place of operations or proposed operations ; and copies of such *Gazette* and newspaper shall be forwarded to and retained by the said Commissioner, and in all cases where the persons therein named are respectively present shall be *prima facie* evidence that such persons are Members of the Company. Companies to be registered.

11 Any Company formed previous to the passing of this Act may be registered under the provisions of this Act, if a majority in number and value of the Shareholders of such Company express their consent thereto in writing ; and such consent, together with a Memorial as hereinbefore provided, shall be lodged with and safely kept by the Commissioner nearest as aforesaid, and shall be published in the *Gazette* and in One newspaper published as aforesaid ; and copies of such *Gazette* and newspaper shall be forwarded to and retained by the said Commissioner, and in all cases where the persons therein named are respectively present shall be *prima facie* evidence that such persons are Members of the Company : Provided always, that notwithstanding such registration any person having any claim or demand in respect of any contract, matter, or thing which has been made or has happened before such registration, shall have the same remedy as if such registration had not taken place. Companies in existence may be registered.

12 A Certificate in the form or to the effect in the Schedule (2) under the hand of the said Commissioner (whose handwriting it shall not be necessary to prove, and who is hereby required to give such Certificate to any person applying for the same on payment of One Shilling), shall be conclusive evidence that the Company has been duly registered under the provisions of this Act. Proof of registration and of appointment of Manager.

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- Incorporation.** **13** Upon the Registration of any Company under this Act the persons whose names are contained in the Memorial lodged with the Commissioner and published in the *Gazette* as hereinbefore provided, together with such other persons as may from time to time become Members of the Company, shall be a Body Corporate by the name contained in such Memorial, capable forthwith of exercising all the functions of an incorporated Company, and having a perpetual succession and a Common Seal, with power to hold lands, but with such liability on the part of Members to contribute to the assets of the Company as provided in this Act.
- Change of persons not to alter liability.** **14** Notwithstanding any change in the persons who may constitute any Company registered under the provisions of this Act, the persons who subsequently become Members of such Company shall be subject to the same liability only as if they had been Members of such Company at the time it was registered.
- Company to add "Registered."** **15** Every Company registered under this Act shall add to the style and title under which the business of such Company is carried on the word "Registered."
- Company to have a registered Office.** **16** Every such Company shall have a registered Office to which all communications and notices may be addressed, and service of any notice or legal process at such Office shall be deemed to be service upon the Company; and any Company which carries on business without having such an Office shall be liable to a penalty not exceeding Five Pounds for every day during which business is so carried on.
- Notice of removal or substitution to be registered.** **17** Notice of the removal of any such registered Office, or of the substitution of any other person as Manager of any Company registered under this Act, shall be lodged with and retained by the Commissioner with whom such Company was originally registered.
- Accounts to be periodically published.** **18** The Manager of every Company registered under this Act shall make and publish in the *Gazette* in the months of *January* and *July* respectively in each year, a full and correct account of the assets and liabilities of such Company.
- Books to be kept.** **19** The Manager of every Company registered under the provisions of this Act shall cause true accounts to be kept of the sums of money received and expended by the Company, and the matter in respect of which such receipt and expenditure has taken place; and of the assets and liabilities of the Company.
- Books may be inspected.** **20** Such Books of Account shall be kept at the registered Office of the Company, and at all reasonable times shall be open to the inspection of every Shareholder for the time being, and also of every past Shareholder for a period of Three months after the time at which he ceased to be a Shareholder.
- Penalty for falsifying any books, &c., or not allowing inspection.** **21** Any person who wilfully falsifies any Book or Account of the Company, and any person who signs any Memorial or notice required by this Act knowing the same to be untrue, shall be guilty of a Misdemeanor: and any person who refuses to permit any person entitled so to do to inspect any Book of the Company, shall, on conviction thereof, forfeit and pay any sum not exceeding Five Pounds.

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22 Any Company registered under this Act, with the sanction of a majority in number and value of the Shareholders in such Company given at an Extraordinary Meeting, may from time to time increase its Capital by the issue of new Shares, such aggregate increase to be of such amount and to be divided into Shares of such respective amounts as such majority directs; and also from time to time may borrow money not exceeding such sum as such majority directs.

Capital may be increased.

23 Any Capital raised by the creation of new Shares shall be considered as part of the original Capital, and shall be subject to the same provisions with reference to the payment of Calls or otherwise as if it had been part of the original Capital.

New Capital to be deemed part of original Capital.

