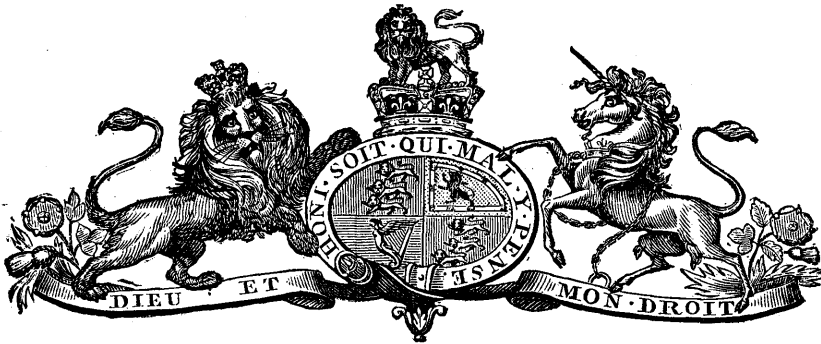


## NEW ZEALAND.



TRICESIMO SECUNDO ET TRICESIMO TERTIO

## VICTORIÆ REGINÆ.

No. XVIII.

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## ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> <li>1. Short Title.</li> <li>2. Definition of "incorporated Company."</li> <li>3. Definition of word "person."</li> <li>4. Section 8 of Mining Companies Act repealed.</li> <li>5. Amount paid up in cash to be distinguished from paid-up shares.</li> <li>6. Date of incorporation fixed.</li> <li>7. Form of certificate.</li> <li>8. Prohibition against identity of names in registered Companies.</li> <li>9. Penalty for not changing name.</li> <li>10. Shareholder need not hold miner's right.</li> <li>11. Managers may be removed.</li> <li>12. Company may increase or diminish nominal value of shares.</li> <li>13. Annual return to be published by Manager.</li> </ol> | <ol style="list-style-type: none"> <li>14. Penalty for neglect or false return.</li> <li>15. Fees to be paid on registration and increase of capital.</li> <li>16. Appointment and duties of Official Auditors.</li> <li>17. Meaning of words "upon the hearing of any petition" defined.</li> <li>18. Power to enforce orders.</li> <li>19. Effect of winding-up order.</li> <li>20. Form of order.</li> <li>21. Successor of Official Agent.</li> <li>22. Explanation and extension of meaning of term "mining purposes" in principal Act.</li> <li>23. Shares to be chattel interests.</li> <li>24. Agreements with Natives not to be affected.</li> <li>25. This and former Act to be read together. Schedules.</li> </ol> |
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*Repealed by  
"The Mining  
Companies  
Act 1872"*

AN ACT to amend "The Mining Companies Limited Liability Act 1865." Title.  
[21st August 1869.]

**B**E IT ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows—

1. The Short Title of this Act shall be "The Mining Companies Limited Liability Act Amendment Act 1869." Short Title.

2. The words "incorporated Company" throughout this Act shall include all Companies heretofore or hereafter to be incorporated under "The Mining Companies Limited Liability Act 1865" hereafter called "the said Act" or any other Act of the General Assembly of New Zealand and also all Companies lawfully constituted Corporations by Royal Letters Patent or otherwise. Definition of "incorporated Company."

3. The word "person" throughout "The Gold Fields Act 1866" and "The Gold Fields Act Amendment Act 1868" and all Regulations made under or by virtue of the said Acts shall be deemed to include incorporated Companies and all the provisions of the two said Acts shall apply to every incorporated Company so far as the same can be made applicable *mutatis mutandis*. Definition of word "person."

*Mining Companies Limited Liability Act Amendment.*

Section 8 of  
Mining Companies  
Act repealed.

Amount paid up  
in cash to be  
distinguished from  
paid up shares.

Date of incorporation  
fixed.

Form of certificate.

Prohibition against  
identity of names in  
registered Companies.

Penalty for not  
changing name.

Shareholder need not  
hold miner's right.

Managers may be  
removed.

Company may  
increase or diminish  
nominal value of  
shares.

4. Section eight of "The Mining Companies Limited Liability Act 1865" is hereby repealed.

5. In every memorial to be hereafter lodged under section ten of the said Act the amount paid up in cash shall be distinguished from the amount allotted in paid-up shares or partly paid-up shares (if any) but in all memorials heretofore lodged under the said section the *bond fide* amount of paid-up or partly paid-up shares given in exchange or payment for any claim or part of any claim or any share or interest in any claim shall be deemed and taken to have been truly stated as an amount already paid up.

6. The day of the lodging of the memorial referred to in section ten of the said Act with the Warden or Resident Magistrate as provided in the said section shall in respect of any Company already registered or hereafter to be registered under the said Act be deemed to be the date of the registration and incorporation of such Company and the said Act may hereafter be read as though the words "the *New Zealand Gazette*" had been omitted therefrom and not referred to therein.

