

## No. 2.—1869.

19th January.

AN ORDINANCE for the Incorporation, Regulation and Winding up of Trading Companies and other Associations.

(L. S.) ARTHUR GORDON.

10th February, 1869.

**W**HEREAS it is expedient to make provision for the incorporation, regulation and winding up of trading companies and other associations—Be it enacted by His Excellency the Governor, by and with the advice and consent of the Legislative Council, as follows:

Short title.

1. This Ordinance may be cited for all purposes as “The Companies Ordinance 1869.”

Prohibition of partnerships exceeding certain number.

2. No company, association, or partnership consisting of more than twenty persons shall be formed after the commencement of this Ordinance, for the purpose of carrying on any business, other than that of banking, that has for its object the acquisition of gain by the company, association, or partnership, or by the individual members thereof, unless it is registered as a company under this Ordinance, or is formed in pursuance of some other Ordinance, or of Letters Patent.

Banking Companies exempt from operation of Ordinance. Division of Ordinance.

3. Nothing in this Ordinance contained shall extend to any company formed for the purpose of carrying on the business of banking.

4. This Ordinance is divided into four parts relating to the following subject matters:—

The first part; to the constitution and incorporation of companies and associations under this Ordinance.

The second part; to the distribution of the capital and liability of members of companies and associations under this Ordinance.

The third part; to the management and administration of companies and associations under this Ordinance.

The fourth part; to the winding up of companies and associations under this Ordinance.

## PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES AND  
ASSOCIATIONS UNDER THIS ORDINANCE.

5. Any seven or more persons associated for any lawful purpose may, by subscribing their names to the memorandum of association and otherwise complying with the requisitions of this Ordinance in respect of registration, form an incorporated company with limited liability.

Mode of  
forming  
Company.

6. The liability of the members of a company formed under this Ordinance shall be limited to the amount, if any, unpaid on the shares respectively held by them.

Liability of  
Members to  
be limited.

7. The memorandum of association of every company formed under this Ordinance shall contain the following things, that is to say:—

Memorandum  
of association  
of a company.

1. The name of the proposed company, with the addition of the word "limited" as the last word in such name.
2. The part of the Island in which the registered office of the company is to be situate.
3. The objects for which the proposed company is to be established.
4. A declaration that the liability of the members is limited.
5. The amount of capital, with which the company proposes to be registered, divided into shares of a certain fixed amount; subject to the following regulations:—
  1. That no subscriber shall take less than one share.
  2. That each subscriber of the memorandum of association shall write opposite to his name the number of shares he takes.

8. The memorandum of association shall be signed by each subscriber in the presence of, and be attested by, one witness at the least, and, when registered, shall bind the company and the members thereof to the same extent as if the same were a specialty, and there were in the memorandum contained, on the part of each

Signature and  
effect of  
memorandum  
of association.

member, his heirs, executors and administrators, a covenant to observe all the conditions of such memorandum, subject to the provisions of this Ordinance.

Power of company to alter memorandum of association.

9. Any company constituted under this Ordinance may so far modify the conditions contained in its memorandum of association, if authorized to do so by its regulations as originally framed, or as altered by special resolution in manner hereinafter mentioned, as to increase its capital by the issue of new shares of such amount as it thinks expedient, or to consolidate and divide its capital into shares of larger amount than its existing shares, or to convert its paid up shares into stock, but, save as aforesaid, and save as is hereafter provided in the case of a change of name, no alteration shall be made by any company in the conditions contained in its memorandum of association.

Power of company to change name.

10. Any company under this Ordinance, with the sanction of a special resolution of the company passed in manner hereinafter mentioned, and with approval of the Governor testified in writing under his hand, may change its name, and upon such change being made, the registrar shall enter the new name on the register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the company or render defective any legal proceedings instituted or to be instituted by or against the company, and any legal proceedings may be continued or commenced against the company by its new name that might have been continued or commenced against the company by its former name.

Regulations to be prescribed by articles of association.

11. The memorandum of association may be accompanied, when registered, by articles of association signed by the subscribers to the memorandum of association, and prescribing such regulations for the company as the subscribers to the memorandum of association deem expedient: The articles shall be expressed in separate paragraphs, numbered arithmetically: They may adopt all or any of the provisions contained in the

table marked A in the first schedule hereto: They shall state the amount of capital with which the company is proposed to be registered.

12. Each subscriber shall take one share at the least, and shall write opposite to his name in the memorandum of association the number of shares he takes: If the memorandum of association is not accompanied by articles of association, or in so far as the articles do not exclude or modify the regulations contained in the table marked A in the first schedule hereto, the last mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the company in the same manner, and to the same extent, as if they had been inserted in the articles of association, and the articles had been duly registered.

Each subscriber to take one share at least.

Application of table A.

13. The articles of association shall be printed, and shall be signed by each subscriber in the presence of, and be attested by one witness at the least: When registered, they shall bind the company and the members thereof to the same extent as if the same were a specialty, and there were in such articles contained a covenant on the part of each member, his heirs, executors and administrators, to conform to all the regulations contained in such articles, subject to the provisions of this Ordinance, and all moneys payable by any member to the company in pursuance of the conditions and regulations of the company, or any of such conditions or regulations, shall be deemed to be a debt due from such member to the company, and in the nature of a specialty debt.

Signature and effect of articles of association.

14. The memorandum of association, and the articles of association, in cases where articles of association are by the desire of the parties to be registered, shall be delivered to the Registrar General, who shall retain and register the same.

Memorandum and articles of association to be registered.

15. There shall be paid to the Registrar General in respect of the several matters mentioned in the table marked B in the first schedule hereto, the several fees therein specified, which fees shall be paid by the Registrar General into the Colonial Treasury.

Fees payable to Registrar General.

16. Upon the registration of the memorandum of association, and of the articles of association in cases

Effect of registration.

where articles are by the desire of the parties to be registered, the Registrar General shall certify under his hand that the company is incorporated, and the subscribers of the memorandum of association, together with such other persons as may from time to time become members of the company, shall thereupon be a body corporate by the name contained in the memorandum of association, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, with power to hold lands, but with such liability on the part of the members to contribute to the assets of the company in the event of the same being wound up as is hereinafter mentioned: A certificate of the incorporation of any company given by the Registrar General shall be conclusive evidence that all the requisitions of this Ordinance in respect of registration have been complied with.

Copies of memorandum and articles to be given to members.

17. A copy of the memorandum of association, having annexed thereto the articles of association, if any, shall be forwarded to every member, at his request, on payment of the sum of two shillings, or such less sum as may be prescribed by the company for each copy; and if any company makes default in forwarding a copy of the memorandum of association and Articles of association, if any, to a member, in pursuance of this section, the company so making default shall, for each offence, incur a penalty not exceeding one pound.

Prohibition against identity of names in companies.

18. No company shall be registered under a name identical with that by which a subsisting company is already registered, or so nearly resembling the same as to be calculated to deceive.

## PART II.

### DISTRIBUTION OF CAPITAL AND LIABILITY OF MEMBERS OF COMPANIES AND ASSOCIATIONS UNDER THIS ORDINANCE.

#### *Distribution of Capital.*

Nature of interest in company.

19. The shares or other interest of any member in a company under this Ordinance shall be personal estate,

capable of being transferred in the manner provided by the regulations of the company, and shall not be of the nature of real estate, and each share shall be distinguished by its appropriate number.

20. The subscribers of the memorandum of association of any company under this Ordinance shall be deemed to have agreed to become members of the company, whose memorandum they have subscribed, and, upon the registration of the company, shall be entered as members on the register of members hereinafter mentioned; and every other person, who has agreed to become a member of a company under this Ordinance, and whose name is entered on the register of members, shall be deemed to be a member of the company.

Definition of  
"Member."

21. Any transfer of the share or other interest of a deceased member of a company under this Ordinance, made by his personal representative, shall, notwithstanding such personal representative may not himself be a member, be of the same validity as if he had been a member at the time of the execution of the instrument of transfer.

Transfer by  
personal re-  
presentative.

22. Every company under this Ordinance shall cause to be kept in one or more books a register of its members, and there shall be entered therein the following particulars:—

Register of  
Members.

- 1.—The names and addresses, and the occupations, if any, of the members of the company, with the addition of a statement of the shares held by each member, distinguishing each share by its number: And of the amount paid or agreed to be considered as paid on the shares of each member.
- 2.—The date at which the name of any person was entered in the register as a member.
- 3.—The date at which any person ceased to be a member.

And any company acting in contravention of this section, shall incur a penalty not exceeding five pounds for every day during which its default in complying with the provisions of this section continues, and every director or manager of the company, who shall knowingly

and wilfully authorise or permit such contravention, shall incur the like penalty.

Annual list of  
Members.

23. Every company under this Ordinance shall make, once at least in every year, a list of all persons, who, on the fourteenth day succeeding the day on which the ordinary general meeting, or if there is more than one ordinary general meeting in each year, the first of such ordinary general meetings, is held, are members of the company; and such list shall state the names, address and occupations of all the members therein mentioned, and the number of shares held by each of them, and shall contain a summary specifying the following particulars :—

- 1.—The amount of the capital of the company, and the number of shares into which it is divided.
- 2.—The number of shares taken from the commencement of the company up to the date of the summary.
- 3.—The amount of calls made on each share.
- 4.—The total amount of calls received.
- 5.—The total amount of calls unpaid.
- 6.—The total amount of shares forfeited.
- 7.—The names, address, and occupations of the persons who have ceased to be members since the last list was made, and the number of shares held by each of them.

The above list and summary shall be contained in a separate part of the register, and shall be completed within seven days after such fourteenth day as is mentioned in this section, and a copy shall forthwith be forwarded to the Registrar General.

Penalty on  
company, &c.,  
not keeping a  
proper  
register.

24. If any company under this Ordinance makes default in complying with the provisions of this Ordinance with respect to forwarding such list of members or summary as is hereinbefore mentioned to the Registrar General, such company shall incur a penalty not exceeding five pounds for every day during which such default continues, and every director and manager of the company who shall knowingly and wilfully authorise or permit such default shall incur the like penalty.

25. Every company under this Ordinance that has consolidated and divided its capital into shares of larger amount than its existing shares, or converted any portion of its capital into stock, shall give notice to the Registrar General of such consolidation, division or conversion, specifying the shares so consolidated, divided or converted.

Company to give notice of consolidation or of conversion of capital into stock.