24 Fourteen days' Notice of any Extraordinary Meeting to be called under this Act shall be given to each Shareholder by inserting the same in Six consecutive numbers of some Newspaper published in *Hobart Town* and in Six consecutive numbers of some Newspaper published in the neighbourhood of or nearest to the place of operations of the Company; and such Notice shall be signed by the Manager, and shall specify the place, the day, and the hour of meeting, and the nature of the business, otherwise such meeting shall not have power to transact any business; and every such Notice so given shall be sufficient without any other notice whatsoever, any rule of law or of the Company to the contrary notwithstanding.

Notice of Extraordinary Meetings.

25 A written Notice in the form or to the effect in the Schedule (3) of any increase in its Capital beyond the Registered Capital, signed by the Manager of the Company, shall be lodged with the Commissioner with whom such Company was originally registered within Fourteen days from the time at which such increase has been resolved on.

Notice of increase of Capital.

26 It shall be lawful for the Company, when and as often as any Money is borrowed under this Act, to secure the repayment thereof and interest thereon by a Mortgage of the Land comprised in any Lease or Claim, and by a Bill of Sale of the Machinery, Plant, Goods, Chattels, and Effects of such Company.

Power to mortgage.

27 After the Incorporation of any Company the Manager shall (unless it is otherwise provided by any Rules of the Company) convene an Extraordinary Meeting of the Shareholders for the purpose of deciding the number of Directors and for electing the same; and the majority in number and value of the Shareholders present at such Meeting shall decide and elect accordingly; and such Directors shall have the custody and use of the Common Seal, and shall carry on and transact the business and affairs of the Company.

Directors to be appointed.

28 The Governor in Council may from time to time appoint in and for each Mining District some proper person to be Official Agent in and for such District, and may require of such person such security as he thinks fit, and may remove any such Official Agent; and in such case, and in the case of the death or resignation of any Official Agent, the Governor in Council may appoint another in his stead; and when the Commissioner in any Mining District has made any order for winding up any such Company, the Official Agent appointed in and for such District shall have power to collect all debts, and to sell or dispose of all the assets owing and belonging to such Company, and, subject to the provisions in that behalf herein contained, to enforce payment by the

Appointment and power of Official Agent.

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Shareholders of the amounts (if any) unpaid upon the Shares held by them or any of them.

Successor of
Official Agent.

29 The successor in office of any Official Agent shall have the same rights, estates, and interests as his predecessor in office, and may enforce orders made for the payment of contribution under this Act, notwithstanding that by such order the amount therein mentioned may have been ordered or adjudged to be paid to any of his predecessors in office.

Official Auditors.

30 It shall be lawful for the Governor in Council to appoint one or more persons to be called Official Auditors to audit the accounts of all Official Agents appointed under this Act. And it shall be lawful for the Commissioner in any District, on the application of any such Official Auditor, to order the immediate payment to him by any such Official Agent of all moneys which may or ought to be in the hands of such Official Agent belonging to, or to the credit of, or which may be due by him to any Company, and also to order the delivery to such Official Auditor by such Official Agent of all books, accounts, papers, and documents of or belonging to such Company; and if any such Official Agent shall not permit and give every reasonable facility for the audit of his said accounts, he shall on conviction thereof forfeit and pay a sum not less than Ten nor more than Fifty Pounds.

Company may be
wound up if
unable to pay its
debts.

31 Whenever any execution issued on a Judgment, Decree, or Order in favour of any Creditor in any action, suit, or other legal proceeding, instituted by such Creditor against any Company registered under this Act, is returned unsatisfied either in whole or in part by the person appointed to execute the same, or whenever any Creditor to whom such Company is indebted in a sum exceeding Fifty Pounds then due has served on the Company a demand under his hand 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, such Company shall be deemed to be unable to pay its debts; and any such Creditor as aforesaid may make application for winding up the Company to the Commissioner of the District wherein such Company is registered.

Application to be
by petition.

32 Any application for the winding up of a Company registered under this Act shall be by Petition; and there shall be filed or lodged at the time when such Petition is presented an affidavit verifying the same.

Hearing of
Petition.

33 Upon the hearing of any Petition as aforesaid the said Commissioner may dismiss such Petition with or without Costs to be paid by the Petitioner; or he may make an Order directing the Company, by a day to be named in such Order, to pay or secure payment to the petitioning Creditor of all moneys that may be proved to be due to him, together with such Costs as such Commissioner may direct; or the said Commissioner may, if he so thinks fit, on the hearing of such Petition make an Order or Decree for winding up the Company forthwith, or such other Order as to such Commissioner may appear to be just.

