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An Act to amend the Joint Stock Companies Act, 1856. [13th *July* 1857.]

WHEREAS it is expedient that further Provision should be made for the Incorporation and Regulation of Joint Stock Companies, and that for that Purpose the Joint Stock Companies Act, 1856, should be amended: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Preliminary.

Short Title of Act.

I. This Act may be cited for all Purposes as "The Joint Stock Companies Act, 1857."

Definition of Principal Act and Joint Stock Companies Acts.

II. "The Joint Stock Companies Act, 1856," herein-after called "the Principal Act," and this Act, shall, so far as is consistent with the Context and Objects of such Acts, be construed as One Act, and this Act and the Principal Act may be cited together for all Purposes as "The Joint Stock Companies Acts, 1856, 1857."

Registry (*Part I. of Principal Act*).

Penalty on Partnerships exceeding a certain Number.

III. The Fourth Section of the Principal Act shall be repealed, and in lieu thereof be it enacted as follows:

If after the passing of this Act more than Twenty Persons carry on, in Partnership, any Trade or Business, having for its Object the Procurement of Gain to the Partnership, then, unless such Persons are included within One or more of the Classes following, (that is to say,)

1. Are registered as a Company under the Principal Act;
2. Are a Company incorporated or otherwise legally constituted by or in pursuance of some Act of Parliament, Royal Charter, or Letters Patent; or
3. Are engaged in working Mines within and subject to the Jurisdiction of the Stannaries;

Each one of the Persons so carrying on Business in Partnership together contrary to this Provision shall be severally liable for the Payment of the whole Debts of the Partnership, and may be sued for the same without the Joinder in the Action or Suit of any other Member of the Partnership.

The Registrar to give Certificate of Incorporation.

IV. The Registrar shall on Payment of Five Shillings issue a Certificate of Incorporation of any Company to any Person applying for the same, and such Certificate shall be admissible in Evidence in like Manner as the Certificate of Incorporation directed to be given by the Principal Act.

Register of Shareholders (*Part I. of Principal Act*).

Power of Limited Company to convert paid-up Shares into Stock.

V. Any Limited Company may by special Resolution convert into Stock any Shares which have been fully paid up; and upon such Conversion being made all the Provisions of the Principal Act or of this Act which require or imply that the Capital of the Company is divided into Shares of any fixed Amount, and distinguished by Numbers, and all the Provisions of the Principal Act that require the Company to keep a Register of Shareholders, or to make an annual List of Shareholders in the Register; shall cease as to so much of the Capital as has been so converted into Stock.

Company to give Notice of Conversion of Capital into Stock.

VI. Any Company that has converted any Portion of its Capital into Stock shall give Notice of such Conversion, specifying the Shares so converted, to the Registrar of Joint Stock Companies, within Fifteen Days from the Date of the last of the Meetings at which the Resolution was passed by which such Conversion was authorized, and the Registrar shall forthwith record the Fact of such Conversion: If such Notice is not given within the Period aforesaid,

said, the Company shall incur a Penalty not exceeding Five Pounds for every Day during which such Neglect to give Notice continues.

Register of Holders of Stock

VII. Any Company that has converted any Portion of its Capital into Stock shall keep at the registered Office of the Company a Register of the Names and Addresses of the Persons for the Time being entitled to such Stock, and such Register shall be open to Inspection in the Manner and subject to the Penalties in and subject to which the Register of Shareholders is by the Principal Act directed to be kept open.

Remedy for improper Entry or Omission of Entry in Register of Stock.

VIII. If the Name of any Person is without sufficient Cause entered or omitted to be entered in the Register of Stock of any Company, such Person, or any Holder of Stock in the Company, may apply to have the Register rectified in manner directed by the Twenty-fifth Section of the Principal Act.

Power of Court under 25th Section of Principal Act to decide on disputed Questions.

IX. The Court may in any Proceeding under the Twenty-fifth Section of the Principal Act decide on any Question relating to the Title of any Person who is a Party to such Proceeding, to have his Name entered in or erased from the Register, whether such Question arises between Two or more Holders or alleged Holders of Shares or Stock, or between any Holders or alleged Holders of Shares or Stock and the Company, and generally the Court may in any such Proceeding decide any Question that it may be necessary or expedient to decide for the Rectification of the Register.

