

B I L L

To incorporate "The Tomago Coal Mining Company."

WHEREAS a Joint Stock Company called "THE TOMAGO COAL Preamble.
MINING COMPANY" has been lately established at Sydney in the
Colony of New South Wales under and subject to the rules regulations
and provisions contained in a certain Deed of Settlement bearing date
5 the twenty-first day of September in the year of our Lord one
thousand eight hundred and sixty-one purporting to be the Deed of
Settlement of the said Company And whereas by the said Deed of
Settlement the several parties thereto have respectively and mutually
covenanted and agreed that they whilst holding shares in the capital
10 ~~capital~~ of the said Company shall be and continue until dissolved under the
provisions in that behalf therein contained a Joint Stock Company or
Partnership under the name style and title of "THE TOMAGO COAL
MINING COMPANY" for working or contracting for the working of the
Coal and other minerals in or upon any land of which the said Company
15 may from time to time be Owners or Lessees for purchasing or taking on
Lease Coal or other mineral lands or the Coals or other minerals thereupon
or thereunder and for working the same for following up and acting upon
any trade or purpose mentioned in any regulations for the management or
conduct of Coal or other mines in the said Colony of New South Wales for
20 purchasing the necessary machinery for working the said mines for testing
the mining capabilities of any land purchased or taken on Lease or intended
to be purchased or taken on Lease or the Coal or minerals whereon are or
may be purchased or taken on Lease or intended to be purchased or taken
on Lease by the said Company for draining any mines or any other
25 purposes in connection therewith for exporting selling or otherwise
disposing of all Coal or other minerals to be raised from any land
belonging to or taken on Lease by the said Company or from any land
whatever

whatever for disposing of the timber on any such land for raising fire-clay for making and disposing of fire-bricks for making and disposing of Coke for letting or selling any such lands for constructing railways roads wharves and other matters necessary for the promotion of the objects of the said Company And for such other purposes as shall from time to time be agreed 5 on as thereafter mentioned And it was by the same Deed of Settlement agreed that the Capital of the said Company should consist of TWENTY THOUSAND POUNDS to be contributed in FIVE THOUSAND SHARES of FOUR POUNDS each and of such further sum or sums as might thereafter be raised by the creation and sale of new shares of the like 10 amount as therein provided And whereas by the same Deed of Settlement provision has been made for the due management of the affairs of the Company by certain Directors already appointed and by other Directors to be from time to time elected and appointed as their Successors by the Shareholders of the said Company And whereas the said Company is 15 desirous of being incorporated and it is expedient that the said Company should be incorporated accordingly subject to the provisions hereinafter contained Be it therefore enacted by the Queens Most Excellent Majesty by and with the consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same 20 as follows :—

Company incorporated

I. Such and so many persons as have already become or at any time or times hereafter shall and may in the manner provided by and subject to the rules regulations and provisions contained in the said Deed of Settlement become Shareholders or Proprietors of shares of or in the Capital for the 25 time being of the said Company shall subject nevertheless to the conditions regulations and provisions hereinafter contained be one body politic and corporate by name and in deed by the name of "THE TOMAGO COAL MINING COMPANY" and by that name shall and may sue and be sued by any persons whether members of the said Corporation or not and shall 30 and may implead and be impleaded in all Courts whatsoever at Law or in Equity and may prefer levy and prosecute any indictment information and prosecution against any person whomsoever whether a Shareholder or not for any stealing embezzlement fraud forgery or other crime or offence and in all indictments informations and prosecutions it shall be lawful to state the 35 money and goods effects bills notes securities or other property of the said Company to be the money goods effects bills notes securities or other property of the said Corporation and to designate the said Company by its Corporate name whenever for the purpose of any allegation of an intent to defraud or otherwise howsoever such designation shall be necessary and the 40 said

said Corporation shall have perpetual succession with a Common Seal which may be altered varied and changed from time to time at the pleasure of the said Corporation.

II. The several laws rules regulations clauses and agreements ^{Deed of Settlement confirmed.}
 5 contained in the said Deed of Settlement or to be made under or by virtue
 or in pursuance thereof shall be deemed and considered to be and shall be
 the by-laws for the time being of the said Corporation save and except in
 so far as any of them are or shall or may be altered or repealed by or are or
 shall or may be inconsistent or incompatible with or repugnant to any of the
 10 provisions of this Act or of any of the Laws or Statutes now or hereafter to
 be in force in the said Colony But no rule or by-law shall on any account
 or pretence whatsoever be made by the said Corporation either under or by
 virtue of the said Deed of Settlement or of this Act in opposition to the
 general scope or true intent and meaning of this Act or of any of the laws or
 15 Statutes in force for the time being in the said Colony.