7. The form of certificate set forth in Schedule B. of the said Act shall not be used after the passing of this Act but the certificate to be hereinafter granted as provided by section twelve of the said Act shall be in the form or to the effect set forth in Schedule A. to this Act.

8. No Company shall be registered under a name identical with that by which a subsisting Company is already registered or so nearly resembling the same as to be calculated to mislead and if any Company through inadvertence or otherwise is registered by a name identical with that by which a subsisting Company is registered or so nearly resembling the same as to be calculated to mislead such first-mentioned Company shall at the request of the Warden or Resident Magistrate with whom the memorial has been deposited or his successor in office change its name and upon such change being made the said Warden or Resident Magistrate shall give notice at the expense of the Company of the change so made by inserting a notice thereof in the *Gazette* of the Province or County and in one newspaper published in or near the district in which such Company carries on business but no such alteration of name shall affect any rights or obligations of the Company or render defective any legal proceedings instituted or to be instituted by or against the Company and any legal proceedings may be continued or commenced against the Company under its new name that might have been continued or commenced against the Company by its former name.

9. If any Company shall be required to change its name as aforesaid and shall make default for ten days to do so after being so required such Company shall incur a penalty not exceeding five pounds for every day during which such default continues after the expiration of the said ten days.

10. It shall not be necessary for any purpose whatever for any shareholder in any incorporated Company to take out or be the holder of a miner's right in respect of any shares held by him in such Company.

11. Every manager heretofore or to be hereafter appointed under section seven of the said Act may be at any time removed and another manager appointed in his stead by the Company of which he is manager or by the directors thereof.

12. A Company registered under "The Mining Companies Limited Liability Act 1865" with the sanction of the majority in number and value of the shareholders in such Company given at an

*Mining Companies Limited Liability Act Amendment.*

extraordinary meeting may from time to time increase or diminish the nominal value of the shares into which its subscribed capital is divided.

**13.** The Manager of every Company registered under the said Act shall in the months of June and December in the year one thousand eight hundred and seventy and in every succeeding year make out a true and faithful statement of the affairs of such Company in the form in the Schedule C. hereto annexed and shall publish the same in the *New Zealand Gazette* and in the *Gazette* of the Province or County in which such Company carries on business.

Annual return to be published by Manager.

**14.** If any Manager shall fail to make and publish such statement as last aforesaid he shall forfeit and pay a penalty of not exceeding two hundred pounds or if any Manager shall knowingly insert in such statement any false matter whatsoever he shall be guilty of a misdemeanour.

Penalty for neglect or false return.

**15.** After the passing of this Act upon the lodging of every memorial of the formation of a Company under the tenth section of the said Act and upon the lodging of a notice of increase of capital under the twenty-fifth section of the said Act there shall be paid to the Warden or Resident Magistrate a fee according to the scale set forth in the Schedule D. hereto annexed and all such fees after payment of the cost of the publication of the memorial as required by section ten of the said Act shall be deemed to be part of the revenue of the Gold Field on which such Company is carrying on mining business.

Fees to be paid on registration and increase of capital.

**16.** It shall be lawful for the Governor in Council to appoint one or more persons to be called Official Auditors to audit the accounts of all Official Agents heretofore or hereafter to be appointed under the said Act And it shall be lawful for some Judge of the District Court if there be such Court in the district and if not then for some Judge of the Supreme Court of the Judicial District where any Company is registered on the application of any such Official Auditor to order the immediate payment to him by any such Official Agent of all moneys which may or ought to be in the hands of such Official Agent belonging to or to the credit of or which may be due by him to any such Company and also to order the delivery to such Official Auditor by such Official Agent of all books accounts papers and documents of or belonging to such Company and if any such Official Agent shall not permit and give every reasonable facility for the audit of his said accounts he shall on conviction thereof forfeit and pay a sum not less than ten nor more than fifty pounds.

Appointment and duties of Official Auditors.

**17.** It is declared and enacted that the words "upon the hearing of any petition" wherever the same are used in the said Act shall be construed deemed and taken to mean and include an application to a Judge of the District Court or of the Supreme Court as the case may be whether sitting in Court or not or to the District Court or Supreme Court and whether made to the said Court or to the said Judge upon an *ex parte* application or after service of notice of such application at the office of the Company or upon summons so served returnable before the Judge or before the Court and no order heretofore or hereafter to be made shall be deemed to be invalid or impeachable upon the ground that the same was made by the Judge or by the Court upon an *ex parte* application Provided that the said Judge or Court shall have power from time to time if it should be deemed advisable upon the application of any party claiming to be interested in or affected by such order to set aside or vary any such order.

Meaning of words "upon the hearing of any petition" defined.

**18.** All orders made by the District Court or Supreme Court or the Judge thereof under any of the provisions of the said Act may be

Power to enforce orders.

*Mining Companies Limited Liability Act Amendment.*

enforced in like manner in which any order or decree of the Court in any suit pending therein may be enforced.

