

COMPANIES (RECEIVER AND MANAGER) BILL.

*Schedule of the Amendment referred to in Legislative Council's
Message of 24 September, 1959.*

Page 7, Schedule, lines 1 to 10 inclusive. *Omit* Schedule and *insert* new Schedule to read as follows:—

"THE SCHEDULE.

First Part—Companies:

**Munro & Munro Pty. Limited.
The Cheque Guarantee Company Pty. Limited.
The Gale Corporation Pty. Limited.
Linden Investments Pty. Limited.
G. & G. Engineering Services Pty. Limited.**

Second Part—Firms:

**Sydney Commercial Account Collections.
ESTIBA."**

THE HISTORY OF THE

REPUBLIC OF THE UNITED STATES OF AMERICA

FROM THE FIRST SETTLEMENTS TO THE PRESENT TIME

BY JAMES M. SMITH

IN TWO VOLUMES

VOLUME I

FROM THE FIRST SETTLEMENTS

TO THE PRESENT TIME

NEW YORK: PUBLISHED BY

JOHN W. SMITH

1850

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This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 23 September, 1959.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with
an Amendment.*

J. R. STEVENSON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 24 September, 1959.*

New South Wales



ANNO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. , 1959.

An Act to make provision for the appointment of a receiver and manager of certain companies and firms and for matters arising therefrom; to amend the Companies Act, 1936, as amended by subsequent Acts, in certain respects; and for purposes connected therewith.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Companies (Receiver and Manager) Act, 1959".

Short title
and com-
mencement.

80459

70—

(2)

NOTE.—The words to be *omitted* are ruled through; those to be *inserted* are printed in **black letter**.

Companies (Receiver and Manager).

(2) This Act shall be deemed to have commenced on the seventh day of September, one thousand nine hundred and fifty-nine.

2. In this Act unless the context or subject matter Definitions.
5 otherwise indicates or requires—

“Court” means the Supreme Court in its Equitable Jurisdiction.

“Judge” means Judge of the Supreme Court.

“Companies” means companies to which this Act applies.

10 “Firms” means firms to which this Act applies.

“Regulations” means regulations made under this Act.

3. (1) The provisions of this Act shall apply to and in Application
respect of— of Act.

15 (a) companies and firms the names of which appear in the Schedule to this Act; and

(b) companies which the Governor pursuant to subsection two of this section declares to be companies to which this Act applies; and

20 (c) firms which the Governor pursuant to that subsection declares to be firms to which this Act applies.

(2) The Governor may by notice in the Gazette from time to time declare that this Act shall apply to any company specified in the notice of which Kevin Richard Gale is a director or to any firm specified in the notice of which Kevin
25 Richard Gale is a partner.

4. (1) The Governor may from time to time by notice in the Gazette appoint a receiver and manager of each of the companies and firms and may from time to time remove or suspend the person so appointed and appoint permanently
30 or temporarily, as the case may require, another person in his stead or in the place of any deceased, sick or absent holder of such appointment.

Appoint-
ment of
receiver and
manager.

(2)

Companies (Receiver and Manager).

(2) The first appointment under this section shall take effect as on and from the seventh day of September, one thousand nine hundred and fifty-nine.

5 5. The receiver and manager so appointed shall be the agent of the said companies and firms of which he is appointed receiver and manager and of each of them and shall have power—

Powers of receiver and manager.

- (a) to take possession of, collect, and get in the assets of the companies and firms and each of them;
- 10 (b) to carry on or concur in carrying on the business of any of the companies and firms;
- (c) to take any proceedings in the name of the companies and firms or any of them or otherwise;
- 15 (d) to defend in the name of the companies and firms or any of them or otherwise any proceedings that may be brought against the companies and firms or any of them or against himself;
- (e) to take possession of, collect, hold and dispose of all books, papers, documents, records and securities relating to or in the possession or under the control of any of the companies or firms that should be in such possession or under such control;
- 20 (f) to exercise any of the powers or rights of the directors of any of the companies or firms or the powers or rights of any of the companies or firms;
- 25 (g) to exercise such other powers as may be prescribed by the regulations.

6. (1) The receiver and manager may apply by summons to the Court to determine any question relating to the companies or firms or any of them.

Application to Court.

(2) Every such determination shall be binding on the receiver and manager and on such of the companies or firms and other persons as shall or may be affected thereby, including all persons interested in the companies or firms.

(3)

Companies (Receiver and Manager).

(3) The Court or a Judge may give directions at any time for service of the said summons or of the said determination on any person or persons or class of persons.

