



ANNO QUINTO

# GEORGIIV. REGIS.

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## Cap. lxxi.

An Act to enable *The Australian Company* of *Edinburgh* to sue and be sued in the Name of the Manager for the Time being of the said Company. [28th May 1824.]

**W**HEREAS several Persons have formed themselves into a Company or Society, established at *Edinburgh* by the Name of *The Australian Company*, for the Purposes of Trade and of effecting the regular and speedy Maritime Conveyance of Goods and Passengers between the Port of *Leith* and the *British Colonies* of *New South Wales* and *Van Diemen's Land* and the adjacent Territories, with leave to the Vessels of the Company to call for the Purposes of Trade at such Ports and Places as shall for the Time be lawful by the Laws of this Realm; and since the Establishment of the said Company or Society the Partners thereof have sent several Ships and Vessels with valuable Freights to the aforesaid Colonies; but the great Distance of the aforesaid Colonies renders the Trade with the same very expensive, and a length of Time must elapse before any Return can be received therefrom: And whereas Difficulties may arise in recovering Debts due to the said Company or Society, and in maintaining Actions or Proceedings for Damages done to their Property; and also in prosecuting Persons who may steal or embezzle the Monies or Effects of the said Company or Society: And whereas it would be convenient that Persons having Demands against the said Company or Society should be entitled to sue some Member thereof, in place and stead of the Whole; but as these Purposes cannot be effected without the Aid and Authority of Parliament; May it therefore please Your Majesty that it may be enacted, and be it enacted by the King's most Excellent

[Local.]

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cellent

Actions at  
Law, &c. to  
be in the  
Name of the  
Manager, &c.

cellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act, all Actions, Suits, and also all Petitions to found any Sequestration or any Commission of Bankruptcy against any Person or Persons indebted to the said Company or Society, and liable to be sequestrated or made Bankrupt by the Laws now or at any Time hereafter in being relative to Bankrupts and Traders, and all Proceedings at Law or in Equity under any Sequestration or Commission or Commissions of Bankrupt to be awarded in consequence of any such Petitions, and all other Proceedings at Law or in Equity to be commenced, instituted, and prosecuted or carried on by or on Behalf of the said Company or Society, or wherein the said Company or Society is or shall be concerned or interested, against any Person or Persons, Body or Bodies Politic or Corporate, shall and may be lawfully commenced, instituted, and prosecuted or carried on, in the Name of the Person who shall be Manager of the said Company or Society at the Time any such Action, Suit, or Proceeding shall be commenced or instituted, as the nominal Pursuer or Plaintiff, or nominal Petitioner, for and on Behalf of the said Company or Society; and that all Actions, Suits, or Proceedings aforesaid, to be commenced, instituted, or prosecuted against the said Company or Society, shall be commenced, instituted, and prosecuted against the Manager for the Time being of the said Company or Society, as the nominal Defender or Defendant for and on Behalf of the said Company or Society; and that all Prosecutions to be brought, instituted, or carried on, by or on Behalf of the said Company or Society, for Fraud upon or against the said Company or Society, or for Embezzlement, Robbery, or stealing the Property of the said Company or Society, or for any other Offence against the said Company or Society, shall and lawfully may be so brought or instituted and carried on in the Name of such Manager for the Time being of the said Company or Society; and in all Indictments and Informations it shall be lawful to state the Property of the said Company or Society to be the Property of such Manager for the Time being of the said Company or Society; and any Offence committed with Intent to injure or defraud the said Company or Society shall and lawfully may, in such Prosecution, be stated or laid to have been committed with Intent to injure or defraud such Manager for the Time being of the said Company or Society; and any Offender or Offenders may thereupon be lawfully convicted of any such Offence; and in all other Allegations or Indictments, Informations or other Proceedings, it shall and may be lawful and sufficient, from and after the passing of this Act, to state the Name of such Manager; and the Death, Resignation, or Removal or other Act of such Manager, shall not abate any such Action, Suit, or Prosecution; but the same may be continued where it left off, prosecuted and carried on in the Name of any Person who may be Manager of the said Company or Society for the Time being.

Names of  
Members to  
be recorded  
in the Court  
of Session.

II. And be it further enacted, That a Memorial of the Name and Names of the Manager, and of the several Persons being Members of the said Company or Society, in the Form for that Purpose expressed in the Schedule hereunto annexed, shall be recorded upon Oath in the Court of Session in *Scotland*, within Twenty-eight Days after the passing of this Act; and a like Memorial of the Names of all Persons admitted

admitted original Shareholders subsequently to such First Recording, shall also be recorded upon Oath in the same Record within Twenty-eight Days after their becoming Members of the Company respectively; and when any new Manager shall be elected, or any Transfer of any Share or Shares of any Member of the said Company shall be made, a Memorial thereof shall in like Manner be recorded as aforesaid, within Twenty-eight Days afterwards, in the Form or to the Effect expressed in the said Schedule for that Purpose.

