

THE INDIAN COMPANIES ACT, 1882.

CONTENTS.

PREAMBLE.

PRELIMINARY.

SECTIONS.

1. Short title.
Local extent.
Commencement.
2. Repeal of Act X of 1866.
3. Interpretation-clause.
4. Prohibition of partnerships exceeding certain number.
5. Division of Act.

PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Memorandum of Association.

6. Mode of forming Company.
7. Mode of limiting liability of members.
Directors with unlimited liability.
8. Memorandum of association of a Company limited by shares.
9. Memorandum of association of a Company limited by guarantee.
10. Memorandum of association of an unlimited Company.
11. Signature and effect of memorandum of association.
12. Power of certain Companies to alter memorandum of association.

Reduction of Capital and Shares.

13. Power to Company to reduce capital.
14. Company to add "and reduce" to its name for a limited period.
15. Company to apply to the Court for an order confirming reduction.
16. Creditors may object to reduction, and list of objecting creditors to be settled by Court.
17. Court may dispense with consent of creditor on security being given for his debt.

18. Order

[Price one rupee and six annas.]

SECTIONS.

18. Order and minute to be registered.
19. Minute to form part of memorandum of association.
20. Saving of rights of creditors who are ignorant of proceedings.
21. Registered minute to be embodied in memorandum of association.
22. Penalty on concealment of name of creditor.
23. Power to reduce capital by cancellation of unissued shares.

Sub-division of Shares.

24. Shares may be divided into shares of smaller amount.
25. Special resolution to be embodied in memorandum of association.

Associations not for Profit.

26. Special provisions as to associations formed for purposes not of gain.

Calls upon Shares.

27. Company may have some shares fully paid, and others not.
28. Manner in which shares are to be issued and held.

Transfer of Shares.

29. Transfer may be registered at request of transferor.

Share-warrants to Bearer.

30. Warrant of limited shares fully paid up may be issued in name of bearer.

Coupons.

31. Effect of share-warrant.
32. Re-registration of bearer of a share-warrant in the register.
33. Regulations of the Company may make the bearer of a share-warrant a member.
34. Entries in register where share-warrant issued.
35. Stamps on share-warrants.
Penalty for issuing share-warrant not duly stamped.

Change of Name.

36. Power of Companies to change name.

Articles of Association.

37. Regulations to be prescribed by articles of association.
38. Application of table A.
39. Signature and effect of articles of association.

General

1882.]

*Companies.**General Provisions.*

SECTIONS.

40. Registration of memorandum of association and articles of association with fees as in table B.
41. Effect of registration.
42. Copies of memorandum and articles to be given to members.
43. Prohibition against identity of names in Companies.

PART II.

DISTRIBUTION OF CAPITAL AND LIABILITY OF MEMBERS OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Distribution of Capital.

44. Nature of interest in Company.
45. Definition of "member."
46. Transfer by personal representative.
47. Register of members.
48. Annual list of members.
49. Particulars to be contained in annual summary.
50. Penalty on Company, &c., not keeping a proper register.
51. Company to give notice of consolidation or of conversion of capital into stock.
52. Effect of conversion of shares into stock.
53. Entry of trusts on register.
54. Certificate of shares or stock.
55. Inspection of register.
56. Power to close register.
57. Notice of increase of capital and of members to be given to Registrar.
58. Remedy for improper entry or omission of entry in register.
59. Notice to Registrar of rectification of register.
60. Register to be evidence.

Liability of Members.

61. Liability of present and past members of Company.
62. Liability of director whose liability is unlimited.

PART III.

MANAGEMENT AND ADMINISTRATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Provisions for Protection of Creditors.

63. Registered office of Company.

64. Notice

SECTIONS.

- 64. Notice of situation of registered office.
- 65. Publication of name by a limited Company.
- 66. Penalties on non-publication of name.

Contracts.

- 67. Contracts how made.
- 68. Register of mortgages.
- 69. Certain Companies to publish statement entered in schedule.
- 70. List of directors to be sent to Registrar.
- 71. Penalty on Company not keeping register of directors.
- 72. Promissory notes, bills of exchange and hundís.
- 73. Prohibition against carrying on business with less than seven members.