7. No action, suit, execution, or proceeding shall be commenced or proceeded with against the said companies or firms or any of them save and except a suit or proceeding by a person claiming to rescind a contract with any of the companies or firms on the ground of fraud or misrepresentation to the extent only of a judgment order or declaration rescinding such contract.

Stay of proceedings.

8. Neither the receiver and manager nor any of his officers, servants, or agents shall be liable to any person for any act or thing done or omitted to be done in the exercise or purported exercise of any of the powers conferred by or under this Act or for or in respect of any of the liabilities of any of the companies or firms.

Exemption from liability of receiver and manager.

9. (1) Any person who, with intent to delay or obstruct the carrying out by the receiver and manager of any of his powers or functions under this Act destroys or alters or withholds from the receiver and manager (whether demand has been made therefor or not) any of the assets of any of the companies or firms or any book, paper, document, record or security relating to, or in the possession or under the control of, any of the companies or firms, or sends, or attempts to send, or conspires with any other person to send, out of New South Wales any such asset, book, paper, document, record or security shall be guilty of an indictable offence and shall be liable to be imprisoned for a period not exceeding five years.

Delaying and obstructing receiver and manager.

(2) If in any prosecution for an offence against this section, it is proved that the person charged with the offence has destroyed or altered or withheld from the receiver and manager any of the assets of any of the companies or firms or any book, paper, document, record or security in the possession

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5 he has not acted in contravention of this section shall be upon him.

10. (1) The receiver and manager appointed in respect of any company shall notify the Registrar General of his appointment as receiver and manager and of the termination
10 of his appointment. Application of the Companies Act.

(2) Notwithstanding anything in the Companies Act, 1936, as amended by subsequent Acts, it shall not be obligatory on the receiver and manager to furnish in respect of any company any annual or other return required by that Act.

11. All costs charges and expenses properly incurred by the receiver and manager in the exercise of his powers and functions under this Act shall be payable out of the assets of the companies and firms or if those assets are insufficient to meet such costs charges and expenses the amount of the
15 insufficiency shall be payable out of the Consolidated Revenue Fund. Expenses of administration.

12. (1) The receiver and manager shall in respect of the operation of this Act furnish from time to time such information and make such reports to the Attorney General as the
25 receiver and manager may think desirable or as the Attorney General may require. Reports.

(2) Where in any such report the receiver and manager recommends that any company should be wound up the Governor may by proclamation published in the
30 Gazette order that the company be wound up by the Court.

The Governor may appoint any fit and proper person to be liquidator of the company so ordered to be wound up.

Any

Companies (Receiver and Manager).

Any company so ordered to be wound up shall, as from the date specified in such proclamation, be wound up by the Court as if an order to that effect were on such date made by the Court under the provisions of Division 2 of Part X
5 of the Companies Act, 1936, as amended by subsequent Acts, and by such order the person appointed by the Governor to be liquidator of that company were appointed the sole liquidator thereof.

The commencement of the winding-up of such company
10 shall be the date stated in that behalf in the proclamation.

13. (1) The Governor may make regulations Regulations.
prescribing—

- 15 (a) the powers that may be exercised by the receiver and manager under this Act, whether ordinarily exercisable by a receiver and manager or not;
- (b) the mode of service of any summons, determination, order, or direction of the Court or a Judge under this Act; and
- 20 (c) all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations shall—

- (a) be published in the Gazette;
- 25 (b) take effect from the date of publication, or from a later date to be specified in such regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next
30 session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, the regulation or
35 part shall thereupon cease to have effect.

THE

Companies (Receiver and Manager).

THE SCHEDULE.

First Part—Companies:

- Munro & Munro Pty. Ltd.
- Cheque Guarantee Co. Pty. Ltd.
- 5 Gale Corporation Pty. Ltd.
- Linden Investments Pty. Ltd.
- G. & G. Engineering Services Pty. Ltd.

Second Part—Firms:

- Sydney Commercial Account Collections.
- 10 ESTIBA.

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Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
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Clerk of the Parliaments.

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New South Wales



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Powers of receiver and manager.

- (a) to take possession of, collect, and get in the assets of the companies and firms and each of them;
- 10 (b) to carry on or concur in carrying on the business of any of the companies and firms;
- (c) to take any proceedings in the name of the companies and firms or any of them or otherwise;
- 15 (d) to defend in the name of the companies and firms or any of them or otherwise any proceedings that may be brought against the companies and firms or any of them or against himself;
- 20 (e) to take possession of, collect, hold and dispose of all books, papers, documents, records and securities relating to or in the possession or under the control of any of the companies or firms that should be in such possession or under such control;
- 25 (f) to exercise any of the powers or rights of the directors of any of the companies or firms or the powers or rights of any of the companies or firms;
- (g) to exercise such other powers as may be prescribed by the regulations.