III. It shall be lawful for the said Corporation from time to time to ^{Increase of Capital.}
 extend or increase its Capital for the time being by the creation and
 disposal of new shares in the manner specified and set forth and subject to
 the rules regulations and provisions contained in the said Deed of
 20 Settlement.

IV. The Capital or Joint Stock for the time being and all the funds ^{Capital and Shares to be personalty}
 and property of the said Corporation and the several shares therein and the
 profits and advantages to be derived therefrom shall be and be deemed to be
 personal estate and be transmissible accordingly subject to the regulations
 25 of the said Deed of Settlement.

V. The Corporation shall not be bound by any trusts or equitable ^{Trusts or Equitable Interests affecting.}
 interests or demands affecting any shares of the Capital standing in the
 name of any person as the ostensible Shareholder or Proprietor thereof or
 be required to take any notice of such trusts or equitable interests or
 30 demands but the receipt of the person in whose name the shares shall stand
 in the books of the said Corporation shall notwithstanding such trusts or
 equitable interests or demands and notice thereof to the said Corporation be
 a good valid and conclusive discharge to the Corporation for or in respect of
 such shares and a transfer of the said shares in accordance with the regulations
 35 in that behalf contained in the said Deed of Settlement by the person in
 whose name such shares shall so stand shall notwithstanding as aforesaid be
 binding and conclusive as far as may concern the said Corporation against
 all persons claiming by virtue of such trusts or equitable interests or demands

Provided

Provided always that nothing therein or herein contained shall be deemed or taken to interfere with or abridge the right and power of a Court of Equity to restrain the payment of any such dividend or other money payable thereafter by the Corporation in respect of any such shares or the transfer thereafter of any such shares or to direct the payment of such dividend or other money by the Corporation or the transfer of such shares by the person in whose name they may stand to such other person as such Court may think fit.

Power to take and hold lands, &c.

VI. It shall be lawful for the said Corporation notwithstanding any Statute or Law to the contrary to purchase take hold and enjoy to them and 10 their successors for any estate term of years or interest or under license any Coal or other mineral lands whatsoever and all such houses offices buildings and other lands and hereditaments as may be necessary or proper for the purpose of managing and conducting and carrying on the affairs concerns and business of the said Corporation And to sell convey assign assure lease 15 and otherwise dispose of or act in respect of such Coal or other mineral lands houses office buildings and other lands and hereditaments as occasion may require.

Conveyance to the Corporation.

VII. It shall and may be lawful to and for all persons who are or shall be otherwise competent so to do to grant sell alien and convey demise assign 20 assure and dispose of unto and to the use of the said Corporation and their Successors for the purposes aforesaid or any of them any such houses offices lands mines minerals hereditaments and other real estate whatsoever as aforesaid accordingly.

Dividend from the profits.

VIII. No dividend or bonus shall in any case be declared or paid 25 out of the subscribed Capital for the time being of the said Company or otherwise than out of the declared surplus Capital and net gains and profits thereof.

Actions or Suits for calls.

IX. In any action or suit to be brought by the said Corporation against any Shareholder or Proprietor of any Shares in the Capital of the 30 said Corporation to recover any sum of money due and payable to the said Corporation for or by reason of any call made by virtue of this Act or of the said Deed of Settlement it shall be sufficient for the Corporation to declare and allege that the Defendant being a holder of such or so many shares in the Capital of the said Corporation is indebted to the said Corporation in such 35 sum of money (as the calls in arrear shall amount to) for such call of such sum of money upon such or so many shares belonging to the said Defendant whereby an action hath accrued to the said Corporation without setting forth any special matter And on the trial of such Action or Suit it shall not be necessary

necessary to prove the appointment of the Directors who made such call or any other matters except that the Defendant at the time of making such call was a holder or proprietor of one or more share or shares in the Capital of the said Corporation and that such call was in fact made and that such
 5 notice thereof and of the time fixed for the payment thereof was given as is directed by the said Deed of Settlement and the said Corporation shall thereupon be entitled to recover what shall appear due.

X. The share register of the said Company shall at all times be ^{Share Register, to be evidence of Ownership.} *prima facie* evidence to shew who are the Shareholders or Proprietors for the
 10 time being of the Capital thereof and the number of shares held by each Shareholder.

XI. Nothing herein contained shall prejudice or be deemed to ^{Contracts, &c., under the Deed of Settlement before Act.} prejudice any call made or any contract or other act deed matter or thing entered into made or done by the said Company prior to or under or by virtue
 15 of the said Deed of Settlement before this Act shall come into operation but the same call contract act deed matter or thing shall be as valid and effectual to all intents and purposes as if this Act had not been passed and may be enforced in like manner as if the said Company had been incorporated before the same call contract act deed matter or thing had been made entered into
 20 or done.