26. Where any company under this Ordinance, has converted any portion of its capital into stock and given notice of such conversion to the Registrar General, all the provisions of this Ordinance, which are applicable to shares only, shall cease as to so much of the capital as is converted into stock, and the register of members hereby required to be kept by the company, and the list of members to be forwarded to the Registrar General shall show the amount of stock held by each member in the list instead of the amount of shares, and the particulars relating to shares hereinbefore required.

Effect of conversion of shares into stock.

27. No notice of any trust expressed, implied or constructive, shall be entered on the register of any company constituted under this Ordinance, or be receivable by the Registrar General.

Entry of trusts on register.

28. A certificate under the common seal of the company, specifying any share or shares, or stock held by any member of a company, shall be *prima facie* evidence of the title of the member to the share or shares, or stock therein specified.

Certificate of shares or stock.

29. The register of members, commencing from the date of the registration of the company, shall be kept at the registered office of the company hereinafter mentioned: except when closed as hereinafter mentioned, it shall, during business hours, but subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day be appointed for inspection, be open to the inspection of any member gratis, and to the inspection of any other person on the payment of one shilling, or such less sum as the company may prescribe for each inspection, and every such member or other person may require a copy of such register, or any part thereof, or of such list or summary of members as is hereinbefore mentioned on payment of sixpence for every one hun-

Inspection of register.

dred words required to be copied : If such inspection or copy is refused, the company shall incur for each refusal, a penalty not exceeding two pounds, and a further penalty not exceeding two pounds for every day during which such refusal continues, and every director and manager of a Company, who shall knowingly authorise or permit such refusal, shall incur the like penalty, and in addition to the above penalty any Judge may, by order, compel an immediate inspection of the register.

Power to close register.

**30.** Any company under this Ordinance may, upon giving notice by advertisement in some newspaper circulating in this Island, close the register of members for any time or times not exceeding in the whole thirty days in each year.

Notice of increase of capital to be given Registrar General.

**31.** Notice of any increase in the capital of any company constituted under this Ordinance shall be given to the Registrar General within fifteen days from the date of the passing of the resolution by which such increase has been authorised, and the Registrar General shall forthwith record the amount of such increase of capital. If such notice is not given within the period aforesaid, the company in default shall incur a penalty not exceeding five pounds for every day during which such neglect to give notice continues, and every director and manager of the company, who shall knowingly and willingly permit such default, shall incur the like penalty.

Remedy for improper entry or omission of entry in register.

**32.** If the name of any person is, without sufficient cause, entered in or omitted from, the register of members of any company under this Ordinance, or if default is made, or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member of the company, the person or member aggrieved, or any member of the company, or the company itself may by motion in the Supreme Civil Court in Equity, apply for an order of the Court that the register may be rectified; and the Court may either refuse such application, with or without costs to be paid to the applicant, or it may, if satisfied of the justice of the case, make an order for the rectification of the register, and may direct the company to pay all costs of such motion, and any damages the party aggrieved may have sustained. The Court may in any

proceedings under this section, 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 omitted from the register, whether such question arises between two or more members, or alleged members, or between any members or alleged members and the company, and generally the Court may, in any such proceedings, decide any question, that it may be necessary or expedient to decide for the rectification of the register.

33. When any order has been made, rectifying the register, the Court shall, by its order, direct that due notice of such rectification be given to the Registrar General. Notice to Registrar of rectification of register.

34. The register of members shall be *prima facie* evidence of any matters by this Ordinance directed or authorised to be inserted therein. Register to be evidence.

#### *Liability of Members.*

35. In the event of a company formed under this Ordinance being wound up, every present and past member of such 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:— Liability of present and past members of company.

- 1.—No past member shall be liable to contribute to the assets of the company, if he has ceased to be a member for a period of one year, or upwards, prior to the commencement of the winding up.
- 2.—No past member 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 member.
- 3.—No past member shall be liable to contribute to the assets of the company, unless it appears to the court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Ordinance.
- 4.—No contribution shall be required from any mem-

ber exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member.

- 5.—Nothing in this Ordinance contained shall invalidate any provision contained in any policy of insurance, or other contract, whereby the liability of individual members, upon any such policy or contract, is restricted, or whereby the funds of the company are alone made liable in respect of such policy, or contract.
- 6.—No sum due to any member of a company, in his character of a member, by way of dividends, profits or otherwise, shall be deemed to be a debt of the Company, payable to such member in a case of competition between himself and any other creditor, not being a member of the company, but any such sum may be taken into account, for the purposes of the final adjustment of the rights of the contributories amongst themselves.

### PART III.

#### MANAGEMENT AND ADMINISTRATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ORDINANCE.

##### *Provisions for Protection of Creditors.*

Registered office of company.

36. Every company under this Ordinance shall have a registered office, to which all communications and notices may be addressed: If any company under this Ordinance carries on business, without having such an office, it shall incur a penalty not exceeding five pounds for every day during which business is so carried on.

Notice of situation of registered office.

37. Notice of the situation of such registered office, and of any change therein, shall be given to the Registrar General and recorded by him: Until such notice is given, the company shall not be deemed to have complied with the provisions of this Ordinance with respect to having a registered office.

Publication of name by a limited company.

38. Every company under this Ordinance shall paint, or affix, and shall keep painted or affixed, its name on the outside of every office, or place in which the business

of the company is carried on, in a conspicuous position, in letters easily legible, and shall have its name engraven in legible characters on its seal, and shall have its name mentioned in legible characters in all notices, advertisements, and other official publications of such company, and in all bills of exchange, promissory notes, endorsements, cheques, and orders for money, or goods, purporting to be signed by or on behalf of such company, and in all bills of parcels, invoices, receipts, and letters of credit of the company.

**39.** If any company under this Ordinance does not paint or affix, and keep painted or affixed, its name in manner directed by this Ordinance, it shall be liable to a penalty not exceeding five pounds for not so painting or affixing its name, and for every day during which such name is not so kept painted or affixed, and every director and manager of the company, who shall knowingly and wilfully authorize or permit such default, shall be liable to the like penalty; and if any director, manager, or officer of such company, or any person, on its behalf, uses, or authorises the use of any seal, purporting to be a seal of the company, whereon its name is not so engraven as aforesaid, or issues, or authorises the issue of any notice, advertisement or other official publication of such company, or signs or authorises to be signed, on behalf of such company, any bill of exchange, promissory note, endorsement, cheque, order for money or goods, or issues or authorises to be issued, any bill of parcels, invoice, receipt or letter of credit of the company, wherein its name is not mentioned in manner aforesaid, he shall be liable to a penalty of fifty pounds sterling, and shall further be personally liable to the holder of any such bill of exchange, promissory note, cheque, or order for money or goods, for the amount thereof, unless the same is duly paid by the company.

Penalties on non-publication of name.

**40.** Every company under this Ordinance shall keep a register of all mortgages and charges specifically affecting any property of the company, and shall enter in such register, in respect of each mortgage or charge, a short description of the property mortgaged or charged, the amount of charge created, and the names of the mortgagees, or persons entitled to such charge: If any property of the company is mortgaged or charged, with-

Register of mortgages.

out such entry as aforesaid being made, every director, manager or other officer of the company, who knowingly or wilfully authorises or permits the omission of such entry, shall incur a penalty not exceeding fifty pounds: The register of mortgages required by this section shall be open to inspection by any creditor or member of the company at all reasonable times; and if such inspection is refused, any officer of the company, refusing the same, and every director and manager of the company authorising or knowingly and wilfully permitting such refusal, shall incur a penalty not exceeding five pounds, and a further penalty not exceeding two pounds for every day during which such refusal continues; and in addition to the above penalty, any judge may, by order, compel an immediate inspection of the register.

Certain companies to publish statement entered in schedule.

41. Every insurance company and deposit, provident, or benefit society under this Ordinance shall, before it commences business, and also on the first Monday in February, and the first Monday in August in every year during which it carries on business, make a statement in the form marked C in the first schedule hereto, or as near thereto as circumstances will admit, and a copy of such statement shall be put in a conspicuous place in the registered office of the company, and in every branch office or place where the business of the company is carried on, and if default is made in compliance with the provisions of this section, the company shall be liable to a penalty not exceeding five pounds, for every day during which such default continues, and every director and manager of the company, who shall knowingly and wilfully authorise or permit such default, shall incur the like penalty: Every member and every creditor of any company mentioned in this section shall be entitled to a copy of the above-mentioned statement, on payment of a sum not exceeding one shilling.

Promissory notes and bills of exchange.

42. A promissory note, or bill of exchange shall be deemed to have been made, accepted, or endorsed on behalf of any company under this Ordinance, if made, accepted, or endorsed in the name of the company by any person acting under the authority of the company, or if made, accepted, or endorsed by, or on behalf, or on account of the company, by any person acting under the authority of the company.

43. If any company under this Ordinance carries on business when the number of its members is less than seven for a period of six months after the number has been so reduced, every person who is a member of such company during the time that it so carries on business, after such period of six months, and is cognizant of the fact that it is so carrying on business with fewer than seven members, shall be severally liable for the payment of the whole debts of the company contracted during such time, and may be sued for the same without the joinder in the action, or suit of any other member.

Prohibition  
against carry-  
ing on busi-  
ness with  
less than  
seven  
Members.

*Provision for Protection of Members.*

44. A general meeting of every company under this Ordinance shall be held once at the least in every year.

General  
meeting of  
company.

45. Subject to the provisions of this Ordinance, and to the conditions contained in the memorandum of association, any company formed under this Ordinance may, in general meeting, from time to time, by passing a special resolution in manner hereinafter mentioned, alter all or any of the regulations of the company contained in the articles of association, or in the Table marked A in the first schedule hereto, where such table is applicable to the company, or make new regulations to the exclusion of, or in addition to, all or any of the regulations of the company; and any regulations so made by special resolution shall be deemed to be regulations of the company of the same validity as if they had been originally contained in the articles of association, and shall be subject in like manner to be altered, or modified by any subsequent special resolution.

Power to  
alter regula-  
tions by  
special reso-  
lution.