6. (1) The receiver and manager may apply by summons to the Court to determine any question relating to the 30 companies or firms or any of them.

Application to Court.

(2) Every such determination shall be binding on the receiver and manager and on such of the companies or firms and other persons as shall or may be affected thereby, including all persons interested in the companies or firms.

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Companies (Receiver and Manager).

(3) The Court or a Judge may give directions at any time for service of the said summons or of the said determination on any person or persons or class of persons.

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8. Neither the receiver and manager nor any of his officers, servants, or agents shall be liable to any person for any act or thing done or omitted to be done in the exercise or purported exercise of any of the powers conferred by or under this Act or for or in respect of any of the liabilities of any of the companies or firms. Exemption from liability of receiver and manager.

9. (1) Any person who, with intent to delay or obstruct the carrying out by the receiver and manager of any of his powers or functions under this Act destroys or alters or withholds from the receiver and manager (whether demand has been made therefor or not) any of the assets of any of the companies or firms or any book, paper, document, record or security relating to, or in the possession or under the control of, any of the companies or firms, or sends, or attempts to send, or conspires with any other person to send, out of New South Wales any such asset, book, paper, document, record or security shall be guilty of an indictable offence and shall be liable to be imprisoned for a period not exceeding five years. Delaying and obstructing receiver and manager.

(2) If in any prosecution for an offence against this section, it is proved that the person charged with the offence has destroyed or altered or withheld from the receiver and manager any of the assets of any of the companies or firms or any book, paper, document, record or security in the possession

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(2) Where in any such report the receiver and manager recommends that any company should be wound up the Governor may by proclamation published in the Gazette order that the company be wound up by the Court.

The Governor may appoint any fit and proper person to be liquidator of the company so ordered to be wound up.

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Any company so ordered to be wound up shall, as from the date specified in such proclamation, be wound up by the Court as if an order to that effect were on such date made by the Court under the provisions of Division 2 of Part X of the Companies Act, 1936, as amended by subsequent Acts, and by such order the person appointed by the Governor to be liquidator of that company were appointed the sole liquidator thereof.

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This House has agreed to the Legislative Assembly
having this day passed it and ready for presentation to the Legislative
Council for its concurrence.

ALAN TINKER
Chief of the Legislative Assembly

Legislative Assembly Chamber

Session 22 September 1952

The Legislative Council has this day agreed to the Bill with
amendment.

The House has this day agreed to the Bill with

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13. (1) The Governor may make regulations prescribing—

- (a) the powers that may be exercised by the receiver and manager under this Act, whether ordinarily exercisable by a receiver and manager or not;
- (b) the mode of service of any summons, determination, order, or direction of the Court or a Judge under this Act; and
- (c) all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication, or from a later date to be specified in such regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, the regulation or part shall thereupon cease to have effect.

THE

Companies (Receiver and Manager).

THE SCHEDULE.

First Part—Companies:

- Munro & Munro Pty. Ltd.
- Cheque Guarantee Co. Pty. Ltd.
- 5 Gale Corporation Pty. Ltd.
- Linden Investments Pty. Ltd.
- G. & G. Engineering Services Pty. Ltd.

Second Part—Firms:

- Sydney Commercial Account Collections.
- 10 ESTIBA.

THE UNIVERSITY OF CHICAGO
LIBRARY
1921

THE UNIVERSITY OF CHICAGO
LIBRARY
1921

THE UNIVERSITY OF CHICAGO
LIBRARY
1921

THE UNIVERSITY OF CHICAGO
LIBRARY
1921

COMPANIES (RECEIVER AND MANAGER) BILL, 1959.

EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to provide for the appointment of a receiver and manager of the companies and firms mentioned in the Schedule to the Bill, and of certain other companies and firms if the Governor sees fit to extend the provisions of the Bill to them;
- (b) to define the powers and immunities of the receiver and manager;
- (c) to authorise the winding-up of a company to which the Bill applies if the receiver and manager ~~reports~~ *recommends* to the Attorney General that the company be wound up.

COMMITTEE ON THE JURY (1934)

REPORT

The Committee on the Jury, created by the National Conference on the Jury in 1934, has the honor to submit to the American Bar Association its report on the work of the Committee during the past year. The Committee has been very fortunate in having secured the cooperation of many of the leading jurists of the country, and in having held numerous public hearings and conferences with judges, lawyers, and laymen. The Committee has also conducted extensive research into the various problems connected with the jury system, and has endeavored to formulate such recommendations as may be necessary to secure the most efficient and economical operation of the jury system.