Effect of winding-up order.

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

Form of order.

**20.** Every order made for winding up a Company may be in the form in Schedule B. to this Act or to the like effect and every such order in the form or to the effect aforesaid shall be valid.

Successor of Official Agent.

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

Explanation and extension of meaning of term "mining purposes" in principal Act.

**22.** And whereas doubts have arisen as to the meaning of the term "mining purposes" as defined and interpreted in the said Act and it is expedient to set such doubts at rest Be it therefore enacted and declared that in addition to the purposes in the said Act mentioned the following shall be and be deemed since the passing of the said Act to have been mining purposes within the meaning of the said Act that is to say The purchase construction erection and maintenance of machinery of any kind and letting the same or using the same for hire for the purposes in the said Act described as mining purposes And the purchase construction erection and maintenance of races sluices and water-courses and letting or selling the water or water-power therefrom or thereof for the purposes in the said Act described as mining purposes.

Shares to be chattel interests.

**23.** And whereas doubts have arisen as to whether shares in Companies registered under the said Act are chattel interests and it is expedient to set such doubts at rest Be it therefore enacted and declared that shares in Companies registered under the said Act shall be deemed and taken in law to be chattel interests and may be inherited assigned and transferred and seized and sold under any writ of *fiery facias* or other writ of execution or warrant accordingly and this enactment shall be deemed and taken to have been in operation from the passing of the said Act.

Agreements with Natives not to be affected.

**24.** Nothing in this Act contained shall be construed to alter or affect any of the provisions of the several agreements entered into between the Governor or any other person acting on behalf of the Governor whereby gold mining has been authorized on any Native land or to prejudicially affect the rights and interests of the Native owners under any such agreements.

This and former Act to be read together.

**25.** This Act shall be deemed to be incorporated with and form part of the said Act and shall together with it be construed as one Act.

*Mining Companies Limited Liability Act Amendment.*

SCHEDULE A.

Schedules.

THIS is to certify that a Mining Company called "The \_\_\_\_\_ Company Registered" is by virtue of "The Mining Companies Limited Liability Act 1865" incorporated a memorial under the said Act having been duly lodged with me in the \_\_\_\_\_ Court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ in the year 18\_\_\_\_\_.  
 Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_\_.  
 A. B., Warden or Resident Magistrate as the case may be.

SCHEDULE B.

In the \_\_\_\_\_ Court }  
 In the matter of the \_\_\_\_\_ Company Registered the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_\_.  
 WHEREAS on the \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ Court at \_\_\_\_\_ in certain proceedings instituted in that Court by A.B. a creditor of the said Company against the said Company the said A.B. by the judgment [*or order as the case may be*] of the said Court recovered against the said Company a certain debt of \_\_\_\_\_ and on the day of \_\_\_\_\_ a certain execution theretofore issued on the said judgment [*or order*] was returned unsatisfied in the whole by the person appointed to execute the same And whereas on the \_\_\_\_\_ day of \_\_\_\_\_ the said A.B. did present to me the undersigned Judge of the \_\_\_\_\_ Court \_\_\_\_\_ District in which the said Company was registered to wit in the District of \_\_\_\_\_ his petition setting forth the facts hereinbefore recited and praying that the said Company might be wound up and at the time of presenting the said petition an affidavit of the said A.B. verifying the same was filed in the last-mentioned Court And whereas the said Company has been duly served with a summons in this behalf which required them to appear here before me this day to answer the said petition and to show cause why I should not make an order directing the said Company by a day to be named in such order to pay or secure payment to the said A.B. of the said sum together with such costs as I might direct or why I should not make an order [*or decree*] for winding up the said Company forthwith or such other order as to me should appear to be just And whereas the said Company has not appeared before me this day or shown any sufficient cause as required by the said summons Now therefore upon the hearing of the said petition and upon reading the said affidavit and upon proof as well of the facts and matters aforesaid as that the said sum is now due from the said Company to the said A.B. and upon hearing the attorney for the said A.B. I do order that the said Company shall be wound up forthwith.

By the Court

SCHEDULE C.

Name of Company.	When formed and Date of Registration.	Where Business is conducted and name of Legal Manager.	Nominal Capital.	Amount of paid-up Scrip given to Shareholders.	Number of Shares in which Capital is divided.	Number of Shares taken.	Amount of Calls made.	Total Amount of Subscribed Capital paid up.	Number of Shareholders at time of registration of Company.	Amount of Cash in hand.	Whether in operation or not.	Total amount of dividends declared.	Number of Shares unallotted.

SCHEDULE D.

TABLE OF FEES.

	£	s.	d.
Where the nominal capital does not exceed £1000	...	...	...
For every £1000 of nominal capital or part of £1000 after the first £1000	0	2	6
For every increase in the capital of a Company for every £1000 or part of £1000	0	2	6

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