46. A resolution passed by a company under this Ordinance shall be deemed to be special, whenever a resolution has been passed by a majority of not less than three-fourths of such members of the company for the time being entitled, according to the regulations of the company, to vote, as may be present, in person or by proxy (in cases where by the regulations of the company proxies are allowed), at any general meeting, of which notice, specifying the intention to propose such resolution has been duly given, and such resolution

Definition of  
special reso-  
lution.

has been confirmed by a majority of such members for the time being entitled, according to the regulations of the company, to vote, as may be present, in person or by proxy, at a subsequent general meeting, of which notice has been duly given, and held at an interval of not less than fourteen days, nor more than twenty-eight days from the date of the meeting at which such resolution was first passed: At any meeting mentioned in this section, unless a poll is demanded, by at least five members, a declaration of the chairman, that the resolution has been carried, shall be deemed conclusive evidence of the fact, without proof of the number, or proportion of the votes recorded in favour of, or against the same: Notice of any meeting shall, for the purposes of this section be deemed to be duly given, and the meeting to be duly held, whenever such notice is given and meeting held in manner prescribed by the regulations of the company: In computing the majority under this section, when a poll is demanded, reference shall be had to the number of votes, to which each member is entitled by the regulations of the company.

Provision where no regulations as to meetings.

47. In default of any regulations as to voting, every member shall have one vote, and in default of any regulations as to summoning general meetings, a meeting shall be held to be duly summoned of which seven days' notice in writing has been served on every member in manner in which notices are required to be served by the table marked A in the first schedule hereto, and in default of any regulations as to the persons to summon meetings, five members shall be competent to summon the same, and in default of any regulations as to who is to be chairman of such meeting, it shall be competent for any person elected by the members present to preside.

Registry of special resolutions.

48. A copy of any special resolution that is passed by any company under this Ordinance shall be printed and forwarded to the Registrar General and be recorded by him: If such copy is not so forwarded within fifteen days from the date of the confirmation of the resolution, the company shall incur a penalty not exceeding two pounds for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded, and every director and

manager of the company, who shall knowingly and wilfully authorize or permit such default, shall incur the like penalty.

49. Where articles of association have been registered, a copy of every special resolution for the time being in force shall be annexed to, or embodied in every copy of the articles of association that may be issued after the passing of such resolution: Where no articles of association have been registered, a copy of any special resolution shall be forwarded in print to any member requesting the same, on payment of one shilling, or such less sum as the company may direct: And if any company makes default in complying with the provisions of this section it shall incur a penalty not exceeding one pound for each copy in respect of which such default is made; and every director and manager of the company, who shall knowingly and wilfully authorize or permit such default, shall incur the like penalty.

Copies of special resolutions.

50. Any company under this Ordinance may, by instrument in writing under its common seal, empower any person, either generally, or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place out of the island, and every deed signed by such attorney, on behalf of the company, and under his seal, shall be binding on the company, and have the same effect as if it were under the common seal of the company.

Execution of deeds abroad.

51. The Governor may appoint one or more competent Inspectors to examine into the affairs of any company under this Ordinance, and to report thereon in such manner as the Governor may direct, upon the application of members holding not less than one-fifth part of the whole shares of the company for the time being issued.

Examination of affairs of company by inspectors.

52. The application shall be supported by such evidence as the Governor may require for the purpose of showing that the applicants have good reason for requiring such investigation to be made, and that they are not actuated by malicious motives in instituting the same; the Governor may also require the applicants to give security for payment of the costs of the inquiry before appointing any Inspector or Inspectors.

Application for inspection to be supported by evidence.

Inspection of  
books.

53. It shall be the duty of all officers and agents of the company to produce for the examination of the Inspectors all books and documents in their custody or power: Any Inspector may examine upon oath the officers and agents of the company in relation to its business, and may administer such oath accordingly: If any officer or agent refuses to produce any book or document hereby directed to be produced, or to answer any question relating to the affairs of the company, he shall incur a penalty not exceeding five pounds in respect of each offence.

Result of  
examination;  
how dealt  
with.

54. Upon the conclusion of the examination, the Inspectors shall report their opinion to the Governor: such report shall be written or printed as the Governor directs: A copy shall be forwarded by the Governor to the registered office of the company, and a further copy shall, at the request of the members, upon whose application the inspection was made, be delivered to them, or any one or more of them: All expenses of, and incidental to any such examination shall be defrayed by the members upon whose application the Inspectors were appointed, unless the Governor shall direct the same to be paid out of the assets of the company, which he is hereby authorised to do.

Power of  
company to  
appoint  
Inspectors.

55. Any company under this Ordinance may, by special resolution, appoint Inspectors for the purpose of examining into the affairs of the company: The inspectors so appointed shall have the same powers and perform the same duties as Inspectors appointed by the Governor, with the exception that, instead of making their report to the Governor, they shall make the same in such manner and to such persons as the company in general meeting directs: And the officers and agents of the company shall incur the same penalties in case of any refusal to produce any book or document hereby required to be produced to such Inspectors, or to answer any question, as they would have incurred if such Inspector had been appointed by the Governor.

Report of  
Inspectors to  
be evidence.

56. A copy of the report of any Inspectors appointed under this Ordinance, authenticated by the seal of the company into whose affairs they have made inspection, shall be admissible in any legal proceeding as evidence

of the opinion of the Inspectors in relation to any matter contained in such report.

### *Notices.*

57. Any summons, notice, order, or other document required to be served upon the company may be served by leaving the same or sending it through the post in a pre-paid letter addressed to the company at their registered office. Service of notices on company.

58. Any document to be served by post on the company shall be posted in such time as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the service thereof; and in proving service of such document, it shall be sufficient to prove that such document was properly directed, and that it was put, as a pre-paid letter, into the post office. Rules as to notices by letter.

59. Any summons, notice, order, or proceeding, requiring authentication by the company, may be signed by any director, secretary, or other authorised officer of the company, and need not be under the common seal of the company, and the same may be in writing, or in print, or partly in writing and partly in print. Authentication of Notices of company.

### *Legal Proceedings.*

60. All offences under this Ordinance made punishable by any penalty may be prosecuted summarily before any Stipendiary Justice of the Peace having jurisdiction in the place. Recovery of penalties.

61. The Stipendiary Justice imposing any penalty under this Ordinance may direct the whole or any part thereof to be applied in or towards payment of the costs of the proceedings, or in or towards the rewarding the person upon whose information, or at whose suit such penalty has been recovered, and subject to such direction, all penalties shall be paid into the Colonial Treasury, and shall form part of the revenue of the Island. Application of penalties.

62. Every company under this Ordinance shall cause minutes of all resolutions and proceedings of general meetings of the company, and of the directors or managers of the company, in cases where there are Evidence of proceedings at meetings.

directors or managers, to be duly entered in books to be, from time to time, provided for the purpose, and any such minute as aforesaid, if purporting to be signed by the chairman of the meeting at which such resolutions were passed, or proceedings had, or by the chairman of the next succeeding meeting, shall be received as evidence in all legal proceedings; and until the contrary is proved, every general meeting of the company, or meeting of directors or managers in respect of the proceedings of which minutes have been so made, shall be deemed to have been duly held and convened, and all resolutions passed thereat, or proceedings had, to have been duly passed and had, and all appointments of directors, managers, or liquidators shall be deemed to be valid, notwithstanding any defect that may afterwards be discovered in their appointments or qualifications.

Provision as to costs in actions brought by company.

63. Where any company under this Ordinance is plaintiff in any action, suit, or other legal proceeding, any judge may, if it appears by any credible testimony 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 is given.

Declaration in action against members.

64. In any action or suit brought by the company against any member to recover any call or other moneys due from such member in his character of member, it shall not be necessary to set forth the special matter, but it shall be sufficient to allege that the defendant is a member of the company, and is indebted to the company in respect of a call made, or other moneys due, whereby an action or suit hath accrued to the company.

#### *Alteration of Forms.*

Forms in schedule may be altered by resolution of Legislative Council.

65. The forms set forth in the second schedule hereto, or forms as near thereto as circumstances admit, shall be used in all matters to which such forms refer; the Governor, with the advice and consent of the Legislative Council, may, by resolution from time to time, make alterations in the tables and forms contained in the first schedule hereto, so that the amount of fees payable to the Registrar in the said schedule mentioned, and in

the forms in the second schedule, be not thereby increased: or make such additions to the last mentioned forms as the Governor, with such advice and consent as aforesaid, may deem requisite: any such table or form, when altered, shall be published in the *Royal Gazette*, and upon such publication being made, such table or form shall have the same force as if it were included in the schedule to this Ordinance, but no alteration in the table marked A, contained in the first schedule, shall affect any company registered prior to the date of such alteration, or repeal, as respects such company, any portion of such table.

### *Arbitrations.*

66. Any company under this Ordinance may, from time to time, by writing under its common seal, agree to refer, and may refer to arbitration any existing or future difference, question, or other matter whatsoever in dispute between itself and any other company or person, and the companies, parties to the arbitration, may delegate to the person or persons to whom the reference is made, power to settle any terms, or to determine any matter capable of being lawfully settled or determined by the companies themselves, or by the directors, or other managing body of such companies.

Power of companies to refer matters to arbitration.

## PART IV.

### WINDING UP OF COMPANIES OR ASSOCIATIONS UNDER THIS ORDINANCE.

#### *Preliminary.*

67. The term "Contributory" shall mean every person liable to contribute to the assets of a company under this Ordinance, in the event of the same being wound up: it shall also, in all proceedings for determining the persons who are to be deemed contributories, and in all proceedings prior to the final determination of such persons, include any person alleged to be a contributory.

Meaning of contributory.

Nature of  
liability of  
contributory.

68. The liability of any person to contribute to the assets of a company under this Ordinance, in the event of the same being wound up, shall be deemed to create a debt of the nature of a specialty accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made, as hereinafter mentioned, for enforcing such liability, and it shall be lawful in the case of the insolvency of any contributory to prove against his estate the estimated value of his liability to future calls as well as calls already made.

Contributo-  
ries in case of  
death.

69. If any contributory dies either before, or after he has been placed on the list of contributories, hereinafter mentioned, his personal representatives, heirs, and devisees shall be liable in a due course of administration to contribute to the assets of the company in discharge of the liability of such deceased contributory, and such personal representatives, heirs and devisees shall be deemed to be contributories accordingly.

Contributo-  
ries in case of  
bankruptcy.

70. If any contributory becomes insolvent, either before or after he has been placed upon the list of contributories, the official assignee shall be deemed to represent such insolvent for all the purposes of the winding-up, and shall be deemed to be a contributory accordingly, and may be called upon to admit to proof against the estate of such insolvent, or otherwise to allow to be paid out of his assets, in due course of law, any moneys due from such insolvent in respect of his liability to contribute to the assets of the company being wound up.

Contributo-  
ries in case of  
marriage.

71. If any female contributory marries, either before or after she has been placed on the list of contributories, her husband shall, during the continuance of the marriage be liable to contribute to the assets of the company the same sum as she would have been liable to contribute if she had not married, and he shall be deemed to be a contributory accordingly.