The Committee has found that the jury system is one of the most important and valuable features of our government, and that it is essential to the proper functioning of the courts. It has also found that there are many serious defects in the present jury system, and that these defects must be corrected if the jury system is to continue to function as a part of our government. The Committee has endeavored to identify these defects, and to propose such reforms as may be necessary to correct them. These reforms are set forth in the following report.

1935

PROOF.

No. , 1959.

A BILL

To make provision for the appointment of a receiver and manager of certain companies and firms and for matters arising therefrom; to amend the Companies Act, 1936, as amended by subsequent Acts, in certain respects; and for purposes connected therewith.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Companies (Receiver and Manager) Act, 1959".

Short title
and com-
mencement.

Companies (Receiver and Manager).

(2) This Act shall be deemed to have commenced on the seventh day of September, one thousand nine hundred and fifty-nine.

2. In this Act unless the context or subject matter Definitions.
5 otherwise indicates or requires—

“Court” means the Supreme Court in its Equitable Jurisdiction.

“Judge” means Judge of the Supreme Court.

“Companies” means companies to which this Act applies.

10 “Firms” means firms to which this Act applies.

“Regulations” means regulations made under this Act.

3. (1) The provisions of this Act shall apply to and in Application
respect of— of Act.

15 (a) companies and firms the names of which appear in the Schedule to this Act; and

(b) companies which the Governor pursuant to subsection two of this section declares to be companies to which this Act applies; and

20 (c) firms which the Governor pursuant to that subsection declares to be firms to which this Act applies.

(2) The Governor may by notice in the Gazette from time to time declare that this Act shall apply to any company specified in the notice of which Kevin Richard Gale is a director or to any firm specified in the notice of which Kevin
25 Richard Gale is a partner.

4. (1) The Governor may from time to time by notice in the Gazette appoint a receiver and manager of each of the companies and firms and may from time to time remove or suspend the person so appointed and appoint permanently
30 or temporarily, as the case may require, another person in his stead or in the place of any deceased, sick or absent holder of such appointment.

Appoint-
ment of
receiver and
manager.

(2)

Companies (Receiver and Manager).

(2) The first appointment under this section shall take effect as on and from the seventh day of September, one thousand nine hundred and fifty-nine.

5 5. The receiver and manager so appointed shall be the agent of the said companies and firms of which he is appointed receiver and manager and of each of them and shall have power—

Powers of receiver and manager.

- (a) to take possession of, collect, and get in the assets of the companies and firms and each of them;
- 10 (b) to carry on or concur in carrying on the business of any of the companies and firms;
- (c) to take any proceedings in the name of the companies and firms or any of them or otherwise;
- 15 (d) to defend in the name of the companies and firms or any of them or otherwise any proceedings that may be brought against the companies and firms or any of them or against himself;
- (e) to take possession of, collect, hold and dispose of all books, papers, documents, records and securities relating to or in the possession or under the control of any of the companies or firms that should be in such possession or under such control;
- 20 (f) to exercise any of the powers or rights of the directors of any of the companies or firms or the powers or rights of any of the companies or firms;
- 25 (g) to exercise such other powers as may be prescribed by the regulations.

6. (1) The receiver and manager may apply by summons to the Court to determine any question relating to the companies or firms or any of them.

Application to Court.

(2) Every such determination shall be binding on the receiver and manager and on such of the companies or firms and other persons as shall or may be affected thereby, including all persons interested in the companies or firms.

(3)

Companies (Receiver and Manager).

(3) The Court or a Judge may give directions at any time for service of the said summons or of the said determination on any person or persons or class of persons.

7. No action, suit, execution, or proceeding shall be commenced or proceeded with against the said companies or firms or any of them save and except a suit or proceeding by a person claiming to rescind a contract with any of the companies or firms on the ground of fraud or misrepresentation to the extent only of a judgment order or declaration rescinding such contract.

Stay of proceedings.

8. Neither the receiver and manager nor any of his officers, servants, or agents shall be liable to any person for any act or thing done or omitted to be done in the exercise or purported exercise of any of the powers conferred by or under this Act or for or in respect of any of the liabilities of any of the companies or firms.

Exemption from liability of receiver and manager.

9. (1) Any person who, with intent to delay or obstruct the carrying out by the receiver and manager of any of his powers or functions under this Act destroys or alters or withholds from the receiver and manager (whether demand has been made therefor or not) any of the assets of any of the companies or firms or any book, paper, document, record or security relating to, or in the possession or under the control of, any of the companies or firms, or sends, or attempts to send, or conspires with any other person to send, out of New South Wales any such asset, book, paper, document, record or security shall be guilty of an indictable offence and shall be liable to be imprisoned for a period not exceeding five years.