XII. In the event of the assets of the Corporation being insufficient ^{Liability of Shareholders.} to meet its engagements the Shareholders shall in addition to the amount of their subscribed shares in the Capital of the said Corporation be responsible to the extent only of a sum equal to the amount of their said shares.

25 XIII. The Directors for the time being shall have the custody of the ^{Custody and use of Corporate Seal.} Common Seal of the said Corporation and the form thereof and all other matters relating thereto shall from time to time be determined by the Board of Directors in the same manner as is provided in and by the said Deed of Settlement for the determination of other matters by the Board of Directors
 30 And the Directors present at a Board of Directors of the said Corporation shall have power to use such Common Seal for the affairs and concerns of the said Corporation and under such seal to authorize and empower any person without such Seal to execute any deeds and do all or any such other matters and things as may be required to be executed and done on behalf of
 35 the said Company in conformity with the provisions of the said Deed of Settlement and of this Act But it shall not be necessary to use the Corporate Seal in respect of any of the ordinary business of the Company or for the appointment of an Attorney or Solicitor for the prosecution or defence of any action suit or proceeding.

Retirement & election
of Directors.

XIV. The Directors of the said Company appointed by the said Deed of Settlement shall go out of office in the manner provided by the Deed of Settlement And vacancies in the Directors shall be filled up at the times and in manner provided by the said Deed of Settlement and shall otherwise be subject to the several provisions therein in that behalf contained. 5

Power to borrow on
Mortgage or Debentures.

XV. It shall and may be lawful for the Board of Directors in pursuance of a resolution to that effect to be passed at Special General Meetings of the Shareholders to be called for the purpose from time to time to borrow upon Mortgage of the property of the Company or upon debentures chargeable thereon issued under the hands of any two of the Directors named 10 in such resolutions any sum or sums of money not exceeding in the whole an amount equal to one half of the paid up Capital of the Company Provided always that the Shareholders present at any such Meeting either in person or by proxy specially given for the occasion shall hold shares representing not less than one-third of the paid up Capital of the Company. 15

Act to be deemed a
Public Act.

XVI. This Act shall be deemed and taken to be a public Act and shall be judicially taken notice of as such by the Judges of the Supreme Court of New South Wales and by all other Judges Justices and others within the Colony of New South Wales and its dependencies without being specially pleaded and the same whenever cited shall be sufficiently described 20 as "THE TOMAGO COAL MINING COMPANY'S INCORPORATION ACT 1861."

To be cited as "The
Tomago Coal Mining
Company's Incorpora-
tion Act 1861."

Interpretation Clause.

XVII. And be it enacted that in this Act the following words shall have the following meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction (that is 25 to say) words importing the plural number shall include the singular and words importing the masculine gender shall include females and bodies corporate as well as individuals.

and the fact that the same is not only a matter of fact but also a matter of law. The fact that the same is not only a matter of fact but also a matter of law is a matter of fact and law. The fact that the same is not only a matter of fact but also a matter of law is a matter of fact and law.

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Legislative Council.

25^o VICTORIÆ, 1861.

A BILL

To incorporate "The Tomago Coal Mining Company."

(As agreed to in Select Committee.)

WHEREAS a Joint Stock Company called "The Tomago Coal Mining Company" has been lately established at Sydney in the Colony of New South Wales under and subject to the rules regulations and provisions contained in a certain Deed of Settlement bearing date the twenty-first day of September in the year of our Lord one thousand eight hundred and sixty-one purporting to be the Deed of Settlement of the said Company And whereas by the said Deed of Settlement the several parties thereto have respectively and mutually covenanted and agreed that they whilst holding shares in the capital of the said Company shall be and continue until dissolved under the provisions in that behalf therein contained a Joint Stock Company or Partnership under the name style and title of "The Tomago Coal Mining Company" for working or contracting for the working of the coal and other minerals in or upon any land of which the said Company may from time to time be owners or lessees for purchasing or taking on lease coal or other mineral lands or the coals or other minerals thereupon or thereunder and for working the same for following up and acting upon any trade or purpose mentioned in any regulations for the management or conduct of coal or other mines in the said Colony of New South Wales for purchasing the necessary machinery for working the said mines for testing the mining capabilities of any land purchased or taken on lease or intended to be purchased or taken on lease or the coal or minerals whereon are or may be purchased or taken on lease or intended to be purchased or taken on lease by the said Company

Preamble.