#### *Winding up by Court.*

Circum-  
stances under  
which com-  
pany may be  
wound up by  
Court.

72. A company under this Ordinance may be wound up by the Supreme Civil Court in Equity under the following circumstances, that is to say:—

1.—Whenever the company has passed a special

resolution requiring the company to be wound up by the Court :

- 2.—Whenever the company does not commence its business within a year from its incorporation, or suspends its business for the space of a whole year :
- 3.—Whenever the members are reduced in number to less than seven :
- 4.—Whenever the company is unable to pay its debts.
- 5.—Whenever the Court is of opinion, that it is just and equitable that the company should be wound up.

73. A company under this Ordinance shall be deemed to be unable to pay its debts :—

- 1.—Whenever a creditor, by assignment or otherwise, to whom the company is indebted at law or in equity, in a sum exceeding fifty pounds then due has served on the company, by leaving the same at their registered office, 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 reasonable satisfaction of the creditor :
- 2.—Whenever execution or other process issued on a judgment, decree or order obtained in any Court in favour of any creditor at law or in equity in any proceeding instituted by such creditor against the company, is returned unsatisfied in whole or in part :
- 3.—Whenever it is proved to the satisfaction of the Court that the company is unable to pay its debts.

74. Any application to the Court for the winding-up of a company under this Ordinance shall be by petition : It may be presented by the company, or by one or more creditor or creditors, contributory or contributories of the company, or by all or any of the above parties, together or separately ; and every order which may be made on any such petition shall operate in favour of all the creditors and all the contributories of the company in the same manner as if it had been made upon the joint petition of a creditor and a contributory.

Company when deemed unable to pay its debts.

Application for winding-up to be made by petition.

Commencement of winding up of Court.

**75.** A winding-up of a company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding-up.

Court may grant injunction.

**76.** The Court may at any time after the presentation of a petition for winding up a company under this Ordinance, and before making an Order for winding-up the company, upon the application of the company, or of any creditor, or contributory of the company, restrain further proceedings in any action, suit, or proceeding against the company, upon such terms as the Court thinks fit; the Court may also, at any time after the presentation of such petition and before the first appointment of liquidators, appoint provisionally an official liquidator of the estate and effects of the company.

Course to be pursued by Court on hearing petition.

**77.** Upon hearing the petition the Court may dismiss the same with or without costs, may adjourn the hearing conditionally or unconditionally, and may make any interim order or any other order that it deems just.

Actions and suits to be stayed after order for winding up.

**78.** When an order has been made for winding up a company no suit, action, or other proceeding shall be proceeded with or commenced against the company, except with the leave of the Court, and subject to such terms as the Court may impose.

Copy of Order to be forwarded to Registrar General.

**79.** When an order has been made for winding up a company a copy of such order shall forthwith be forwarded by the company to the Registrar General, who shall make a minute thereof in his books relating to the company.

Power of Court to stay proceedings.

**80.** The Court may, at any time after an Order has been made for winding up a company, upon the application by motion of any creditor or contributory of the company, and upon proof to the satisfaction of the Court that all proceedings in relation to such winding up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as it deems fit.

Court may have regard to wishes of creditors or contributories

**81.** The Court may, as to all matters relating to the winding up, have regard to the wishes of the creditors or contributories, as proved to it by any sufficient evidence, and may, if it thinks it expedient, direct meetings of the creditors or contributories to be summoned, held

and conducted in such manner as the Court directs for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such meeting to the Court: In the case of creditors, regard is to be had to the value of the debts due to each creditor, and in the case of contributories to the number of votes conferred on each contributory by the regulations of the company.

*Official Liquidators.*

82. For the purpose of conducting the proceedings in winding up a company, and assisting the Court therein, there may be appointed a person or persons to be called an official liquidator or official liquidators; and the Court may appoint such person or persons, either provisionally or otherwise, as it thinks fit, to the office of official liquidator or official liquidators; in all cases if more persons than one are appointed to the office of official liquidator, the Court shall declare whether any act hereby required or authorized to be done by the official liquidator is to be done by all or any one or more of such persons. The Court may also determine whether any and what security is to be given by any official liquidator on his appointment; or if no official liquidator is appointed, or during any vacancy in such appointment, all the property of the company shall be deemed to be in the custody of the Court.

Appointment  
of official  
liquidator.

83. Any official liquidator may resign or may be removed by the Court on due cause shewn; and any vacancy in the office of an official liquidator appointed by the Court shall be filled by the Court; there shall be paid to the official liquidator such salary or remuneration, by way of percentage or otherwise, as the Court may direct; and if more liquidators than one are appointed such remuneration shall be distributed amongst them in such proportions as the Court directs.

Resignations,  
removals,  
filling up  
vacancies and  
compensation.

84. The official liquidator or liquidators shall be described by the style of official liquidator or official liquidators of the particular company in respect of which he is, or they are appointed, and not by his or their individual name or names; he or they shall take into his or their custody, or under his or their control,

Style and  
duties of  
official  
liquidator.

all the property, effects, and things in action to which the company is, or appears to be entitled, and shall perform such duties in reference to the winding up of the company as may be imposed by the Court.

Powers of  
official  
liquidator.

85. The official liquidator shall have power, with the sanction of the Court, to do the following things:—

1. To bring or defend any action, suit, or prosecution or other legal proceeding, civil or criminal, in the name and on behalf of the company :
- 2.—To carry on the business of the company so far as shall be necessary for the beneficial winding up of the same :
- 3.—To sell the real and personal property, effects and things in action of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels :
- 4.—To do all acts and to execute in the name and on behalf of the company all deeds, receipts and other documents, and for that purpose to use when necessary the company's seal :
- 5.—To prove, rank, claim, and draw a dividend, in the matter of the insolvency of any contributory, for any balance against the estate of such contributory, and to take and receive dividends in respect of such balance in the matter of the insolvency as a separate debt due from such insolvent, and rateably with the other separate creditors :
- 6.—To draw, accept, make, and endorse any bill of exchange or promissory note in the name and on behalf of the company, also to raise upon the security of the assets of the company from time to time any requisite sum or sums of money ; and the drawing, accepting, making, or endorsing of every such bill of exchange or promissory note as aforesaid, on behalf of the company, shall have the same effect with respect to the liability of such company as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of such company in the course of carrying on the business thereof :
- 7.—To take out, if necessary, in his official name,

letters of administration to any deceased contributory, and to do in his official name any other act that may be necessary for obtaining payment of any moneys due from a contributory, or from his estate, and which act cannot be conveniently done in the name of the Company; and in all cases where he takes out letters of administration or otherwise uses his official name for obtaining payment of any moneys due from a contributory, such moneys shall, for the purpose of enabling him to take out such letters or recover such moneys, be deemed to be due to the official liquidator himself.

8. To do and execute all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

86. The Court may provide by any order that the official liquidator may exercise any of the above powers without the sanction or intervention of the Court; and where an official liquidator is provisionally appointed, may limit and restrict his powers by the order appointing him.

Discretion of official liquidator.

87. The official liquidator may, with the sanction of the Court, appoint a solicitor to assist him in the performance of his duties.

Appointment of Solicitor to official liquidator.

### *Ordinary Powers of Court.*

88. As soon as may be after making an order for winding up the company, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where such rectification is required in pursuance of this Ordinance, and shall cause the assets of the company to be collected and applied in discharge of its liabilities.

Collection and application of assets.

89. In settling the list of contributories the Court shall distinguish between persons who are contributories in their own right, and persons who are contributories as being representatives of, or being liable to the debts of others; it shall not be necessary, where the personal representative of any deceased contributory is placed on the list, to add the heirs or devisees of such contribu-

Provision as to representative contributories.

tory, nevertheless such heirs or devisees may be added as and when the Court thinks fit.

Power of  
Court to re-  
quire delivery  
of property.

90. The Court may at any time, after making an order for winding up a company, require any contributory for the time being settled on the list of contributories, trustee, receiver, banker, or agent or officer of the company to pay, deliver, convey, surrender, or transfer forthwith, or within such time as the Court directs, to, or into the hands of the official liquidator, any sum or balance, books, papers, estate, or effects which happen to be in his hands for the time being, and to which the company is *prima facie* entitled.

Power of  
Court to order  
payment of  
debts by con-  
tributory.

91. The Court may at any time, after making an order for winding up the company, make an order on any contributory for the time being settled on the list of contributories, directing payment to be made, in manner in the said order mentioned, of any moneys due from him or from the estate of the person whom he represents to the company, exclusive of any moneys which he or the estate of the person whom he represents may be liable to contribute by virtue of any call made or to be made by the Court in pursuance of this part of this Ordinance; provided that when all the creditors of any company, are paid in full, any moneys due on any account whatever to any contributory from the company may be allowed to him by way of set off against any subsequent call or calls.

Power of  
Court to make  
calls.

92. The Court may at any time, after making an order for winding up a company, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of contributories to the extent of their liability, for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories among themselves, and it may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same

93. If any person made a contributory as personal representative of a deceased contributory makes default in paying any sum ordered to be paid by him, proceedings may be taken for administering the personal and real estates of such deceased contributory, or either of such estates, and of compelling payment thereof of the moneys due.

Provision in case of representative contributory not paying moneys ordered.

94. Any order made by the Court in pursuance of this Ordinance upon any contributory shall, subject to any appeal against such order, be conclusive evidence that the moneys, if any, thereby appearing to be due or ordered to be paid, are due, and all other pertinent matters stated in such order are to be taken to be truly stated as against all persons, and in all proceedings whatsoever, with the exception of proceedings taken against the real estate of any deceased contributory, in which case such order shall only be *prima facie* evidence for the purpose of charging his real estate, unless his heirs or devisees were on the list of contributories at the time of the order being made.

Order, conclusive evidence.

95. The Court may fix a certain day, or certain days on or within which creditors of the company are to prove their debts or claims, or to be excluded from the benefit of any distribution made before such debts are proved.

Court may exclude creditors not proving within certain time.

96. The Court shall adjust the rights of the contributories amongst themselves, and distribute any surplus that may remain amongst the parties entitled.

Court to adjust rights of contributories.

97. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the estate of the company of the costs, charges, and expenses incurred in winding up the company, in such order of priority as the Court thinks just.

Court to order costs.

98. When the affairs of the company have been completely wound up, the Court shall make an order that the company be dissolved from the date of such order, and the company shall be dissolved accordingly.