Delaying and obstructing receiver and manager.

(2) If in any prosecution for an offence against this section, it is proved that the person charged with the offence has destroyed or altered or withheld from the receiver and manager any of the assets of any of the companies or firms or any book, paper, document, record or security in the possession

Companies (Receiver and Manager).

possession or under the control of any of the companies or firms or has sent, or attempted to send, or conspired to send out of New South Wales any such asset, book, paper, document, record, or security the onus of proving that in so doing he has not acted in contravention of this section shall be upon him.

10. (1) The receiver and manager appointed in respect of any company shall notify the Registrar General of his appointment as receiver and manager and of the termination of his appointment.

Application
of the
Companies
Act.

(2) Notwithstanding anything in the Companies Act, 1936, as amended by subsequent Acts, it shall not be obligatory on the receiver and manager to furnish in respect of any company any annual or other return required by that Act.

15 11. All costs charges and expenses properly incurred by the receiver and manager in the exercise of his powers and functions under this Act shall be payable out of the assets of the companies and firms or if those assets are insufficient to meet such costs charges and expenses the amount of the 20 insufficiency shall be payable out of the Consolidated Revenue Fund.

Expenses of
administra-
tion.

12. (1) The receiver and manager shall in respect of the operation of this Act furnish from time to time such information and make such reports to the Attorney General as the receiver and manager may think desirable or as the 25 Attorney General may require.

Reports.

(2) Where in any such report the receiver and manager recommends that any company should be wound up the Governor may by proclamation published in the 30 Gazette order that the company be wound up by the Court.

The Governor may appoint any fit and proper person to be liquidator of the company so ordered to be wound up.

Any

Companies (Receiver and Manager).

Any company so ordered to be wound up shall, as from the date specified in such proclamation, be wound up by the Court as if an order to that effect were on such date made by the Court under the provisions of Division 2 of Part X⁵ of the Companies Act, 1936, as amended by subsequent Acts, and by such order the person appointed by the Governor to be liquidator of that company were appointed the sole liquidator thereof.

The commencement of the winding-up of such company shall be the date stated in that behalf in the proclamation.

13. (1) The Governor may make regulations Regulations. prescribing—

- 15 (a) the powers that may be exercised by the receiver and manager under this Act, whether ordinarily exercisable by a receiver and manager or not;
- (b) the mode of service of any summons, determination, order, or direction of the Court or a Judge under this Act; and
- 20 (c) all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations shall—

- (a) be published in the Gazette;
- 25 (b) take effect from the date of publication, or from a later date to be specified in such regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.
- 30

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, the regulation or³⁵ part shall thereupon cease to have effect.

THE

Companies (Receiver and Manager).

THE SCHEDULE.

First Part—Companies:

- Munro & Munro Pty. Ltd.
- Cheque Guarantee Co. Pty. Ltd.
- 5 Gale Corporation Pty. Ltd.
- Linden Investments Pty. Ltd.
- G. & G. Engineering Services Pty. Ltd.

Second Part—Firms:

- Sydney Commercial Account Collections.
- 10 ESTIBA.

Company (Receiver and Manager)

The Schedule

First Part Companies

Alfred & Sons Ltd

James & Sons Ltd

John & Sons Ltd

James & Sons Ltd

John & Sons Ltd

Second Part Companies

James & Sons Ltd

10

New South Wales



ANNO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 8, 1959.

An Act to make provision for the appointment of a receiver and manager of certain companies and firms and for matters arising therefrom; to amend the Companies Act, 1936, as amended by subsequent Acts, in certain respects; and for purposes connected therewith. [Assented to, 30th September, 1959.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Companies (Receiver and Manager) Act, 1959".

Short title
and com-
mencement.

Companies (Receiver and Manager).

(2) This Act shall be deemed to have commenced on the seventh day of September, one thousand nine hundred and fifty-nine.

Definitions.

2. In this Act unless the context or subject matter otherwise indicates or requires—

“Court” means the Supreme Court in its Equitable Jurisdiction.

“Judge” means Judge of the Supreme Court.

“Companies” means companies to which this Act applies.

“Firms” means firms to which this Act applies.

“Regulations” means regulations made under this Act.

Application of Act.

3. (1) The provisions of this Act shall apply to and in respect of—

(a) companies and firms the names of which appear in the Schedule to this Act; and

(b) companies which the Governor pursuant to subsection two of this section declares to be companies to which this Act applies; and

(c) firms which the Governor pursuant to that subsection declares to be firms to which this Act applies.