Company for draining any mines or any other purposes in connection therewith for exporting selling or otherwise disposing of all coal or other minerals to be raised from any land belonging to or taken on lease by the said Company or from any land whatever for disposing of the timber on any such land for raising fire-clay for making and disposing of fire-bricks 5 for making and disposing of coke for letting or selling any such lands for constructing railways roads wharves and other matters necessary for the promotion of the objects of the said Company And for such other purposes as shall from time to time be agreed on as thereafter mentioned And it was by the same Deed of Settlement agreed that the capital of the 10 said Company should consist of twenty thousand pounds to be contributed in five thousand shares of four pounds each and of such further sum or sums as might thereafter be raised by the creation and sale of new shares of the like amount as therein provided And whereas by the same Deed of Settlement provision has been made for the due management of the 15 affairs of the Company by certain Directors already appointed and by other Directors to be from time to time elected and appointed as their successors by the shareholders of the said Company And whereas the said Company is desirous of being incorporated and it is expedient that the said Company should be incorporated accordingly subject to the provisions hereinafter 20 contained Be it therefore enacted by the Queen's Most Excellent Majesty by and with the consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows :—

Company incorpo-
rated.

1. Such and so many persons as have already become or at any 25 time or times hereafter shall and may in the manner provided by and subject to the rules regulations and provisions contained in the said Deed of Settlement become shareholders or proprietors of shares of or in the capital for the time being of the said Company shall subject nevertheless to the conditions regulations and provisions hereinafter contained be one 30 body politic and corporate by name and in deed by the name of "The Tomago Coal Mining Company" and by that name shall and may sue and be sued by any persons whether members of the said Corporation or not and shall and may implead and be impleaded in all Courts whatsoever at law or in equity and may prefer levy and prosecute any indictment 35 information and prosecution against any person whomsoever whether a shareholder or not for any stealing embezzlement fraud forgery or other crime or offence and in all indictments informations and prosecutions it shall be lawful to state the money and goods effects bills notes securities or other property of the said Company to be the money goods effects bills 40 notes securities or other property of the said Corporation and to designate the said Company by its corporate name whenever for the purpose of any allegation of an intent to defraud or otherwise howsoever such designation shall be necessary and the said Corporation shall have perpetual succession with a common seal which may be altered varied and changed from time 45 to time at the pleasure of the said Corporation.

Deed of Settlement
confirmed.

2. The several laws rules regulations clauses and agreements contained in the said Deed of Settlement or to be made under or by virtue or in pursuance thereof shall be deemed and considered to be and shall be the by-laws for the time being of the said Corporation save and except in 50 so far as any of them are or shall or may be altered or repealed by or are or shall or may be inconsistent or incompatible with or repugnant to any of the provisions of this Act or of any of the Laws or Statutes now or hereafter to be in force in the said Colony But no rule or by-law shall on any account or pretence whatsoever be made by the said Corporation 55 either under or by virtue of the said Deed of Settlement or of this Act in opposition to the general scope or true intent and meaning of this Act or of any of the Laws or Statutes in force for the time being in the said Colony.

3. It shall be lawful for the said Corporation from time to time to extend or increase its capital for the time being by the creation and disposal of new shares in the manner specified and set forth and subject to the rules regulations and provisions contained in the said Deed of Settlement.

Increase of capital.

4. The capital or joint stock for the time being and all the funds and property of the said Corporation and the several shares therein and the profits and advantages to be derived therefrom shall be and be deemed to be personal estate and be transmissible accordingly subject to the regulations of the said Deed of Settlement.

Capital and shares to be personalty.

5. The Corporation shall not be bound by any trusts or equitable interests or demands affecting any shares of the capital standing in the name of any person as the ostensible shareholder or proprietor thereof or be required to take any notice of such trusts or equitable interests or demands but the receipt of the person in whose name the shares shall stand in the books of the said Corporation shall notwithstanding such trusts or equitable interests or demands and notice thereof to the said Corporation be a good valid and conclusive discharge to the Corporation for or in respect of such shares and a transfer of the said shares in accordance with the regulations in that behalf contained in the said Deed of Settlement by the person in whose name such shares shall so stand shall notwithstanding as aforesaid be binding and conclusive as far as may concern the said Corporation against all persons claiming by virtue of such trusts or equitable interests or demands. Provided always that nothing therein or herein contained shall be deemed or taken to interfere with or abridge the right and power of a Court of Equity to restrain the payment of any such dividend or other money payable thereafter by the Corporation in respect of any such shares or the transfer thereafter of any such shares or to direct the payment of such dividend or other money by the Corporation or the transfer of such shares by the person in whose name they may stand to such other person as such Court may think fit.

Trusts or equitable interests affecting.