III. Provided always, and be it further enacted, That until such Memorial, as first herein-before mentioned, shall have been recorded in Manner herein directed, no Action, Suit, or Proceeding shall be brought by the said Company or Society under the Authority of this Act; and all the Members whose Names shall be expressed in any Memorial to be recorded in pursuance of this Act shall continue liable to all Actions, Processes, Suits, Judgments, and Executions, until a Memorial or Memorials of Transfer of the Shares of such Members shall have been enrolled as aforesaid, and no longer.

No Actions to be brought until Memorial recorded.

IV. Provided always, and be it further enacted, That the Manager being the Pursuer or Plaintiff, or Petitioner, or Defender or Defendant in any such Action, Suit, Petition, or Proceeding as aforesaid, shall not prevent or affect the Competency of any such Manager to be a Witness in any such Action, Suit, Petition, or Proceeding, in the same Manner as he might have been if his Name had not been made use of as the Pursuer or Plaintiff, or Petitioner, Defender, or Defendant in any such Action, Suit, Petition, or Proceeding.

Use of Manager's Name not to prevent him from giving Evidence.

V. Provided always, and be it enacted, That Execution upon any Decree or Judgment in any such Action, Suit, Petition, or Proceeding obtained against the Manager for the Time being of the said Company or Society, whether as Pursuer or Defender, or Plaintiff or Defendant, may be issued against any Member or Members for the Time being of the said Company: Provided always, that every such Manager, in whose Name any such Action, Process, or Suit, shall be commenced, prosecuted, or defended, and every such Member or Members against whom Execution upon any Decree or Judgment obtained in any such Action, Process, or Suit, shall be issued as aforesaid, shall always be reimbursed and paid out of the Funds of the said Company or Society all such Expences, Costs, and Charges, as by the Event of any such Proceedings he, she, or they shall be put unto or become chargeable with.

Execution upon any Judgment may be issued against any Member of the Company, &c.

VI. And be it further enacted, That the Provisions contained in this Act shall extend and be construed to extend to the said Company or Society called *The Australian Company* at all Times during the Continuance of the same, whether such Company or Society from Time to Time hath been or be now or shall be hereafter composed of all or some of the Persons who were the original Members or Partners thereof, or of all or some of those Persons, together with some other Persons, or shall be composed altogether of Persons who were not original Members or Partners of the same.

Act to be at all Times valid notwithstanding Change of Members of Company.

VII. Provided always, and be it further enacted, That nothing herein contained shall extend, or be deemed, construed, or taken to extend, to incorporate the said Company or Society, or to relieve or discharge the said Company or Society, or any of the Members thereof or Subscribers

Company not incorporated by this Act.

scribers thereto, from any Responsibility, Duties, Contracts, or Obligations whatsoever, which by Law they now are or at any Time hereafter shall be subject or liable to, either between the said Company or Society and others, or between the individual Members of the said Company or Society or any of them and others, or among themselves, or in any other Manner whatsoever, except so far as the same is affected by the Provisions of this present Act, and the true Intent and Meaning of the same.

Public Act.

VIII. And be it further enacted, That this Act shall be deemed and taken to be a Public Act; and shall be judicially taken Notice of as such, by all Judges, Justices, and others, without being specially pleaded.

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SCHEDULE referred to by this Act.

MEMORIAL of the Names of the Manager and Members of *The Australian Company*, to be recorded pursuant to an Act of Parliament passed in the Fifth Year of the Reign of His Majesty King George the Fourth, intituled [*here insert the Title of this Act.*]

*A. B.* Secretary of the above named Company, maketh Oath, That the above written Memorial doth contain the Names of the Manager and all the present Members of the said Company, as the same appear in the Books of the said Company.

MEMORIAL of the Name or Names of the Person or Persons having become a Member or Members of *The Australian Company* since the Day of One thousand eight hundred and being the Date of the Memorial last recorded respecting the said Company.

MEMORIAL of the Name of the Manager of *The Australian Company*, to be recorded in pursuance of an Act of Parliament passed in the Fifth Year of the Reign of His Majesty King George the Fourth, intituled [*here insert the Title of this Act.*]

*C. D.* Manager.  
*A. B.* of Secretary to the said Company, maketh Oath, That the above-named *C. D.* was elected Manager of the said Company on the Day of

MEMORIAL of Assignment of Shares in *The Australian Company*, to be recorded in pursuance of an Act of Parliament passed in the Fifth Year of the Reign of His Majesty King George the Fourth, intituled [*here insert the Title of this Act.*]

*E. F.* on the assigned  
Shares to *G. H.* of in the County of

*A. B.* of Secretary to the said Company, maketh Oath, That the Assignment above mentioned hath been duly made, as appears by the Documents in the Possession of the said *Australian Company*.

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