Dissolution of company.

99. Any order so made shall be reported by the official liquidator to the Registrar General, who shall

Registrar General to make minute

of dissolution of company. make a minute accordingly in his books of the dissolution of such company.

Penalty on not reporting dissolution of company.

100. If the official liquidator makes default in reporting to the Registrar General, in the case of a company being wound up by the Court, the order that the company be dissolved, he shall be liable to a penalty not exceeding five pounds for every day during which he is so in default.

Petition to be his pendens.

101. Any petition for winding up a company by the Court under this Ordinance shall constitute a *Lis pendens* within the terms of the Ordinance passed on the first day of April, one thousand eight hundred and sixty-two, entitled, "An Ordinance for the protection of "Purchasers and Mortgagees," provided the same is duly registered in manner required by such Ordinance.

#### *Extraordinary Powers of Court.*

Power of Court to summon persons before it, suspected of having property of company.

102. The Court may, after it has made an order for winding up the company, summon before it any officer of the company, or person known or suspected to have in his possession any of the estate or effects of the company, or supposed to be indebted to the company, or any person, whom the Court may deem capable of giving information concerning the trade, dealings, estate or effects of the company, and the Court may require any such officer or person to produce any books, papers, deeds, writings or other documents in his custody or power relating to the company, and if any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, having no lawful impediment (made known to the Court at the time of its sitting, and allowed by it) the Court may cause such person to be apprehended and brought before the Court for examination; nevertheless, in cases where any person claims any lien on papers, deeds, or writings, or documents produced by him, such production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding up to determine all questions relating to such lien.

Examination of parties by Court.

103. The Court may examine upon oath, either by word of mouth or upon written interrogatories, any

person appearing or brought before them in manner aforesaid, concerning the affairs, dealings, estate or effects of the company, and may reduce into writing the answers of every such person, and require him to subscribe the same.

104. The Court may, at any time before or after it has made an order for winding up a company, upon proof being given that there is probable cause for believing that any contributory to such company is about to quit the Island, 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, cause such contributory to be arrested, and his books, papers, moneys, securities for moneys, goods and chattels to be seized, and him and them to be safely kept until such time as the Court may order.

Power to arrest contributory about to abscond, or to remove or conceal any of his property.

105. Any powers by this ordinance conferred on the Court shall be deemed to be in addition to, and not in restriction of, any other powers subsisting either at law or in equity of instituting proceedings against any contributory, or the estate of any contributory, or against any debtor of the company for the recovery of any call or other sums due from such contributory or debtor, or his estate, and such proceedings may be instituted accordingly.

Powers of Court cumulative.

#### *Enforcement of Orders.*

106. All orders made by the Supreme Civil Court in Equity under this Ordinance may be enforced in the same manner in which orders of such Court made in any suit pending therein may be enforced.

Power to enforce orders.

107. Any affidavit, affirmation, or declaration required to be sworn or made under the provisions of this Ordinance may be lawfully sworn or made in Great Britain or Ireland, or in any colony, island, plantation, or place under the dominion of Her Majesty, before any Court, Judge, or person lawfully authorised to take and receive affidavits, affirmations or declarations, or before any of Her Majesty's Consuls or Vice-Consuls in any foreign parts out of Her Majesty's dominions, and the Court shall take judicial notice of the seal, or stamp,

Affidavits may be sworn in Great Britain or Ireland, or in any British Colony before any competent Court or person.

or signature (as the case may be) of any such Court, Judge, Person, Consul, or Vice-Consul, attached, appended, or subscribed to any such affidavit, affirmation, or declaration, or to any other document to be used for the purpose of this part of the Ordinance.

*Voluntary Winding up of a Company.*

Circumstances under which company may be wound up voluntarily.

108. A company under this Ordinance may be wound up voluntarily:—

- 1.—Whenever the period, if any, fixed for the duration of the company by the articles of association expires, or whenever the event, if any, occurs upon the occurrence of which it is provided by the articles of the association that the company is to be dissolved, and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily.
- 2.—Whenever the company has passed a special resolution requiring the company to be wound up voluntarily.
- 3.—Whenever the company has passed an extraordinary resolution to the effect that it has been proved to their satisfaction that the company cannot by reason of its liabilities continue its business, and that it is advisable to wind up the same.

For the purposes of this Ordinance, any resolution shall be deemed to be extraordinary, which is passed in such manner as would, if it had been confirmed by a subsequent meeting, have constituted a special resolution as hereinbefore defined.

Commencement of voluntary winding up.

109. A voluntary winding up shall be deemed to commence at the time of the passing of the resolution authorising such winding up.

Effect of voluntary winding up on status of company.

110. Whenever a company is wound up voluntarily, the company shall, from the date of the commencement of such winding up, cease to carry on its business, except in so far as may be required for the beneficial winding up thereof, and all transfers of shares, except transfers made to or with the sanction of the liquidators, or alteration in the status of the members of the com-

pany taken place after the commencement of such winding up shall be void, but its corporate state and all its corporate powers shall, notwithstanding it is otherwise provided by its regulations, continue until the affairs of the company are wound up.

111. Notice of any special resolution, or extraordinary resolution passed for winding up a company voluntarily shall be given by advertisement in the *Royal Gazette*, and at least one other newspaper circulating in the island.

Notice of resolution to wind up voluntarily.

112. The following consequences shall ensue upon the voluntary winding up of a company :—

Consequences of voluntary winding up.

- 1.—The property of the company shall be applied in satisfaction of its liabilities, *pari passu*, and, subject thereto shall, unless it be otherwise provided by the regulations of the company, be distributed amongst the members according to their rights and interests in the company.
- 2.—Liquidators shall be appointed for the purpose of winding up the affairs of the company and distributing the property :
- 3.—The company, in general meeting, shall appoint such persons or person as it thinks fit to be liquidators or a liquidator, and may fix the remuneration to be paid to them or him :
- 4.—If one person only is appointed, all the provisions herein contained in reference to several liquidators shall apply to him :
- 5.—Upon the appointment of liquidators all the powers of the directors shall cease, except in so far as the company in general meeting, or the liquidators may sanction the continuance of such powers :
- 6.—When several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or in default of such determination by any number not less than two :
- 7.—The liquidators may, without the sanction of the Court, exercise all powers by this Ordinance given to the official liquidator :

8.—The liquidators may exercise the powers hereinbefore given to the Court of settling the list of contributories of the company, and any list so settled, shall be *prima facie* evidence of the liability of the persons named therein to be contributories :

9.—The liquidators may, at any time after the passing of the resolution for winding up the company, and before they have ascertained the sufficiency of the assets of the company, call on all or any of the contributories for the time being settled on the list of the contributories to the extent of their liability to pay all or any sums they deem necessary to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves ; and the liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may, partly or wholly, fail to pay their respective portions of the same :

10.—The liquidators shall pay the debts of the company, and adjust the rights of the contributories amongst themselves.

Power of company to delegate authority to appoint liquidators.

113. A company about to be wound up voluntarily, or in the course of being wound up voluntarily, may, by an extraordinary resolution, delegate to its creditors, or to any committee of its creditors, the power of appointing liquidators, or any of them, and supplying any vacancies in the appointment of liquidators, or may, by a like resolution enter into any arrangement with respect to the powers to be exercised by the liquidators, and the manner in which they are to be exercised, and any act done by the creditors, in pursuance of such delegated power, shall have the same effect as if it had been done by the company.

Arrangement when binding on creditors.

114. Any arrangement entered into between a company about to be wound up voluntarily, or in the course of being wound up voluntarily, and its creditors shall be binding on the company, if sanctioned by an extraordinary resolution, and on the creditors, if acceded to by three-fourths in number and value of the creditors,

subject to such right of appeal as is hereinafter mentioned.

115. Any creditor or contributory of a company that has, in manner aforesaid, entered into any arrangement with its creditors, may, within three weeks from the date of the completion of such arrangement, appeal to the Court against such arrangement, and the Court may thereupon, as it thinks just, amend, vary, or confirm the same.

Power of creditor or contributory to appeal.

116. Where a company is being wound up voluntarily, the liquidators or any contributory of the company may apply to the Court to determine any question arising in the matter of such winding up, or to exercise as respects the enforcing of calls, or in respect of any other matter, all or any of the powers which the Court might exercise if the company were being wound up by the Court: and the Court in the case aforesaid, if satisfied that the determination of such question, or the required exercise of power will be just and beneficial, may accede wholly or partially to such application on such terms and subject to such conditions as the Court thinks fit, or it may make such other order or decree on such application as the Court thinks just.

Power of liquidators or contributories in voluntary winding up, to apply to Court.

117. Where a company is 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 special resolution or extraordinary resolution or for any other purposes they think fit, and in the event of the winding up continuing for more than one year, the liquidators shall summon a general meeting of the company at the end of the first and of each succeeding year from the commencement of the winding-up, or as soon thereafter as may be convenient, and shall lay before such meeting an account showing their acts and dealings, and the manner in which the winding up has been conducted during the preceding year.

Power of liquidators to call general meeting.

118. If any vacancy occurs in the office of liquidators appointed by the company by death, resignation or otherwise, the company in general meeting may, subject to any arrangement they may have entered into with their creditors, fill up such vacancy, and a general meeting

Power to fill up vacancy in liquidators.

for the purpose of filling up such vacancy may be convened by the continuing liquidators, if any, or by any contributory of the company, and shall be deemed to have been duly held, if held in manner prescribed by the regulations of the company or in such other manner as may, on application by the continuing liquidator, if any or by any contributory of the company, be determined by the Court.

Power of Court to appoint liquidators.

**119.** If from any cause whatever there is no liquidator acting in the case of a voluntary winding up, the Court may, on the application of a contributory, appoint a liquidator or liquidators: the Court may also, on due cause shewn, remove any liquidator, and appoint another liquidator to act in the matter of a voluntary winding up.

Liquidators on conclusion of winding up to make up an account.

**120.** As soon as the affairs of the company are fully wound up the liquidators shall make up an account shewing the manner in which such winding up has been conducted, and the property of the company disposed of; and thereupon they shall call a general meeting of the company for the purpose of having the account laid before them, and hearing any explanation that may be given by the liquidators: the meeting shall be called by advertisement specifying the time, place, and object of such meeting and such advertisement shall be published one month at least previously to the meeting, in the *Royal Gazette*, and at least one other newspaper circulating in the Island.

Liquidators to report meeting to Registrar General.