6. It shall be lawful for the said Corporation notwithstanding any Statute or Law to the contrary to purchase take hold and enjoy to them and their successors for any estate term of years or interest or under license any coal or other mineral lands whatsoever and all such houses offices buildings and other lands and hereditaments as may be necessary or proper for the purpose of managing and conducting and carrying on the affairs concerns and business of the said Corporation. And to sell convey assign assure lease and otherwise dispose of or act in respect of such coal or other mineral lands houses office buildings and other lands and hereditaments as occasion may require.

Power to take and hold lands &c.

7. It shall and may be lawful to and for all persons who are or shall be otherwise competent so to do to grant sell alien and convey demise assign assure and dispose of unto and to the use of the said Corporation and their successors for the purposes aforesaid or any of them any such houses offices lands mines minerals hereditaments and other real estate whatsoever as aforesaid accordingly.

Conveyance to the Corporation.

8. No dividend or bonus shall in any case be declared or paid out of the subscribed capital for the time being of the said Company or otherwise than out of the declared surplus capital and net gains and profits thereof.

Dividend from the profits.

9. In any action or suit to be brought by the said Corporation against any shareholder or proprietor of any shares in the capital of the said Corporation to recover any sum of money due and payable to the said Corporation for or by reason of any call made by virtue of this Act or of the said Deed of Settlement it shall be sufficient for the Corporation to declare and allege that the defendant being a holder of such or so many shares in the capital of the said Corporation is indebted to the said Corporation.

Actions or suits for calls.

poration in such sum of money (as the calls in arrear shall amount to) for such call of such sum of money upon such or so many shares belonging to the said defendant whereby an action hath accrued to the said Corporation without setting forth any special matter And on the trial of such action or suit it shall not be necessary to prove the appointment of the Directors 5 who made such call or any other matters except that the defendant at the time of making such call was a holder or proprietor of one or more share or shares in the capital of the said Corporation and that such call was in fact made and that such notice thereof and of the time fixed for the payment thereof was given as is directed by the said Deed of Settlement 10 and the said Corporation shall thereupon be entitled to recover what shall appear due.

Share register to be evidence of ownership.

10. The share register of the said Company shall at all times be *primâ facie* evidence to shew who are the shareholders or proprietors for the time being of the capital thereof and the number of shares held by each 15 shareholder.

Contracts &c. under the Deed of Settlement before Act.

11. Nothing herein contained shall prejudice or be deemed to prejudice any call made or any contract or other act deed matter or thing entered into made or done by the said Company prior to or under or by virtue of the said Deed of Settlement before this Act shall come into 20 operation but the same call contract act deed matter or thing shall be as valid and effectual to all intents and purposes as if this Act had not been passed and may be enforced in like manner as if the said Company had been incorporated before the same call contract act deed matter or thing had been made entered into or done. 25

Liability of shareholders.

12. In the event of the assets of the Corporation being insufficient to meet its engagements the shareholders shall in addition to the amount of their subscribed shares in the capital of the said Corporation be responsible to the extent only of a sum equal to the amount of their said shares. 30

Custody and use of corporate seal.

13. The Directors for the time being shall have the custody of the common seal of the said Corporation and the form thereof and all other matters relating thereto shall from time to time be determined by the Board of Directors in the same manner as is provided in and by the said Deed of Settlement for the determination of other matters by the Board of Directors 35 And the Directors present at a Board of Directors of the said Corporation shall have power to use such common seal for the affairs and concerns of the said Corporation and under such seal to authorize and empower any person without such seal to execute any deeds and do all or any such other matters and things as may be required to be executed and done on behalf 40 of the said Company in conformity with the provisions of the said Deed of Settlement and of this Act But it shall not be necessary to use the corporate seal in respect of any of the ordinary business of the Company or for the appointment of an attorney or solicitor for the prosecution or defence of any action suit or proceeding. 45

Retirement and election of Directors.

14. The Directors of the said Company appointed by the said Deed of Settlement shall go out of office in the manner provided by the Deed of Settlement And vacancies in the Directors shall be filled up at the times and in manner provided by the said Deed of Settlement and shall otherwise be subject to the several provisions therein in that behalf 50 contained.

Power to borrow on mortgage or debentures.

15. It shall and may be lawful for the Board of Directors in pursuance of a resolution to that effect to be passed at Special General Meetings of the shareholders to be called for the purpose from time to time to borrow upon mortgage of the property of the Company or upon debentures chargeable thereon issued under the hands of any two of the Directors named in such resolutions any sum or sums of money not exceeding in the whole an amount equal to one half of the paid up Capital of the Company 55 Provided

Provided always that the shareholders present at any such meeting either in person or by proxy specially given for the occasion shall hold shares representing not less than one-third of the paid up capital of the Company.