Penalty on not forwarding Copies of Memorandum, &c. to Shareholders.

X. If any Company makes default in forwarding Copies of the Memorandum of Association and Articles of Association to Shareholders, in pursuance of Section Twenty-seven of the Principal Act, the Company so making default shall for each Offence incur a Penalty not exceeding One Pound.

Winding up by Court (*Part III. of Principal Act*).

Power to arrest Shareholder about to abscond, or to remove or conceal any of his Property.

XI. Where an Order has been made for winding up a Company under the Third Part of the Principal Act, if upon the Application of the official Liquidator it appears to the Court having Jurisdiction in the Matter of such Winding-up that there is probable Cause for believing that any Contributory to such Company is about to quit the United Kingdom, or otherwise abscond, or to remove or conceal any of his Goods or Chattels, for the Purpose of evading Payment of Calls, or for avoiding Examination in respect of the Affairs of the Company, the Court may, by Warrant directed to such Person or Persons as it thinks fit, cause such Contributory to be arrested, and his Books, Papers, Monies, Securities for Monies, Goods and Chattels,

tels, to be seized, and him and them to be safely kept until such Time as the Court may order.

Arrested Shareholder may apply to Court for his Discharge.

XII. Any Contributory who has been arrested or whose Goods or Chattels have been seized under any such Warrant as aforesaid may, at any Time after such Arrest or Seizure, apply to the Court that issued the Warrant to discharge him from Custody, or to direct the Delivery to him of any Books, Papers, Monies, Securities for Money, Goods or Chattels, that may have been seized; and the Court shall take such Application into consideration, and shall make such Order thereon as it thinks just.

Calls under Third Part of Principal Act to be Specialty Debt.

XIII. All Calls that are authorized by the Third Part of the Principal Act to be made on a Contributory, in the event of the Company to which he belongs being wound up by the Court or voluntarily, shall be deemed in *England* and *Ireland* to be Specialty Debts due from such Contributory to the Company.

Official Liquidators (*Part III. of Principal Act*).

Proviso as to Appointment of Liquidators by Courts other than Court of Bankruptcy.

XIV. In Cases within the Jurisdiction of the Court of Chancery in *England* or *Ireland*, or of the Court of Session in *Scotland*, or of the Court of the Stannaries, the Court having Jurisdiction shall, in the Appointment of an Official Liquidator or Official Liquidators, consult the Interests of both the Creditors and Contributories, and hear such Creditors or Contributories as it thinks fit to hear with respect to such Appointment. It may, unless both the Creditors and Contributories concur in the Appointment of a single Liquidator, appoint One or more Liquidator or Liquidators to act on behalf of each of such Parties. It may declare that, in case of Difference, any Act may be done by a Majority of Liquidators; or it may require the Liquidators in all Cases of Difference to apply to the Court. It may do anything hereby authorized to be done, either upon the First Appointment of a Liquidator or at any subsequent Stage of the Winding-up; but, notwithstanding anything herein contained, it shall not be obligatory on the Court to appoint more than One Liquidator, if in its Discretion it thinks that such Appointment will be most conducive to Justice.

Provision as to Appointment of Liquidators by Court of Bankruptcy.

XV. In Cases within the Jurisdiction of any Court of Bankruptcy the Official Assignee shall, where a Liquidator is appointed by the Creditors, be considered as appointed as the Representative of the Contributories, and where a Liquidator is appointed by the Contributories be considered as appointed as the Representative of the Creditors.

XVI. The

Extension of Power to compromise Debts.

XVI. The Power of compromising Debts and Claims given by the Principal Act to the Liquidators therein mentioned shall be deemed to extend to the Compromise of any Calls or Debts due from any Contributory or alleged Contributory to the Company on Receipt of a smaller Sum in lieu of a greater, or upon such Terms as may be agreed upon, with Power to the Liquidators to take any Security for any Calls or Debts so due, and to give effectual Discharges on Completion of such Compromise, subject to this Proviso, that no such Compromise shall be made by any Official Liquidator except with the Sanction of the Court, and after giving such Notice to Creditors, and subject to such Conditions as to obtaining the Consent of Creditors or any Portion of them, as the Court may direct, and that no such Compromise shall be made by the Liquidators appointed on the voluntary Winding-up of a Company, except with the Sanction of a special Resolution.