**121.** The liquidators shall make a return to the Registrar General of such meeting having been held, and of the date at which the same was held, and on the expiration of three months from the date of the registration of such return, the company shall be deemed to be dissolved: if the liquidators make default in making such return to the Registrar General, they shall incur a penalty not exceeding five pounds for every day during which such default continues.

Costs of voluntary winding up.

**122.** All costs, charges, and expenses properly incurred in the voluntary winding up of a company, including the remuneration of the liquidators, shall be payable out of the assets of the company in priority to all other claims.

123. The voluntary winding up of a company shall not be a bar to the right of any creditor of such company to have the same wound up by the Court, if the Court is of opinion that the rights of such creditor will be prejudiced by a voluntary winding up.

Saving of rights of creditors.

124. Where a company is in course of being wound up voluntarily and proceedings are taken for 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.

Power of court to adopt proceedings of voluntary winding up.

*Winding up subject to the Supervision of the Court.*

125. When a resolution has been passed by a company to wind up voluntarily, the Court may make an order directing 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.

Power of court, on application, to direct winding up, subject to supervision.

126. A petition, praying wholly or in part, that the voluntary winding up shall continue, but subject to the supervision of the Court, and which winding up is hereinafter referred to as a winding up subject to the supervision of the Court, shall, for the purpose of giving jurisdiction to the Court over suits and actions, be deemed to be a petition for winding up the company by the Court.

Petition for winding up, subject to supervision.

127. The Court may, in determining whether a company is to be wound up altogether by the Court, or subject to the supervision of the Court, in the appointment of liquidator or liquidators, and in all other matters relating to the winding up subject to supervision, have regard to the wishes of the creditors or contributories, as proved to it by any sufficient evidence, and may direct meetings of the creditors or contributories to be summoned, held and regulated in such manner as the Court directs for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such

Court may have regard to wishes of creditors.

meeting to the Court. In the case of creditors, regard shall be had to the value of the debts due to each creditor, and in the case of contributories, to the number of votes conferred on each contributory by the regulations of the company.

Power of court to appoint additional liquidators in winding up, subject to supervision.

**128.** Where any Order is made by the Court for a winding up subject to the supervision of the Court, the Court may, in such order or in any subsequent order, appoint any additional liquidator or liquidators: and any liquidators so appointed by the Court shall have the same powers, be subject to the same obligations, and in all respects stand in the same position as if they had been appointed by the company. The Court may from time to time, remove any liquidators so appointed by the Court, and fill up any vacancy occasioned by such removal, or by death or resignation.

Effect of order of court for winding up subject to supervision.

**129.** Where an order is made for a winding up, subject to the supervision of the Court, the liquidators appointed to conduct such winding up may, subject to any restrictions imposed by the Court, exercise all their powers, without the sanction or intervention of the Court, in the same manner as if the company were being wound up altogether voluntarily; but, save as aforesaid, any order made by the Court for a winding up, subject to the supervision of the Court, shall, for all purposes, including the staying of actions, suits, and other proceedings, be deemed to be an order of the Court for winding up the company by the Court, and shall confer full authority on the Court to make calls or to enforce calls made by the liquidators and to exercise all other powers, which it might have exercised if an order had been made for winding up the company altogether by the Court, and in the construction of the provisions, whereby the Court is empowered to direct any Act or thing to be done to, or in favour of the official liquidators, the expression official liquidators shall be deemed to mean the liquidators conducting the winding up subject to the supervision of the Court.

Appointment in certain cases of voluntary liquidators to office of official liquidators.

**130.** Where an order has been made for the winding up of a company, subject to the supervision of the Court, and such order is afterwards superseded by an order directing the company to be wound up com-

pulsorily, the Court may, in such last mentioned order, or in any subsequent order, appoint the voluntary liquidators or any of them, either provisionally or permanently, and either with or without the addition of any other persons, to be official liquidators.

*Supplemental Provisions.*

131. Where any company is being wound up by the Court or subject to the supervision of the Court, all dispositions of the property, effects, and things in action of the company, and every transfer of shares, or alteration in the status of the members of the company, made between the commencement of the winding up and the order for winding up, shall, unless the Court orders otherwise, be void.

Dispositions after the commencement of the winding up avoided.

132. Where any company is being wound up, all books, accounts, and documents of the company and of the liquidators shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

The books of the company to be evidence.

133. Where any company has been wound up under this Ordinance and is about to be dissolved, the books, accounts, and documents of the company and of the liquidators may be disposed of in the following way; that is to say, where the company has been wound up by, or subject to, the supervision of the Court, in such way as the Court directs, and where the company has been wound up voluntarily, in such way as the company by an extraordinary resolution directs; but after the lapse of five years from the date of such dissolution, no responsibility shall rest on the company, or the liquidators, or any one to whom the custody of such books, accounts, and documents has been committed, by reason of the same, or any of them, cannot be made forthcoming to any party or parties claiming to be interested therein.

As to disposal of books, accounts, and documents of the company.

134. Where an order has been made for winding up a company by the Court, or subject to the supervision of the Court, the Court may make such order for the inspection by the creditors and contributories of the

Inspection of books.

company of its books and papers as the court thinks just, and any books and papers in the possession of the company may be inspected by creditors and contributories in conformity with the order of the Court but not further or otherwise.

Power of assignee to sue.

**135.** Any person to whom any thing in action belonging to the company is assigned, in pursuance of this Ordinance, may bring or defend an action or suit relating to such thing in action in his own name.

Debts of all descriptions to be proved.

**136.** In the event of any company being wound up under this Ordinance, all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company, a just estimate being made, so far as is possible, of the value of all such debts or claims as may be subject to any contingency or sound only in damages, or for some other reason do not bear a certain value.

General scheme of liquidation may be sanctioned.

**137.** The liquidators may, with the sanction of the Court, where the company is being wound up by the Court, or subject to the supervision of the Court and with the sanction of an extraordinary resolution of the company, where the company is being wound up altogether voluntarily, pay any classes of creditors in full, or make such compromise or other arrangement as the liquidators may deem expedient with creditors or persons claiming to be creditors, or persons having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages against the company, or whereby the company may be rendered liable.

Power to compromise.

**138.** The liquidators may, with the sanction of the Court, where the company is being wound up by the Court, or subject to the supervision of the Court and with the sanction of an extraordinary resolution of the company, where the company is being wound up altogether voluntarily, compromise all calls and liabilities capable of resulting in debts, and all claims, whether present or future, certain or contingent, ascertained, or sounding only in damages subsisting or supposed to subsist between the company and any contributory, or

alleged contributory, or other debtor or person apprehending liability to the company, and all questions in any way relating to, or affecting the assets of the company, or the winding up of the company, upon the receipt of such sums payable at such times, and generally upon such terms as may be agreed upon, with power for the liquidators to take any security for the discharge of such debts or liabilities, and to give complete discharges in respect of all or any such calls, debts or liabilities.

139. Where any company is proposed to be, or is in the course of being wound up altogether voluntarily, and the whole or a portion of its business or property is proposed to be transferred or sold to another company, the liquidators of the first mentioned company may, with the sanction of a special resolution of the company, by whom they were appointed, conferring either a general authority on the liquidators, or an authority in respect of any particular arrangement, received in compensation or part compensation for such transfer or sale, shares, policies or other like interests in such other company, for the purpose of distribution amongst the members of the company being wound up, or may enter into any other arrangement, whereby the members of the company being wound up may, in lieu of receiving cash, shares, policies, or other like interests, 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 members of the company being wound up; subject to this proviso, that if any member of the company being wound up who has not voted in favour of the special resolution passed by the company, of which he is a member, 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 meeting at which such special resolution was passed, such dissentient member may require the liquidators to do one of the following things, as the liquidators may prefer; that is to say, either to abstain from carrying such resolution into effect, or to purchase the interest held by

Power for liquidators to accept shares, &c., as a consideration for sale of property of company.

such dissentient member at a price to be determined in manner hereinafter mentioned, 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: No special resolution shall be deemed invalid for the purpose of this section by reason that it is passed antecedently to, or concurrently with, any resolution for winding up the company or for appointing liquidators; but if an order be made within a year for winding up the company by, or subject to the supervision of the Court, such resolution shall not be of any validity, unless it is sanctioned by the Court.

Mode of determining price.

140. The price to be paid for the purchase of the interest of any dissentient member may be determined by agreement, but if the parties dispute about the same, such dispute shall be settled by arbitration.

Certain attachments, sequestrations and executions to be void.

141. Where any company is being wound up by the Court, or subject to the supervision of the Court, any attachment, sequestration, distress or execution put in force against the estate or effects of the Company, after the commencement of the winding up shall be void to all intents.

Fraudulent preference.

142. Any such conveyance, mortgage, delivery of goods, payment, execution, or other Act relating to property as would, if made or done by or against any individual trader, be deemed in the event of his insolvency to have been made or done by way of undue or fraudulent preference of the creditors of such trader, shall, if made or done by or against any company, be deemed, in the event of such Company being wound up under this Ordinance, to have been made or done by way of undue or fraudulent preference of the creditors of such company, and shall be invalid accordingly; and any conveyance or assignment made by any company formed under this Ordinance of all estate and effects to trustees for the benefit of all its creditors shall be void to all intents.

Power of court to assess damages against delinquent directors and officers.

143. Where, in the course of the winding up of any company under this Ordinance, it appears that any past or present director, manager, or official or other liquidator, or any officer of such company has misapplied or retained in his own hands, or become liable or account-

able for any moneys 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, or of any creditor or contributor of the company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such director, manager or other officer, and compel him to repay any moneys 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 sum 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.

144. If any director, officer, or contributory of any company wound up under this Ordinance, destroys, mutilates, alters, or falsifies any books, papers, writings or securities, or makes, or is privy to the making of any false or fraudulent entry in any register, book of account, or other document belonging to the company, with intent to defraud or deceive any person, every person so offending shall be deemed to be guilty of a misdemeanor, and upon being convicted, shall be liable to imprisonment for any term not exceeding two years, with or without hard labour.

Penalty on  
falsification  
of books.

145. Where any order is made for winding up a company by the Court, or subject to the supervision of the Court, if it appear, in the course of such winding up, that any past or present director, manager, officer, or member of such company has been guilty of any offence in relation to the company, for which he is criminally responsible, the Court may, on the application of any person interested in such winding up, or of its own motion, direct the official liquidators or the liquidator (as the case may be) to institute and conduct a prosecution or prosecutions for such offence, and may order the costs and expenses to be paid out of the assets of the company.

Prosecution of  
delinquent  
directors in  
the case of  
winding up  
by court.