16. This Act shall be deemed and taken to be a public Act and
5 shall be judicially taken notice of as such by the Judges of the Supreme Court of New South Wales and by all other Judges, Justices, and others within the Colony of New South Wales and its dependencies without being specially pleaded and the same whenever cited shall be sufficiently described as "The Tomago Coal Mining Company's Incorporation Act 1861."
- 10 17. And be it enacted that in this Act the following words shall have the following meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction (that is to say) words importing the plural number shall include the singular and words importing the masculine gender shall include females and bodies
15 corporate as well as individuals.

Act to be deemed a Public Act.

To be cited as "The Tomago Coal Mining Company's Incorporation Act 1861."

Interpretation clause.

1. The undersigned hereby certifies that the within and foregoing is a true and correct copy of the original as the same appears in the records of the said Corporation.

2. The undersigned hereby certifies that the within and foregoing is a true and correct copy of the original as the same appears in the records of the said Corporation.

3. The undersigned hereby certifies that the within and foregoing is a true and correct copy of the original as the same appears in the records of the said Corporation.

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9. The undersigned hereby certifies that the within and foregoing is a true and correct copy of the original as the same appears in the records of the said Corporation.

10. The undersigned hereby certifies that the within and foregoing is a true and correct copy of the original as the same appears in the records of the said Corporation.

11. The undersigned hereby certifies that the within and foregoing is a true and correct copy of the original as the same appears in the records of the said Corporation.

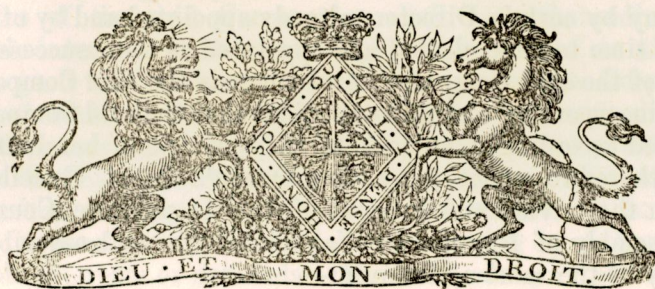
12. The undersigned hereby certifies that the within and foregoing is a true and correct copy of the original as the same appears in the records of the said Corporation.

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

*Legislative Council Chamber,
Sydney, 17 October, 1861.*

*R. O'CONNOR,
Clerk of the Legislative Council.*

New South Wales.



ANNO VICESIMO QUINTO

VICTORIÆ REGINÆ.

An Act to incorporate the "Tomago Coal Mining Company."

WHEREAS a Joint Stock Company called "The Tomago Coal Mining Company" has been lately established at Sydney in the Colony of New South Wales under and subject to the rules regulations and provisions contained in a certain Deed of Settlement bearing date the twenty-first day of September in the year of our Lord one thousand eight hundred and sixty-one purporting to be the Deed of Settlement of the said Company And whereas by the said Deed of Settlement the several parties thereto have respectively and mutually covenanted and agreed that they whilst holding shares in the capital of the said Company shall be and continue until dissolved under the provisions in that behalf therein contained a Joint Stock Company or Partnership under the name style and title of "The Tomago Coal Mining Company" for working or contracting for the working of the coal and other minerals in or upon any land of which the said Company may from time to time be owners or lessees for purchasing or taking on lease coal or other mineral lands or the coals or other minerals thereupon or thereunder and for working the same for following up and acting upon any trade or purpose mentioned in any regulations for the management or conduct of coal or other mines in the said Colony of New South Wales for purchasing the necessary machinery for working the said mines for testing the mining capabilities of any land purchased or taken on lease or intended to be purchased or taken on lease or the coal or minerals whereon are or may be purchased or taken on lease or intended to be purchased or taken on lease by the said Company

Tomago Coal Mining Company's Incorporation—1861.

Company for draining any mines or any other purposes in connection therewith for exporting selling or otherwise disposing of all coal or other minerals to be raised from any land belonging to or taken on lease by the said Company or from any land whatever for disposing of the timber on
 5 any such land for raising fire-clay for making and disposing of fire-bricks for making and disposing of coke for letting or selling any such lands for constructing railways roads wharves and other matters necessary for the promotion of the objects of the said Company And for such other purposes as shall from time to time be agreed on as hereinafter mentioned
 10 And it was by the same Deed of Settlement agreed that the capital of the said Company should consist of twenty thousand pounds to be contributed in five thousand shares of four pounds each and of such further sum or sums as might thereafter be raised by the creation and sale of new shares of the like amount as therein provided And whereas by the same Deed
 15 of Settlement provision has been made for the due management of the affairs of the Company by certain Directors already appointed and by other Directors to be from time to time elected and appointed as their successors by the shareholders of the said Company And whereas the said Company is desirous of being incorporated and it is expedient that the said Company
 20 should be incorporated accordingly subject to the provisions hereinafter contained Be it therefore 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 :—