Power for Liquidators to accept Shares as a Consideration for Sale of Property of Company.

XVII. Where a Company is being wound up voluntarily, and the whole or a Portion of its Property is about to be sold to another Company, registered under this Act, the Liquidators of the first-mentioned Company may, with the Sanction of a special Resolution of the Company by whom they were appointed, receive, in Compensation or part Compensation for such Sale, Shares in such other Company, for the Purpose of Distribution amongst the Shareholders of the Company being wound up, or may enter into any other Arrangement whereby the Shareholders of the Company being wound up may, in lieu of receiving Cash or Shares, or in addition thereto, participate in the Profits of or receive any other Benefit from the purchasing Company; and any Sale made or Arrangement entered into by the Liquidators in pursuance of this Section shall be binding on the Shareholders of the Company being wound up, subject to this Proviso, that if any Shareholder in the Company being wound up who has not voted in favour of the special Resolution passed by his Company at either of the Meetings held for passing the same expresses his Dissent from any such special Resolution, in Writing addressed to the Liquidators or One of them, and left at the registered Office of the Company, not later than Seven Days after the Date of the last of the Meetings at which such special Resolution was passed, such dissentient Shareholder may require the Liquidators to do such One of the following Things as they may prefer; that is to say, either to abstain from carrying such Resolution into effect, or to purchase the Shares held by the dissentient Shareholders or Shareholder, at such Price as may be agreed upon or settled by Arbitration, such Purchase Money to be paid before the Company is dissolved, and to be raised by the Liquidators in such Manner as may be determined by special Resolution.

Power of Liquidators to call General Meeting.

XVIII. In the Case of a Company being wound up voluntarily, the Liquidators may, from Time to Time, during the Continuance of such Winding-up, summon General Meetings of the Company for the Purpose of obtaining the Sanction of the Company by a special Resolution, or for such other Purposes as they think fit.

Power of Court to adopt Proceedings of voluntary Winding-up.

XIX. Where a Company is in course of being wound up voluntarily, and Proceedings are taken for the Purpose of having the same wound up by the Court, the Court may, if it thinks fit, notwithstanding that it makes an Order directing the Company to be wound up by the Court, provide in such Order or in any other Order for the Adoption of all or any of the Proceedings taken in the course of the voluntary Winding-up: It may also, instead of making an Order that the Company should be altogether wound up by the Court, direct that the voluntary Winding-up should continue, but subject to such Supervision of the Court, and with such Liberty for Creditors, Contributories, or others to apply to the Court, and generally upon such Terms and subject to such Conditions as the Court thinks just.

Penalty on Liquidators not reporting Dissolution of Company to Registrar.

XX. If the Liquidators make default in reporting to the Registrar, in the Case of a Company being wound up by the Court, the Decree declaring the Company to be dissolved, and in the Case of a Company being wound up voluntarily, the Resolution declaring the Company to have been fairly wound up, they shall be liable to a Penalty not exceeding Five Pounds for every Day during which they are so in default, and moreover shall not, while so in default, be entitled to recover any Compensation for their Services as Liquidators.

Remedy for Liquidators having in their Hands undistributed Assets of the Company.

XXI. If at the Expiration of Twelve Months from the Date of the Dissolution of any Company that has been wound up there remain in the Hands of the Liquidators any Money, Shares, or other Property which they have been unable, by reason of the Absence or Death of any Persons entitled thereto, or for any other Reason, to distribute amongst the Parties so entitled, the Liquidators shall be deemed to be Trustees of such Monies, Shares, or other Property, within the Meaning of an Act passed in the Eleventh Year of the Reign of Her present Majesty, Chapter Ninety-six, and intituled *An Act for better securing Trust Funds, and for the Relief of Trustees*, and of any Act amending the same, and may pay or transfer such Monies, Shares, or other Property into the Court of Chancery accordingly.

Alteration of Forms (*Part III. of Principal Act*).