146. Where a company is being wound up altogether voluntarily, if it appear to the liquidators conducting such winding up that any past or present director, manager, officer, or member of such company has been

Prosecution of  
delinquent  
directors, &c.  
in case of  
voluntary  
winding up.

guilty of any offence in relation to the company for which he is criminally responsible, it shall be lawful for the liquidators, with the previous sanction of the Court, to prosecute such offender, and all expenses properly incurred by them in such prosecution shall be payable out of the assets of the company in priority to all other liabilities.

Penalty of perjury.

148. If any person, upon any examination upon oath or affirmation authorised under this Ordinance, or in any affidavit, deposition or solemn affirmation in or about the winding up of any company under this Ordinance, or otherwise in or about any matter arising under this Ordinance, wilfully and corruptly gives false evidence, he shall upon conviction, be liable to the penalties of wilful perjury.

Passed in Council this nineteenth day of January, in the year of our Lord one thousand eight hundred and sixty-nine.

A. C. ROSS,  
*Acting Clerk of Council.*

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## FIRST SCHEDULE.

### TABLE A.

#### REGULATIONS FOR MANAGEMENT.

##### *Shares.*

1. If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

2. Every member shall, on payment of one shilling, or such less sum as the company in general meeting may prescribe, be entitled to a certificate under the common seal of the company, specifying the share or shares held by him, and the amount paid up thereon.

3. If such certificate is worn out or lost, it may be renewed on payment of one shilling, or such less sum as the company in general meeting may prescribe.

##### *Calls on Shares.*

4. The directors may, from time to time, make such calls upon the members in respect of all moneys unpaid on their shares as they

think fit, provided that twenty-one days' notice, at least, is given of each call, and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the directors.

5. A call shall be deemed to have been made at the time when the resolution of the directors authorising such call was passed.

6. If the call payable in respect of any share is not paid before or on the day appointed for payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at the rate of eight pounds per centum per annum from the day appointed for the payment thereof to the time of the actual payment.

7. The directors may, if they think fit, receive from any member, willing to advance the same, all or any part of the moneys due upon the shares held by him beyond the sums actually called for; and upon the moneys so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the company may pay interest at such rate as the member paying such sum in advance and the directors agree upon.

#### *Transfers of Shares.*

8. The instrument of transfer of any share in the company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the register book in respect thereof.

9. Shares in the company shall be transferred in the following form:--

I, A.B., of \_\_\_\_\_ in consideration of the sum of \_\_\_\_\_ pounds paid to me by C.D., of \_\_\_\_\_, do hereby transfer to the said C.D. the share (or shares) numbered \_\_\_\_\_ standing in my name in the books of the \_\_\_\_\_ company, limited, to hold unto the said C.D., his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution hereof, and I, the said C.D., do hereby agree to take the said share (or shares) subject to the same conditions.

As WITNESS our hands the \_\_\_\_\_ day of \_\_\_\_\_

*(And the signature of the transferor or transferee to such transfer shall be attested by one or more witness or witnesses.)*

10. The company may decline to register any transfer of shares made by a member who is indebted to them.

11. The transfer book shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

#### *Transmission of Shares.*

12. The executors or administrators of a deceased member shall be the only persons recognised by the company as having any title to his share.

13. Any person becoming entitled to a share in consequence of the death, bankruptcy, or insolvency of any member, or in consequence of the marriage of any female member, may be registered as a member upon such evidence being produced as may from time to time be required by the company.

14. Any person who has become entitled to a share in consequence of the death, bankruptcy, or insolvency of any member or in consequence of the marriage of any female member, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such share.

15. The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

16. The instrument of transfer shall be presented to the company, accompanied with such evidence as the directors may require to prove the title of the transferor, and thereupon the company shall register the transferee as a member.

#### *Forfeitures of Shares.*

17. If any member fails to pay any call on the day appointed for payment thereof, the directors may at any time thereafter, during such time as the call remains unpaid, serve a notice on him, requiring him to pay such call together with interest and any expenses that may have accrued by reason of such non-payment.

18. The notice shall name a further day, on or before which such call and all interest and expenses that have accrued by reason of such non-payment, are to be paid. It shall also name the place where payment is to be made (the place so named being either the registered office of the company or some other place at which calls of the company are usually made payable.) The notice shall also state, that, in the event of non-payment at or before the time and at the place appointed, the shares in respect of which such call was made will be liable to be forfeited.

19. If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may, at any time thereafter, before payment of all calls, interest, and expenses due in respect thereof has been made, be forfeited by a resolution of the directors to that effect.

20. Any share so forfeited shall be deemed to be the property of the company, and may be disposed of in such manner as the company in general meeting thinks fit.

21. Any member, whose shares have been forfeited, shall, notwithstanding, be liable to pay to the company all calls owing upon such shares at the time of the forfeiture.

22. A declaration in writing made before any judge of the Supreme Civil Court or before any Stipendiary Justice, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was made by a resolution of the directors to that effect,

shall be sufficient evidence of the facts therein stated as against all persons entitled to such share, and such declaration and the receipt of the company for the price of such share shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to a purchaser; and thereupon he shall be deemed the holder of such share, discharged from all calls due prior to such purchase and he shall not be bound to see to the application of the purchase money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

*Conversion of Shares into Stock.*

23. The Directors may, with the sanction of the company previously given in general meeting, convert any paid up shares into stock.

24. When any shares have been converted into stock, the several holders of such stock may thenceforth transfer their respective interests therein, or any part of such interests in the same manner and subject to the same regulations as, and subject to which, any shares in the capital of the company may be transferred, or as near thereto as circumstances admit.

25. The several holders of stock shall be entitled to participate in the dividends and profits of the company, according to the amount of their respective interests in such stock, and such interests shall in proportion to the amount thereof confer on the holders thereof respectively the same privileges and advantages for the purpose of voting at meetings of the company and for other purposes as would have been conferred by shares of equal amount in the capital of the company; but so that none of such privileges or advantages, except the participation in the dividends and profits of the company, shall be conferred by any such aliquot part of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages.

*Increase in Capital.*

26. The directors may, with the sanction of a special resolution of the company previously given in general meeting, 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 the company in general meeting directs, or, if no direction is given, as the directors think expedient.

27. Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member is entitled, and limiting a time, within which the offer, if not accepted, will be deemed to be declined, and after the expiration of such time on the receipt of an intimation from the member, to whom such notice is

given, that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company.

28. 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, and the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

#### *General Meetings.*

29. The first general meeting shall be held at such time, not being more than six months after the registration of the company, and at such place as the directors may determine.

30. Subsequent general meetings shall be held at such time and place as may be prescribed by the company in general meeting, and if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year at such place as may be determined by the directors.

31. The above mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

32. The directors may, whenever they think fit, and they shall, upon a requisition made in writing by not less than one fifth in number of the members of the company, convene an extraordinary general meeting.

33. Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered office of the company.

34. Upon the receipt of such requisition the directors shall forthwith proceed to convene an extraordinary general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitioner or any other members amounting to the required number, may themselves convene an extraordinary general meeting.

#### *Proceedings at General Meetings.*

35. Seven days notice at least, specifying the place, the day, and the hour of meeting, and in case of special business, the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company, in general meeting, but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

36. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend and the consideration of the accounts, balance sheets, and the ordinary report of the directors.

37. No business shall be transacted at any general meeting, except the declaration of a dividend, unless a quorum of members is present at the time when the meeting proceeds to business; and such quorum shall be ascertained as follows:—that is to say, if the persons who have taken shares in the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after every fifty, with this limitation that no quorum shall in any case exceed twenty.

38. If within one hour from the time appointed for the meeting, a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved: In any other case it shall stand adjourned to the same day in the next week at the same time and place, and if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die*.

39. The chairman (if any) of the board of directors shall preside as chairman at every general meeting of the company.

40. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose some one of their number to be chairman.

41. The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

42. At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman, that a resolution has been carried, and an entry to that effect in the book of proceedings of the company, shall be sufficient evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

43. If a poll is demanded by five or more members, it shall be taken in such manner as the chairman directs, and the result of such poll shall be deemed to be the resolution of the company in general meeting. In the case of an equality of votes at any general meeting, the chairman shall be entitled to a second or casting vote.

#### *Votes of Members.*

44. Every member shall have one vote for every share up to ten: He shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares beyond the first hundred shares.

45. If any member is a lunatic or idiot, he may vote by his committee.

46. If two or more persons are jointly entitled to a share or shares, the member whose name stands first in the register of members as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

47. No member shall be entitled to vote at any general meeting unless all calls due from him have been paid, and no member shall be entitled to vote in respect of any share that he has acquired by transfer at any meeting held after the expiration of three months from the registration of the company, unless he has been possessed of the share in respect of which he claims to vote for at least three months previously to the time of holding the meeting at which he proposes to vote.

48. Votes may be given either personally or by proxy.

49. The instrument appointing a proxy shall be in writing, under the hand of the appointer, or if such appointer is a corporation, under their common seal, and shall be attested by one or more witness or witnesses: No person shall be appointed a proxy who is not a member of the company.

50. The instrument appointing a proxy, shall be deposited at the registered office of the company, not less than seventy-two hours before the time for holding the meeting at which the person named in such instrument proposes to vote, but no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

51. Any instrument appointing a proxy shall be in the following form:—

*Company Limited.*

I, \_\_\_\_\_ of \_\_\_\_\_ in the \_\_\_\_\_ of \_\_\_\_\_ being a member of the \_\_\_\_\_ company limited, and entitled to \_\_\_\_\_ vote or votes, hereby appoint \_\_\_\_\_ of \_\_\_\_\_ as my proxy, to vote for me and on my behalf at the ordinary (or extraordinary as the case may be) general meeting of the company to be held on the \_\_\_\_\_ day of \_\_\_\_\_ and at any adjournment thereof (or, at any meeting of the company that may be held in the year \_\_\_\_\_) )  
As WITNESS my hand this \_\_\_\_\_ day of \_\_\_\_\_  
Signed by the said \_\_\_\_\_ in the presence of \_\_\_\_\_

*Directors.*

52. The number of the directors, and the names of the first directors, shall be determined by the subscribers of the memorandum of association.

53. Until directors are appointed, the subscribers of the memorandum of association shall be deemed to directors.

54. The future remuneration of the directors, and their remuneration for services performed previously to the first general meeting, shall be determined by the company in general meeting.