25 1. Such and so many persons as have already become or at any Company incorpo-
 time or times hereafter shall and may in the manner provided by and rated.
 subject to the rules regulations and provisions contained in the said Deed of Settlement become shareholders or proprietors of shares of or in the capital for the time being of the said Company shall subject nevertheless
 30 to the conditions regulations and provisions hereinafter contained be one body politic and corporate by name and in deed by the name of "The Tomago Coal Mining Company" and by that name shall and may sue and be sued by any persons whether members of the said Corporation or not and shall and may implead and be impleaded in all Courts whatsoever
 35 at law or in equity and may prefer levy and prosecute any indictment information and prosecution against any person whomsoever whether a shareholder or not for any stealing embezzlement fraud forgery or other crime or offence and in all indictments informations and prosecutions it shall be lawful to state the money and goods effects bills notes securities
 40 or other property of the said Company to be the money goods effects bills notes securities or other property of the said Corporation and to designate the said Company by its corporate name whenever for the purpose of any allegation of an intent to defraud or otherwise howsoever such designation shall be necessary and the said Corporation shall have perpetual succession
 45 with a common seal which may be altered varied and changed from time to time at the pleasure of the said Corporation.

2. The several laws rules regulations clauses and agreements
 contained in the said Deed of Settlement or to be made under or by virtue
 or in pursuance thereof shall be deemed and considered to be and shall be
 50 the by-laws for the time being of the said Corporation save and except in so far as any of them are or shall or may be altered or repealed by or are or shall or may be inconsistent or incompatible with or repugnant to any of the provisions of this Act or of any of the Laws or Statutes now or hereafter to be in force in the said Colony But no rule or by-law shall
 55 on any account or pretence whatsoever be made by the said Corporation either under or by virtue of the said Deed of Settlement or of this Act in opposition to the general scope or true intent and meaning of this Act or of any of the Laws or Statutes in force for the time being in the said Colony.

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3. It shall be lawful for the said Corporation from time to time ^{Increase of capital.} to extend or increase its capital for the time being by the creation and disposal of new shares in the manner specified and set forth and subject to the rules regulations and provisions contained in the said Deed of Settlement.

4. The capital or joint stock for the time being and all the funds ^{Capital and shares to be personalty.} and property of the said Corporation and the several shares therein and the profits and advantages to be derived therefrom shall be and be deemed to be personal estate and be transmissible accordingly subject to the regulations of the said Deed of Settlement.

5. The Corporation shall not be bound by any trusts or equitable ^{Trusts or equitable interests affecting.} interests or demands affecting any shares of the capital standing in the name of any person as the ostensible shareholder or proprietor thereof or be required to take any notice of such trusts or equitable interests or demands but the receipt of the person in whose name the shares shall stand in the books of the said Corporation shall notwithstanding such trusts or equitable interests or demands and notice thereof to the said Corporation be a good valid and conclusive discharge to the Corporation for or in respect of such shares and a transfer of the said shares in accordance with the regulations in that behalf contained in the said Deed of Settlement by the person in whose name such shares shall so stand shall notwithstanding as aforesaid be binding and conclusive as far as may concern the said Corporation against all persons claiming by virtue of such trusts or equitable interests or demands. Provided always that nothing therein or herein contained shall be deemed or taken to interfere with or abridge the right and power of a Court of Equity to restrain the payment of any such dividend or other money payable thereafter by the Corporation in respect of any such shares or the transfer thereafter of any such shares or to direct the payment of such dividend or other money by the Corporation or the transfer of such shares by the person in whose name they may stand to such other person as such Court may think fit.

6. It shall be lawful for the said Corporation notwithstanding any ^{Power to take and hold lands &c.} Statute or Law to the contrary to purchase take hold and enjoy to them and their successors for any estate term of years or interest or under license any coal or other mineral lands whatsoever and all such houses offices buildings and other lands and hereditaments as may be necessary or proper for the purpose of managing and conducting and carrying on the affairs concerns and business of the said Corporation. And to sell convey assign assure lease and otherwise dispose of or act in respect of such coal or other mineral lands houses office buildings and other lands and hereditaments as occasion may require.

7. It shall and may be lawful to and for all persons who are or ^{Conveyance to the Corporation.} shall be otherwise competent so to do to grant sell alien and convey demise assign assure and dispose of unto and to the use of the said Corporation and their successors for the purposes aforesaid or any of them any such houses offices lands mines minerals hereditaments and other real estate whatsoever as aforesaid accordingly.