(2) The Governor may by notice in the Gazette from time to time declare that this Act shall apply to any company specified in the notice of which Kevin Richard Gale is a director or to any firm specified in the notice of which Kevin Richard Gale is a partner.

Appointment of receiver and manager.

4. (1) The Governor may from time to time by notice in the Gazette appoint a receiver and manager of each of the companies and firms and may from time to time remove or suspend the person so appointed and appoint permanently or temporarily, as the case may require, another person in his stead or in the place of any deceased, sick or absent holder of such appointment.

(2)

Companies (Receiver and Manager).

(2) The first appointment under this section shall take effect as on and from the seventh day of September, one thousand nine hundred and fifty-nine.

5. The receiver and manager so appointed shall be the agent of the said companies and firms of which he is appointed receiver and manager and of each of them and shall have power— Powers of receiver and manager.

- (a) to take possession of, collect, and get in the assets of the companies and firms and each of them;
- (b) to carry on or concur in carrying on the business of any of the companies and firms;
- (c) to take any proceedings in the name of the companies and firms or any of them or otherwise;
- (d) to defend in the name of the companies and firms or any of them or otherwise any proceedings that may be brought against the companies and firms or any of them or against himself;
- (e) to take possession of, collect, hold and dispose of all books, papers, documents, records and securities relating to or in the possession or under the control of any of the companies or firms that should be in such possession or under such control;
- (f) to exercise any of the powers or rights of the directors of any of the companies or firms or the powers or rights of any of the companies or firms;
- (g) to exercise such other powers as may be prescribed by the regulations.

6. (1) The receiver and manager may apply by summons to the Court to determine any question relating to the companies or firms or any of them. Application to Court.

(2) Every such determination shall be binding on the receiver and manager and on such of the companies or firms and other persons as shall or may be affected thereby, including all persons interested in the companies or firms.

Companies (Receiver and Manager).

(3) The Court or a Judge may give directions at any time for service of the said summons or of the said determination on any person or persons or class of persons.

Stay of
proceedings

7. No action, suit, execution, or proceeding shall be commenced or proceeded with against the said companies or firms or any of them save and except a suit or proceeding by a person claiming to rescind a contract with any of the companies or firms on the ground of fraud or misrepresentation to the extent only of a judgment order or declaration rescinding such contract.

Exemption
from
liability of
receiver and
manager.

8. Neither the receiver and manager nor any of his officers, servants, or agents shall be liable to any person for any act or thing done or omitted to be done in the exercise or purported exercise of any of the powers conferred by or under this Act or for or in respect of any of the liabilities of any of the companies or firms.

Delaying
and
obstructing
receiver and
manager.

9. (1) Any person who, with intent to delay or obstruct the carrying out by the receiver and manager of any of his powers or functions under this Act destroys or alters or withholds from the receiver and manager (whether demand has been made therefor or not) any of the assets of any of the companies or firms or any book, paper, document, record or security relating to, or in the possession or under the control of, any of the companies or firms, or sends, or attempts to send, or conspires with any other person to send, out of New South Wales any such asset, book, paper, document, record or security shall be guilty of an indictable offence and shall be liable to be imprisoned for a period not exceeding five years.

(2) If in any prosecution for an offence against this section, it is proved that the person charged with the offence has destroyed or altered or withheld from the receiver and manager any of the assets of any of the companies or firms or any book, paper, document, record or security in the possession

Companies (Receiver and Manager).

possession or under the control of any of the companies or firms or has sent, or attempted to send, or conspired to send out of New South Wales any such asset, book, paper, document, record, or security the onus of proving that in so doing he has not acted in contravention of this section shall be upon him.

10. (1) The receiver and manager appointed in respect of any company shall notify the Registrar General of his appointment as receiver and manager and of the termination of his appointment. Application of the Companies Act.

(2) Notwithstanding anything in the Companies Act, 1936, as amended by subsequent Acts, it shall not be obligatory on the receiver and manager to furnish in respect of any company any annual or other return required by that Act.

11. All costs charges and expenses properly incurred by the receiver and manager in the exercise of his powers and functions under this Act shall be payable out of the assets of the companies and firms or if those assets are insufficient to meet such costs charges and expenses the amount of the insufficiency shall be payable out of the Consolidated Revenue Fund. Expenses of administration.

12. (1) The receiver and manager shall in respect of the operation of this Act furnish from time to time such information and make such reports to the Attorney General as the receiver and manager may think desirable or as the Attorney General may require. Reports.

(2) Where in any such report the receiver and manager recommends that any company should be wound up the Governor may by proclamation published in the Gazette order that the company be wound up by the Court.