*Powers of Directors.*

55. The business of the company shall be managed by the directors who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company, as are not by the foregoing ordinance or by these articles required to be exercised by the company in general.

meeting, subject nevertheless to any regulations of these articles, to the provisions of the foregoing Ordinance, and such regulations, being not consistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting, but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

56. The continuing directors may act notwithstanding any vacancy in their body.

*Disqualification of Directors.*

57: The office of director shall be vacated if he holds any other office or place of profit under the company.

If he becomes bankrupt or insolvent.

If he is concerned in or participates in the profits of any contract with the company.

But the above rules shall be subject to the following exceptions—

That no director shall vacate his office by reason of his being a member of any company which has entered into contracts with, or done any work for the company of which he is director; nevertheless he shall not vote in respect of such contract or work, and if he does so vote, his vote shall not be counted.

*Rotation of Directors.*

58. At the first ordinary meeting after the registration of the company the whole of the directors shall retire from office; and at the first ordinary meeting in every subsequent year one third of the directors for the time being, or if their number is not a multiple of three then the number nearest to one-third, shall retire from office.

59. The one-third or other nearest number to retire during the first and second years ensuing the first ordinary meeting of the company shall, unless the directors agree among themselves, be determined by ballot. In every subsequent year the one-third or other nearest number who have been longest in office shall retire.

60. A retiring director shall be re-eligible.

61. The company at the general meeting at which any directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

62. If at any meeting at which an election of directors ought to take place, the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week, at the same time and place, and if at such adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall continue in office until the ordinary meeting in the next year, and so on from time to time until their places are filled up.

63. The company may, from time to time, in general meeting, increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

64. Any casual vacancy occurring in the board of directors may be filled up by the directors; but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

65. The company, in general meeting may, by a special resolution, remove any director before the expiration of his period of office, and may, by an ordinary resolution, appoint another person in his stead; the person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

*Proceedings of Directors.*

66. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business: Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote: a director may, at any time, summon a meeting of the directors.

67. The directors may elect a chairman of their meetings, and determine the period for which he is to hold office, but if no such chairman is elected, or if at any meeting the chairman is not present at the time appointed for holding the same, the directors present shall choose some one of their number to be chairman of such meeting.

68. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the directors.

69. A committee may elect a chairman of their meetings: if no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

70. A committee may meet and adjourn as they think proper: Questions arising at any meeting shall be determined by a majority of votes of the members present; and in case of an equality of votes the chairman shall have a second or casting vote.

71. All acts done by any meeting of the directors, or of a committee of directors or by any person acting as a director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

*Dividends.*

72. The directors may, with the sanction of the company in general meeting, declare a dividend to be paid to the members in proportion to their shares.

73. No dividend shall be payable except out of the profits arising from the business of the company.

74. The directors may, before recommending any dividend, set aside out of the profits of the company such sum as they think proper as a reserve fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the company or any part thereof; and the directors may invest the sum so set apart as a reserve fund upon such securities as they may select.

75. The directors may deduct from the dividends payable to any member all such sums of money as may be due from him to the company on account of calls or otherwise.

76. Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned; and all dividends unclaimed for three years after having been declared may be forfeited by the directors for the benefit of the company.

77. No dividend shall bear interest as against the company.

*Accounts.*

78. The directors shall cause true accounts to be kept

Of the stock-in-trade of the company :

Of the sums of money received and expended by the company, and the matter in respect of which such receipt and expenditure take place ; and

Of the credits and liabilities of the company :

The books of account shall be kept at the registered office of the company, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the company in general meeting, shall be opened to the inspection of the members during the hours of business.

79. Once at the least in every year, the directors shall lay before the company in general meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

80. The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expense of the establishment, salaries, and other like matters ; every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting ; and in cases where any item of expenditure, which may, in fairness, be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

81. A balance-sheet shall be made out in every year, and laid before the company in general meeting, and such balance-sheet shall contain a summary of the property and liabilities of the company arranged under the heads appearing in the form annexed to this table, or as near thereto as circumstances admit.

82. A printed copy of such balance-sheet shall, seven days previously to such meeting, be served on every member in the manner in which notices are hereinafter directed to be served.

*Audit.*

83. Once at the least in every year the accounts of the company shall be examined, and the correctness of the balance-sheet ascertained, by one or more auditor or auditors.

84. The first auditors shall be appointed by the directors; subsequent auditors shall be appointed by the company in general meeting.

85. If one auditor only is appointed, all the provisions herein contained relating to auditors shall apply to him.

86. The auditors may be members of the company, but no person shall be eligible as an auditor who is interested otherwise than as a member in any transaction of the company: And no director or other officer of the company shall be eligible during his continuance in office.

87. The election of auditors shall be made by the company at their ordinary meeting in each year.

88. The remuneration of the first auditors shall be fixed by the directors; that of subsequent auditors shall be fixed by the company in general meeting.

89. Any auditor shall be re-eligible on his quitting office.

90. If any casual vacancy occurs in the office of any auditor appointed by the company, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

91. If no election of auditors is made in manner aforesaid the governor may, on the application of not less than five members of the company, appoint an auditor for the current year and fix the remuneration to be paid to him by the company for his services.

92. Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

93. Every auditor shall have a list delivered to him of all books kept by the company and shall, at all reasonable times, have access to the books and accounts of the company. He may at the expense of the company employ accountants or other persons to assist him in investigating such accounts, and he may in relation to such accounts examine the Directors or any other officer of the company.

94. The auditors shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether in their opinion the balance-sheet is a full and fair

balance-sheet containing the particulars required by these regulations, and properly drawn up so as to exhibit a true and correct view of the state of the company's affairs, and in case they have called for explanations or information from the directors, whether such explanations or information have been given by the directors, and whether they have been satisfactory, and such report shall be read, together with the report of the directors, at the ordinary meeting.

*Notices.*

95. A notice may be served by the company upon any member either personally, or by sending it through the post in a prepaid letter addressed to such member at his registered place of abode.

96. All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the register of members; and notice so given shall be sufficient notice to all the holders of such shares.

97. Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

TABLE B.

TABLE OF FEES TO BE PAID TO THE REGISTRAR GENERAL.

	£	s.	d.
For registration of a company whose nominal capital does not exceed £2,000, a fee of . . . . .	2	0	0
For registration of a company whose nominal capital exceeds £2,000, the above fee of £2, with the following additional fees regulated according to the amount of nominal capital (that is to say)—			
For every £1,000 of nominal capital or part of £1,000 after the first £2,000 up to £5,000 . . . . .	1	0	0
For every £1,000 of nominal capital or part of £1,000 after the first £5,000 up to £100,000 . . . . .	0	5	0
For every £1,000 of nominal capital or part of £1,000 after the first £100,000 . . . . .	0	1	0
For registration of any increase of capital made after the first registration of the company, the same fees per £1,000, or part of a £1,000 as would have been payable if such increased capital had formed part of the original capital at the time of registration			
For registering any document hereby required or authorised to be registered, other than the memorandum of association . . . . .	0	5	0
For making a record of any fact hereby authorised or required to be recorded by the Registrar General a fee of . . . . .	0	5	0

*Dr.*                      *BALANCE SHEET of the***CAPITAL AND LIABILITIES.**

		£	s.	d.	£	s.	d.
		SHOWING :—					
I. Capital.	1	The number of shares	...	...			
	2	The amount paid per share	...	...			
	3	If any arrears of calls, the nature of arrears and the names of the defaulters					
	4	The particulars of any forfeited shares					
		SHOWING ;—					
II. Debts and liabilities of the company.	5	The amount of loans and mortgages or debenture bonds	...	...			
	6	The amount of debts owing by the company distinguishing—					
		(a) Debts for which acceptances have been given	...	...	...		
		(b) Debts to tradesmen for supplies of stock-in-trade or other articles					
		(c) Debts for law expenses	...	...			
		(d) Debts for interest on debentures or other loans	...	...	...		
		(e) Unclaimed dividends	...	...			
	(f) Debts not enumerated above	...	...				
		SHOWING :—					
VI. Reserve fund.		The amount set aside from profits to meet contingencies	...	...			
		SHOWING :—					
VII. Profit and loss.		The disposable balance for payment of dividend, &c.	...	...	...		
Contingent liabilities.		Claims against the company not acknowledged as debts	...	...			
		Moneys for which the company is contingently liable	...	...			

PROPERTY AND ASSETS.

		£	s.	d.	£	s.	d.
		SHOWING :—					
III. Property held by the company.	7	Immovable property distinguishing—					
		(a) Freehold land ... ..					
		(b) „ buildings ... ..					
		(c) Leasehold... ..					
	8	Moveable property distinguishing—					
	(d) Stock-in-trade ... ..						
	(e) Plant ... ..						
		The cost to be stated with deductions for deterioration in value as charged to the reserve fund or profit and loss.					
		SHOWING :—					
IV. Debts owing to the company.	9	Debts considered good for which the company hold bills or other securities ... ..					
	10	Debts considered good for which the company hold no security ...					
	11	Debts considered doubtful and bad ...					
		Any debt due from a director or other officer of the company to be separately stated.					
		SHOWING :—					
V. Cash and investment.	12	The nature of investment and rate of interest... ..					
	13	The amount of cash, where lodged and if bearing interest ... ..					
		— — — — —					



MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED.

- 1st. The name of the company is the \_\_\_\_\_ company limited.
- 2nd. The registered office of the company will be situate in \_\_\_\_\_
- 3rd. The objects for which the company is established are \_\_\_\_\_ and the doing all such other things as are incidental or conducive to the attainment of the above objects.
- 4th. The liability of the members is limited.
- 5th. The capital of the company is \_\_\_\_\_ Pounds divided into \_\_\_\_\_ shares of \_\_\_\_\_ pounds each.

We, the several persons, whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectfully agree to take the number of shares in the capital of the company set opposite to our respective names.

Names, Addresses and Descriptions of Subscribers.	Number of shares taken by each Subscriber.
1. John Jones of _____ in the _____ of _____ Merchant	200
2. John Smith of _____ in the _____ of _____ "	25
3. Thomas Green of _____ in the _____ of _____ "	30
4. John Thompson of _____ in the _____ of _____ "	40
5. Caleb White of _____ in the _____ of _____ "	15
6. Andrew Brown of _____ in the _____ of _____ "	5
7. Cæsar White of _____ in the _____ of _____ "	10
Total shares taken      ...      ...      ...	325

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 186 \_\_\_\_\_

Witness to the above Signatures  
 A. B., No. \_\_\_\_\_ Street,  
 Port of Spain, Trinidad.