Proviso as to Alterations in Table B.

XXII. No Alteration made by the Board of Trade in the Table marked B. contained in the Schedule to the Principal Act shall affect any Company registered prior to the Date of such Alteration, or repeal

repeal as respects such Company any Portion of such Table, unless such Alteration is adopted by special Resolution.

Repeal (Part V. of Principal Act.)

Repeal of Sect. 107. of the Principal Act.

XXIII. The 107th Section of the Principal Act shall be repealed, and in lieu thereof be it enacted, That,—

(1.) An Act passed in the Eighth Year of the Reign of Her present Majesty, Chapter One hundred and ten, and intituled *An Act for the Registration, Incorporation, and Regulation of Joint Stock Companies;* and

(2.) An Act passed in the Eleventh Year of the Reign of Her present Majesty, Chapter Seventy-eight, intituled *An Act to amend an Act for the Registration, Incorporation, and Regulation of Joint Stock Companies;* and

(3.) The Limited Liability Act, 1855,

Shall be deemed to have been and still to remain unrepealed as to any Company completely registered which has not obtained Registration under the Principal Act, until such Time as such Company obtains Registration under the Joint Stock Companies Acts, 1856, 1857, but from and after such Time, and not before, shall be repealed as to such last-mentioned Company; and, subject as aforesaid, all the Acts mentioned in this Section shall be repealed.

Costs by Limited Companies.

Provision as to Costs in Actions brought by certain Limited Companies.

XXIV. Where a Limited Company is Plaintiff or Pursuer in any Action, Suit, or other legal Proceeding, any Judge having Jurisdiction in the Matter may, if it be proved to his Satisfaction that there is Reason to believe that if the Defendant be successful in his Defence the Assets of the Company will be insufficient to pay his Costs, require sufficient Security to be given for such Costs, and may stay all Proceedings until such Security be given.

Temporary Provisions (Part V. of Principal Act).

Provisions as to Companies completely registered under 7 & 8 Vict. c. 110.

XXV. Where any Company completely registered under the said Act passed in the Eighth Year of the Reign of Her present Majesty, Chapter One hundred and ten, has obtained Registration under the Principal Act after the Third of *November* One thousand eight hundred and fifty-six, but before the passing of this Act, such Registration shall be as effectual to all Intents as if it had taken place on or before the said Third Day of *November* One thousand eight hundred and fifty-six.

Repeal of Section 110. of Principal Act.

XXVI. The One hundred and tenth Section of the Principal Act shall be repealed.

XXVII Every

Time within which completely registered Companies are required to register.

XXVII. Every Company completely registered under the said Act of the Eighth Year of the Reign of Her present Majesty, Chapter One hundred and ten, including any Company that has obtained a Certificate of Complete Registration under "The Limited Liability Act, 1855," but excluding any Company formed for the Purpose of Insurance, shall, if it has not already registered under the Principal Act, register under the Joint Stock Companies Acts, 1856, 1857, on or before the Second Day of *November* One thousand eight hundred and fifty-seven, or incur such Penalty as is herein-after mentioned.

Penalty on Company not registering.

XXVIII. If any Company hereby required to register under the Joint Stock Companies Acts makes default in registering on or before the said Second Day of *November* One thousand eight hundred and fifty-seven, then, from and after such Day until the Day on which such Company is registered under the Joint Stock Companies Acts, 1856, 1857, the following Consequences shall ensue; (that is to say,)

(1.) The Company shall be incapable of suing either at Law or in Equity, but shall not be incapable of being made a Defendant to a Suit either at Law or in Equity:

(2.) No Dividend shall be payable:

(3.) Each Director or Manager of the Company shall for each Day during which the Company is in default incur a Penalty of Five Pounds, and such Penalty may be recovered by any Person, and be applied by him to his own Use:

Nevertheless such Default shall not render the Company so being in default illegal, nor subject it to any Penalty or Disability other than as specified in this Section.

Power for Companies to register at their Discretion.