8. No dividend or bonus shall in any case be declared or paid out ^{Dividend from the profits.} of the subscribed capital for the time being of the said Company or otherwise than out of the declared surplus capital and net gains and profits thereof.

9. In any action or suit to be brought by the said Corporation ^{Actions or suits for calls.} against any shareholder or proprietor of any shares in the capital of the said Corporation to recover any sum of money due and payable to the said Corporation for or by reason of any call made by virtue of this Act or of the said Deed of Settlement it shall be sufficient for the Corporation to declare and allege that the defendant being a holder of such or so many shares in the capital of the said Corporation is indebted to the said Corporation

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poration in such sum of money (as the calls in arrear shall amount to) for such call of such sum of money upon such or so many shares belonging to the said defendant whereby an action hath accrued to the said Corporation without setting forth any special matter And on the trial of such action
 5 or suit it shall not be necessary to prove the appointment of the Directors who made such call or any other matters except that the defendant at the time of making such call was a holder or proprietor of one or more share or shares in the capital of the said Corporation and that such call was in fact made and that such notice thereof and of the time fixed for the
 10 payment thereof was given as is directed by the said Deed of Settlement and the said Corporation shall thereupon be entitled to recover what shall appear due.

10. The share register of the said Company shall at all times be *primâ facie* evidence to shew who are the shareholders or proprietors for
 15 the time being of the capital thereof and the number of shares held by each shareholder.

Share register to be evidence of ownership.

11. Nothing herein contained shall prejudice or be deemed to prejudice any call made or any contract or other act deed matter or thing entered into made or done by the said Company prior to or under or by
 20 virtue of the said Deed of Settlement before this Act shall come into operation but the same call contract act deed matter or thing shall be as valid and effectual to all intents and purposes as if this Act had not been passed and may be enforced in like manner as if the said Company had been incorporated before the same call contract act deed matter or thing had
 25 been made entered into or done.

Contracts &c. under the Deed of Settlement before Act.

12. In the event of the assets of the Corporation being insufficient to meet its engagements the shareholders shall in addition to the amount of their subscribed shares in the capital of the said Corporation be responsible to the extent only of a sum equal to the amount of their said
 30 shares.

Liability of shareholders.

13. The Directors for the time being shall have the custody of the common seal of the said Corporation and the form thereof and all other matters relating thereto shall from time to time be determined by the Board of Directors in the same manner as is provided in and by the said Deed of
 35 Settlement for the determination of other matters by the Board of Directors And the Directors present at a Board of Directors of the said Corporation shall have power to use such common seal for the affairs and concerns of the said Corporation and under such seal to authorize and empower any person without such seal to execute any deeds and do all or any such other
 40 matters and things as may be required to be executed and done on behalf of the said Company in conformity with the provisions of the said Deed of Settlement and of this Act But it shall not be necessary to use the corporate seal in respect of any of the ordinary business of the Company or for the appointment of an attorney or solicitor for the prosecution or
 45 defence of any action suit or proceeding.

Custody and use of corporate seal.

14. The Directors of the said Company appointed by the said Deed of Settlement shall go out of office in the manner provided by the Deed of Settlement And vacancies in the Directors shall be filled up at the times and in manner provided by the said Deed of Settlement and shall
 50 otherwise be subject to the several provisions therein in that behalf contained.

Retirement and election of Directors.

15. It shall and may be lawful for the Board of Directors in pursuance of a resolution to that effect to be passed at Special General Meetings of the shareholders to be called for the purpose from time to time
 55 to borrow upon mortgage of the property of the Company or upon debentures chargeable thereon issued under the hands of any two of the Directors named in such resolutions any sum or sums of money not exceeding in the whole an amount equal to one half of the paid up Capital of the Company
 Provided

Power to borrow on mortgage or debentures.

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Provided always that the shareholders present at any such meeting either in person or by proxy specially given for the occasion shall hold shares representing not less than one-third of the paid up capital of the Company.

16. This Act shall be deemed and taken to be a public Act and
 5 shall be judicially taken notice of as such by the Judges of the Supreme Court of New South Wales and by all other Judges, Justices, and others within the Colony of New South Wales and its dependencies without being specially pleaded and the same whenever cited shall be sufficiently described as "The Tomago Coal Mining Company's Incorporation Act 1861."

Act to be deemed a Public Act.

To be cited as "The Tomago Coal Mining Company's Incorporation Act 1861."

10 17. And be it enacted that in this Act the following words shall have the following meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction (that is to say) words importing the plural number shall include the singular and words importing the masculine gender shall include females and bodies
 15 corporate as well as individuals.

Interpretation clause.