The Governor may appoint any fit and proper person to be liquidator of the company so ordered to be wound up.

Any

Companies (Receiver and Manager).

Any company so ordered to be wound up shall, as from the date specified in such proclamation, be wound up by the Court as if an order to that effect were on such date made by the Court under the provisions of Division 2 of Part X of the Companies Act, 1936, as amended by subsequent Acts, and by such order the person appointed by the Governor to be liquidator of that company were appointed the sole liquidator thereof.

The commencement of the winding-up of such company shall be the date stated in that behalf in the proclamation.

Regulations. **13.** (1) The Governor may make regulations prescribing—

- (a) the powers that may be exercised by the receiver and manager under this Act, whether ordinarily exercisable by a receiver and manager or not;
- (b) the mode of service of any summons, determination, order, or direction of the Court or a Judge under this Act; and
- (c) all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication, or from a later date to be specified in such regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, the regulation or part shall thereupon cease to have effect.

Companies (Receiver and Manager).

THE SCHEDULE.

First Part—Companies:

Munro & Munro Pty. Limited.
The Cheque Guarantee Company Pty. Limited.
The Gale Corporation Pty. Limited.
Linden Investments Pty. Limited.
G. & G. Engineering Services Pty. Limited.

Second Part—Firms:

Sydney Commercial Account Collections.
ESTIBA.

By Authority:

V. C. N. BLIGHT, Government Printer, Sydney, 1959

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of New South Wales.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 29 September, 1959.*

New South Wales



ANNO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 8, 1959.

An Act to make provision for the appointment of a receiver and manager of certain companies and firms and for matters arising therefrom; to amend the Companies Act, 1936, as amended by subsequent Acts, in certain respects; and for purposes connected therewith. [Assented to, 30th September, 1959.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Companies (Receiver and Manager) Act, 1959".

Short title
and com-
mencement.

(2)

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

HOWARD T. FOWLES,
Chairman of Committees of the Legislative Assembly.

Companies (Receiver and Manager).

(2) This Act shall be deemed to have commenced on the seventh day of September, one thousand nine hundred and fifty-nine.

Definitions. 2. In this Act unless the context or subject matter otherwise indicates or requires—

“Court” means the Supreme Court in its Equitable Jurisdiction.

“Judge” means Judge of the Supreme Court.

“Companies” means companies to which this Act applies.

“Firms” means firms to which this Act applies.

“Regulations” means regulations made under this Act.

Application of Act. 3. (1) The provisions of this Act shall apply to and in respect of—

(a) companies and firms the names of which appear in the Schedule to this Act; and

(b) companies which the Governor pursuant to subsection two of this section declares to be companies to which this Act applies; and

(c) firms which the Governor pursuant to that subsection declares to be firms to which this Act applies.

(2) The Governor may by notice in the Gazette from time to time declare that this Act shall apply to any company specified in the notice of which Kevin Richard Gale is a director or to any firm specified in the notice of which Kevin Richard Gale is a partner.

Appoint-
ment of
receiver and
manager.

4. (1) The Governor may from time to time by notice in the Gazette appoint a receiver and manager of each of the companies and firms and may from time to time remove or suspend the person so appointed and appoint permanently or temporarily, as the case may require, another person in his stead or in the place of any deceased, sick or absent holder of such appointment.

(2)

Companies (Receiver and Manager).

(2) The first appointment under this section shall take effect as on and from the seventh day of September, one thousand nine hundred and fifty-nine.

5. The receiver and manager so appointed shall be the agent of the said companies and firms of which he is appointed receiver and manager and of each of them and shall have power—

Powers of
receiver and
manager.

- (a) to take possession of, collect, and get in the assets of the companies and firms and each of them;
- (b) to carry on or concur in carrying on the business of any of the companies and firms;
- (c) to take any proceedings in the name of the companies and firms or any of them or otherwise;
- (d) to defend in the name of the companies and firms or any of them or otherwise any proceedings that may be brought against the companies and firms or any of them or against himself;
- (e) to take possession of, collect, hold and dispose of all books, papers, documents, records and securities relating to or in the possession or under the control of any of the companies or firms that should be in such possession or under such control;
- (f) to exercise any of the powers or rights of the directors of any of the companies or firms or the powers or rights of any of the companies or firms;
- (g) to exercise such other powers as may be prescribed by the regulations.

6. (1) The receiver and manager may apply by summons to the Court to determine any question relating to the companies or firms or any of them.

Application
to Court.

(2) Every such determination shall be binding on the receiver and manager and on such of the companies or firms and other persons as shall or may be affected thereby, including all persons interested in the companies or firms.