XXIX. Every Company consisting of Seven or more Shareholders, having a Capital of fixed Amount, divided into Shares, also of fixed Amount, duly constituted by Law prior to the passing of this Act, and not being a Company hereby required to be registered, may at any Time hereafter, upon Compliance with the Provisions of the Joint Stock Companies Acts, 1856, 1857, register itself as a Company under such Acts, with or without Limited Liability; subject to this Proviso, that no Company shall be registered as a Limited Company unless either the Liability of the Shareholders is already limited to the Amount of the unpaid Calls on their Shares, or an Assent to its being so registered has been given by Three Fourths in Number and Value of such of its Shareholders as may have been present, personally or by Proxy, in Cases where Proxies are allowed by the Regulations of the Company at some General Meeting summoned for that Purpose.

XXX. Where

Power for existing Company to register Amount of Stock instead of Shares.

XXX. Where an existing Company, authorized to register under the Joint Stock Companies Acts, 1856, 1857, has had the whole or any Portion of its Capital converted into Stock, such Company shall, as to the Capital so converted, instead of delivering to the Registrar the Statement of Capital and Shares required by the Principal Act, deliver to the Registrar a Statement of the Amount of Stock belonging to the Company, and the Names of the Persons who were Holders of such Stock, on some Day to be named in the Statement, not more than Six Days before the Day of Registration.

Provision as to List of Shareholders required by Section 111. of Principal Act.

XXXI. The List of Shareholders required by Section One hundred and eleven of the Principal Act to be delivered to the Registrar need not be made up to the Day of the Registration of the Company, but may be made up to any Day not more than Six Days before such Day of Registration.

Exemption of certain Companies from Payment of Fees.

XXXII. No Fees shall be charged in respect of the Registration under the Joint Stock Companies Acts, 1856, 1857, of any Company existing at the Date of this Act, and required or authorized to be registered by the said Joint Stock Companies Acts or either of them, in Cases where such Company is not registered as a Limited Company, or where previously to its being registered as a Limited Company, the Liability of the Shareholders was limited by some other Act of Parliament or by Letters Patent.

Grant of Certificate of Registration, and Effect thereof.

XXXIII. The Hundred and thirteenth Section of the Principal Act shall be repealed; and in lieu thereof be it enacted as follows: Upon Compliance with the Requisitions of the Joint Stock Companies Acts, 1856, 1857, respecting Registration, the Registrar of Joint Stock Companies shall certify under his Hand that the Company applying for Registration is incorporated as a Company under the Joint Stock Companies Acts, 1856, 1857, and in the Case of a Limited Company that it is limited, and thereupon such Company shall be incorporated accordingly; and all Provisions contained in any Act of Parliament, Deed of Settlement, Letters Patent, or other Instrument constituting or regulating any Company that has been registered under the Provisions of the said One hundred and thirteenth Section, or any Company that may hereafter be registered under this Section, shall be deemed to be Regulations of the Company, in the same Manner as if they were contained in a registered Memorandum of Association and Articles of Association; and all the Provisions of the Joint Stock Companies Acts, 1856, 1857, shall apply to such Company, in the same Manner in all respects as if it had been originally incorporated under such Acts, subject to the

Reservation in favour of Creditors contained in the Principal Act, and to the following Provisoes:

(1.) That Table B. shall not, unless adopted by special Resolution, apply to any such Company as is mentioned in this Section:

(2.) That no Company shall have Power to alter any Provision contained in any Act of Parliament relating to the Company:

(3.) That no Company shall have Power, without the Sanction of the Board of Trade, to alter any Provision contained in any Letters Patent relating to the Company:

(4.) That nothing herein contained shall authorize any Company to alter any such Provisions contained in any Deed of Settlement, Letters Patent, or other Instrument constituting or regulating the Company, as would, if such Company had originally been incorporated under the Joint Stock Companies Acts, 1856, 1857, have been contained in the Memorandum of Association, and are not authorized to be altered by such last-mentioned Acts:

But nothing herein contained shall derogate from any Power of altering its Constitution or Regulations which may be vested in any existing Company by virtue of any such Act of Parliament, Deed of Settlement, Letters Patent, or other Instrument constituting or regulating the Company: Moreover the Repeal of the said One hundred and thirteenth Section of the Principal Act shall not affect any Right acquired under the Section so repealed.

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