Order for winding
up Company.

34 If at the expiration of the time named in such Order as aforesaid such payment is not made or security given, the said Commissioner may thereupon make an Order or Decree for winding up the Company.

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35 All Orders made by a Commissioner under any of the provisions hereof may be enforced in like manner in which any Order or Decree of the Supreme Court in its Equity Jurisdiction may be enforced. **Power to enforce Orders.**

36 It shall be lawful for a majority in number and value of the Shareholders at an Extraordinary Meeting to pass special resolutions requiring the Company to be wound up under the provisions of this Act; and thereupon a petition signed by the Shareholders concurring therein, and verified as hereinbefore directed, may be presented to the Commissioner of the District wherein such Company is registered; and the Commissioner may (if he so thinks fit) on the hearing of such petition make an order or decree for winding up the Company forthwith, or such other order as to such Commissioner may appear to be just. **Company may be wound up by consent of majority of Shareholders.**

37 The said Commissioner shall have power to receive proof of debts and to examine witnesses, and shall proceed herein in the same manner as near as may be as a Commissioner of Insolvent Estates. **Commissioner to receive proof of debts.**

38 When any Order for winding up a Company is made, all actions, suits, and proceedings then pending against such Company shall be stayed, and further execution of any judgment or decree theretofore obtained against such Company shall be stayed, and after any such Order is made no action, suit, or proceeding shall be commenced against such Company, and as soon as any such Order has been made all the estate and effects of such Company shall be and the same are hereby vested in the Official Agent so long as he continues to hold that office, to be by him dealt with and disposed of according to Law; and the said Official Agent shall have the like remedy to recover the said estate and effects of the Company in his own name as the Company might have had if such Order had not been made. **Effect of winding-up Order.**

39 Every Order made for winding up a Company may be in the form in the Schedule (5), or to the like effect, and every such Order in the form or to the effect aforesaid shall be valid. **Form of Order.**

40 All moneys collected by the Official Agent shall be distributed by him amongst the creditors of the Company in proportion to their several claims; and if any balance remains after all the creditors have been paid in full their just demands, then such balance shall be divided amongst the Shareholders of the Company in proportion to their respective Shares therein: Provided that such Official Agent shall be entitled to retain for his own use and in payment for his services a sum equal to Five Pounds per centum upon the amount so collected by him. **Distribution of Assets.**

41 At least One month before making such distribution the Official Agent shall make and publish in the *Gazette*, and in One or more newspapers published in or nearest to the District wherein mining operations have been carried on by such Company, a Schedule showing the assets and liabilities of the Company, the amount of moneys collected by him, and the mode of distribution thereof; and any such Official Agent who knowingly and wilfully falsifies such Schedule shall be deemed to be guilty of a Misdemeanor, and shall be dealt with accordingly. **Agent to publish Schedule.**

42 In the event of any Company registered under the provisions of this Act being wound up, every present and past Shareholder of such **Liability of Shareholders to contribute.**

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Company shall be liable to contribute to the assets of the Company to an amount sufficient for payment of the debts and liabilities of the Company, and the costs, charges, and expenses of the winding up, and for the payment of such sums as may be required for the adjustment of the rights of the contributories amongst themselves with the qualifications following ; (that is to say,)

1. No past Shareholder shall be liable to contribute to the assets of the Company if he has ceased to be a Shareholder for a period of Three months or upwards prior to the commencement of the winding up.
2. No past Shareholder shall be liable to contribute in respect of any debt or liability of the Company contracted after the time at which he ceased to be a Shareholder.
3. No past Shareholder shall be liable to contribute to the assets of the Company unless it appears to the Justices before whom such contribution is sought to be enforced that the existing Shareholders are unable to satisfy the contributions required to be made by them in pursuance of this Act.
4. No contribution shall be required from any Shareholder exceeding the amount (if any) unpaid on the Shares in respect of which he is liable either as a present or past Shareholder.
5. No past Shareholder shall be liable to contribute to the assets of the Company in any case where it appears to the satisfaction of the Justices before whom such contribution is sought to be enforced, that since the time at which such past Shareholder ceased to be a Shareholder the Capital of the Company has been in any way increased, or profits have been realised over and above the amount necessary to defray the current working expenses of the Company ; unless it is also shown to the satisfaction of the said Justices that such increased Capital or profits (as the case may be) have been wholly applied in or towards the payment of the debts and liabilities of the Company contracted prior to the time at which such Shareholder ceased to be a Shareholder.