(3)

Companies (Receiver and Manager).

(3) The Court or a Judge may give directions at any time for service of the said summons or of the said determination on any person or persons or class of persons.

Stay of
proceedings

7. No action, suit, execution, or proceeding shall be commenced or proceeded with against the said companies or firms or any of them save and except a suit or proceeding by a person claiming to rescind a contract with any of the companies or firms on the ground of fraud or misrepresentation to the extent only of a judgment order or declaration rescinding such contract.

Exemption
from
liability of
receiver and
manager.

8. Neither the receiver and manager nor any of his officers, servants, or agents shall be liable to any person for any act or thing done or omitted to be done in the exercise or purported exercise of any of the powers conferred by or under this Act or for or in respect of any of the liabilities of any of the companies or firms.

Delaying
and
obstructing
receiver and
manager.

9. (1) Any person who, with intent to delay or obstruct the carrying out by the receiver and manager of any of his powers or functions under this Act destroys or alters or withholds from the receiver and manager (whether demand has been made therefor or not) any of the assets of any of the companies or firms or any book, paper, document, record or security relating to, or in the possession or under the control of, any of the companies or firms, or sends, or attempts to send, or conspires with any other person to send, out of New South Wales any such asset, book, paper, document, record or security shall be guilty of an indictable offence and shall be liable to be imprisoned for a period not exceeding five years.

(2) If in any prosecution for an offence against this section, it is proved that the person charged with the offence has destroyed or altered or withheld from the receiver and manager any of the assets of any of the companies or firms or any book, paper, document, record or security in the possession

Companies (Receiver and Manager).

possession or under the control of any of the companies or firms or has sent, or attempted to send, or conspired to send out of New South Wales any such asset, book, paper, document, record, or security the onus of proving that in so doing he has not acted in contravention of this section shall be upon him.

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(2) Notwithstanding anything in the Companies Act, 1936, as amended by subsequent Acts, it shall not be obligatory on the receiver and manager to furnish in respect of any company any annual or other return required by that Act.

11. All costs charges and expenses properly incurred by the receiver and manager in the exercise of his powers and functions under this Act shall be payable out of the assets of the companies and firms or if those assets are insufficient to meet such costs charges and expenses the amount of the insufficiency shall be payable out of the Consolidated Revenue Fund. Expenses of administration.

12. (1) The receiver and manager shall in respect of the operation of this Act furnish from time to time such information and make such reports to the Attorney General as the receiver and manager may think desirable or as the Attorney General may require. Reports.

(2) Where in any such report the receiver and manager recommends that any company should be wound up the Governor may by proclamation published in the Gazette order that the company be wound up by the Court.

The Governor may appoint any fit and proper person to be liquidator of the company so ordered to be wound up.

Any

Companies (Receiver and Manager).

Any company so ordered to be wound up shall, as from the date specified in such proclamation, be wound up by the Court as if an order to that effect were on such date made by the Court under the provisions of Division 2 of Part X of the Companies Act, 1936, as amended by subsequent Acts, and by such order the person appointed by the Governor to be liquidator of that company were appointed the sole liquidator thereof.

The commencement of the winding-up of such company shall be the date stated in that behalf in the proclamation.

Regulations. **13.** (1) The Governor may make regulations prescribing—

- (a) the powers that may be exercised by the receiver and manager under this Act, whether ordinarily exercisable by a receiver and manager or not;
- (b) the mode of service of any summons, determination, order, or direction of the Court or a Judge under this Act; and
- (c) all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication, or from a later date to be specified in such regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, the regulation or part shall thereupon cease to have effect.

THE

Companies (Receiver and Manager).

THE SCHEDULE.

First Part—Companies:

Munro & Munro Pty. Limited.

The Cheque Guarantee Company Pty. Limited.

The Gale Corporation Pty. Limited.

Linden Investments Pty. Limited.

G. & G. Engineering Services Pty. Limited.

Second Part—Firms:

Sydney Commercial Account Collections.

ESTIBA.

*In the name and on behalf of Her Majesty I assent to
this Act.*

E. W. WOODWARD,

Governor.

Government House,

Sydney, 30th September, 1959.

AT 12.8.1950

General Secretary, Ministry of Education

THE SECRETARY

First Part, Companies

Second Part, Companies

Third Part, Companies

Fourth Part, Companies

Fifth Part, Companies

Sixth Part, Companies

Seventh Part, Companies

Eighth Part, Companies

Ninth Part, Companies

To be made out on behalf of the Ministry of Education

and for

E. W. WOODWARD

Secretary

On account of

Ministry of Education, 1950