Payments of Calls and Contributions.

43 Payment of all Calls due by any Shareholder to the Company, and payment of any contribution in the event of any Company being wound up, may be enforced before any Two or more Justices, who are hereby empowered to make an order for such payment ; and such order and every warrant thereon may be in such one of the forms in the Schedule (4) as shall be applicable to the case.

Order not to be enforced except upon certain conditions.

44 When any order has been made for the payment by any person of any contribution under this Act, no Warrant shall be issued on such order (notwithstanding such contribution shall be thereby adjudged to be paid forthwith or at any other time) unless it is proved to the satisfaction of the Justice issuing such Warrant by the oath of the Official Agent (which oath such Justice is hereby authorised and required to administer) that the whole or some specified part of the sum mentioned in such order is really and absolutely required by such Agent for the purposes of this Act, regard being had to the contributions of other persons ; and in case it appears to such Justice that part only of the said sum is required, such Warrant shall be issued for such part only of the said sum ; but if at any time or from time to

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time afterwards it is proved to the satisfaction of a Justice (in manner aforesaid) that any further part of the residue of the said sum is required as aforesaid, such Justice may from time to time issue another Warrant or Warrants for such further part or residue (as the case may be) of the said sum until a Warrant or Warrants shall have issued for the full amount of the said sum. And every Warrant (whether of distress or commitment) which specifies the amount to be recovered, and states that the same is "part" or "further part" or "residue" (as the case may be) of the sum mentioned in the said order, and is in all other respects in the same form and to the same effect as if it had been issued for the full amount of the said sum, shall be valid, and shall and may be issued on the application of the Official Agent without any other notice or summons to the party against whom the same is granted than would have been necessary in case such Warrant had been issued for the full amount of the said sum.

45 No action shall be brought, whereby to charge any Member of a Partnership or Co-adventure (established or to be established for Mining purposes and not registered under this Act) upon any simple contract made by or with any other Member of such Partnership or Co-adventure on behalf of the same, unless such contract or some memorandum or note thereof shall be made or contained by or in some writing to be signed by the defendant in such action. Liability of Members of unregistered Companies.

46 The majority in number and value of the Shareholders in any Company may from time to time, both before and after incorporation, make and alter Rules for prescribing the number and qualification of Directors, and fixing a quorum thereof; for holding and convening General and Special but not Extraordinary Meetings of the Shareholders and Directors respectively; for the election, removal, and annual retirement of all or some of the Directors; for determining the mode of filling occasional vacancies in that body; for settling the number of votes which Shareholders may give in respect of any specified number of Shares, and whether such votes may or may not be given by proxy; for the deposit and custody of proxies (if allowed and used); for removing and appointing the Mining Manager, Bankers, and Solicitors of the Company; for declaring dividends and making calls; for the transfer, relinquishment, and forfeiture of Shares, and the conditions on which the same respectively may be effected; for keeping minutes of all General, Special, and Extraordinary Meetings of the Directors and Shareholders respectively; for preparing half-yearly Balance Sheets of the accounts of the Company, and auditing and examining the same; for making and producing the Reports of the business and affairs thereof; for the custody and use of the Common Seal; and for any other objects not inconsistent with this Act; but if any such Rule is made or altered after incorporation it shall be made or altered only at an Extraordinary Meeting of the Shareholders. Company may make Rules.

47 No action, suit, or other proceeding shall fail or abate or be set aside for want of jurisdiction by reason only of the operations of any Company being carried on in some district or division other than that of the Commissioner with whom the Registration of such Company was made or the Order for the winding up thereof was obtained, unless the Commissioner shall be of opinion that such Registration was made or such Order obtained fraudulently, or shall be prejudicial to the Shareholders or Creditors of the Company. No abatement by reason of error in registration or order for winding up a Company.

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Duties of Commissioner may be delegated to others.

48 The Governor in Council may from time to time, by regulations, appoint a Court or person to perform any of the duties by this Act imposed upon a Commissioner, and such Court or person shall thereupon have and exercise in respect of such duties the same powers and authorities as the Commissioner; and such regulations shall have the force of law; and the Governor in Council may from time to time alter or rescind such regulations.

Procedure before Justices.

49 All proceedings by this Act directed to be had and taken before Justices of the Peace, and all proceedings for the recovery of any penalty under this Act, shall be had and taken by and before any Two Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act*.

SCHEDULE.

(1.)

I, the undersigned [*here insert Manager's name*], hereby make application to register [*here insert the name of the Company, adding the word "registered"*] under the provisions of "The Mining Companies Limited Liability Act, 1869;" and I do solemnly and sincerely declare that the following statement is to the best of my belief and knowledge true in every particular, namely:—

1. The name and style of the Company is
2. The place of operations [*or intended operations, as the case may be*] is at
3. The nominal Capital of the Company is Pounds in
Shares of each.
4. The amount already paid up is
5. The name [*in full*] of the Manager is
6. The Office of the Company is at
7. The names [*in full*] and several residences of the Shareholders, and the number of Shares held by each at this date, are as follows:—

[*Here insert complete List.*]

Dated this day of 18

A. B.,
Manager.

Witness to Signature—C.D.

(2.)

THIS is to certify that a Mining Company called "The Company, Registered," is by virtue of "The Mining Companies Limited Liability Act, 1869," incorporated, a Memorial having been duly lodged with the Commissioner of the District of and published in the *Gazette* of the

day of and in the
newspaper of the day of and copies of the
said *Gazette* and newspaper have been duly forwarded to me.

Given under my hand, this day of

A. B.
Commissioner of the said District.

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(3.)

I THE undersigned [*here insert the Manager's name*] hereby give notice ^{that} of an increase in the Capital of "The _____ Company, Registered," and I do solemnly and sincerely declare that the following statement is to the best of my belief and knowledge true in every particular, namely:—

has been divided into shares of smaller amount than as originally issued as follows. [state the subdivision]

1. The day on which the increase was resolved on is _____
2. The nominal Capital of the Company has been increased from
Pounds in Shares of Pounds each to Pounds in Shares of Pounds each.
3. That I am the Manager of the Company.

(Signed) A.B.,
Manager.

Witness to the Signature—C.D.

(4.)

TASMANIA }
TO WIT. }

BE it remembered (*&c., as usual*) for that *John Doe*, a past [*or present as the case may be*] Shareholder in "The National Gold Mining Company, Registered," was justly and truly liable to pay to *Richard Roe*, the Official Agent of the said Company, the sum of _____ in respect of [Ten] Shares held by him in the said Company, and now at this day, &c. [*proceed as in common Orders.*]

(To wit). Be it remembered (*&c. as usual*) for that *John Doe* was the holder of [Three] Shares in "The European Company Registered," and was justly and truly indebted to the said Company in the sum of _____ for One Call of Two Pounds which on the _____ day of _____ was duly made on every Share in the said Company, and now at this _____ day, &c. [*proceed as in common Orders.*]

[N.B.—There should be a separate Order for each Call, but all the Shares of one person may be included in one Order.]

(5.)

In the Mining District of _____

In the Matter of the _____ Company registered under the Act 33 Vict. No. 3.

WHEREAS on the _____ day of _____ in the _____ Court at _____ in certain proceedings instituted in that Court by *A.B.*, a Creditor of the said Company, against the said Company, the said *A.B.* by the Judgment [*or Order as the case may be*] of the said Court recovered against the said Company a certain debt of _____, and on the _____ day of _____ a certain execution theretofore issued on the said Judgment [*or Order*] was returned unsatisfied in the whole by the person appointed to execute the same.

And whereas on the _____ day of _____ the said *A.B.* did present to me, the undersigned Commissioner of the District in which the said Company was registered, to wit, in the District of _____ aforesaid, his petition setting forth the facts hereinbefore recited, and praying that the said Company might be wound up; and at the time of presenting the said Petition an affidavit of the said *A.B.* verifying the same was filed with me.

And whereas the said Company has been duly served with a summons in this behalf which required them to appear here before me this day to answer the said Petition, and to show cause why I should not make an Order directing the said Company by a day to be named in such Order to pay or secure payment to the said *A.B.* of the said sum, together with such costs as I might direct; or why I should not make an Order for winding up the said Company forthwith; or such other Order as to me should appear to be just.

And whereas the said Company has not appeared before me this day, or shown any sufficient cause as required by the said summons: Now, therefore, upon the hearing of the said Petition, and upon reading the said affidavit, and upon proof as well of the facts and matters aforesaid as that the said sum is now due from the said Company to the said *A.B.*, and upon hearing the Attorney for the said *A.B.*, I do order that the said Company shall be wound up forthwith.

Given under my hand this _____ day of _____ 18 .

O. P.,
Commissioner of the District of _____