Provisions for Protection of Members.

- 74. General meeting of Company.
Balance-sheet.
Audit.

Meetings.

- 75. Company to hold meeting within six months after registration.
- 76. Power to alter regulations by special resolution.
Power to make liability of directors unlimited.
- 77. Definition of special resolution.
- 78. Provision where no regulations as to meetings.
- 79. Registration of special resolutions.
- 80. Copies of special resolutions to be embodied in articles of association.
- 81. Execution of deeds abroad.
- 82. Examination of affairs of Company by inspectors.
- 83. Application for inspection to be supported by evidence.
- 84. Inspection of books.
- 85. Result of examination how dealt with.
- 86. Power of Company to appoint inspectors.
- 87. Report of inspectors to be evidence.
- 88. Prospectus, &c., to specify dates and names of parties to certain prior contracts.

Notices.

- 89. Service of notices on Company.
- 90. Rules as to notices by letter.
- 91. Authentication of notices by Company.

Legal Proceedings.

- 92. Evidence of proceedings at meetings.
- 93. Provision as to costs in suits brought by certain limited Companies.

1882.]

Companies.

SECTIONS.

94. *Plaint in suits against members.**Alteration of Forms.*95. *Forms to be used.*

Governor General in Council may alter forms.

Arbitrations.

- 96. *Power for Companies to refer matters to arbitration.*
- 97. *Power to alter or revoke agreements for reference.*
- 98. *Agreements to be carried into effect.*
- 99. *Reference to arbitrator.*
- 100. *Reference to two or more arbitrators.*
- 101. *Appointment of arbitrators by Companies.*
- 102. *Appointment of arbitrators by Local Government.*
- 103. *Appointment of arbitrators by Companies to supply vacancies.*
- 104. *Appointment of arbitrators by Local Government to supply vacancies.*
- 105. *Appointment of arbitrator not revocable.*
- 106. *Appointment of umpire by arbitrators.*
- 107. *Appointment of umpire by Local Government.*
- 108. *Appointment of umpire by arbitrators to supply vacancy.*
- 109. *Appointment of umpire by Local Government to supply vacancy.*
- 110. *Succeeding arbitrators and umpires to have powers of predecessors.*
- 111. *Reference to umpire.*
- 112. *Power for arbitrators, &c., to call for books, &c., and examine witnesses on oath.*
- 113. *Procedure in the arbitration.*
- 114. *Arbitration may proceed in absence of Companies.*
- 115. *Several awards may be made.*
- 116. *Awards made in due time to bind all parties.*
- 117. *Power for umpire to extend period for making his award.*
- 118. *Awards not to be set aside for informality.*
- 119. *Awards to be obeyed.*
- 120. *Agreements, arbitrations and awards to have effect.*
- 121. *Costs of arbitration and award.*
- 122. *Payment of costs.*
- 123. *Submission to arbitration to be filed in Court.*

PART IV.

WINDING-UP OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

*Preliminary.*124. *Meaning of "contributory."*125. *Nature*

SECTIONS.

- 125. Nature of liability of contributory.
- 126. Contributories in case of death.
- 127. Contributories in case of insolvency.

Winding-up by Court.

- 128. Circumstances under which Company may be wound up by Court.
- 129. Company when deemed unable to pay its debts.
- 130. Definition of "the Court."
Definition of "debts."
- 131. Application for winding-up to be made by petition.
- 132. Contributory when not qualified to present winding-up petition.
- 133. Commencement of winding-up by Court.
- 134. Court may grant injunction.
- 135. Course to be pursued by Court on hearing petition.
- 136. Suits to be stayed after order for winding-up.
- 137. Copy of order to be forwarded to Registrar.
- 138. Power of Court to stay proceedings.
- 139. Effect of order on share-capital of Company limited by guarantee.
- 140. Court may have regard to wishes of creditors or contributories.

Official Liquidators.

- 141. Appointment of official liquidator.
- 142. Resignations, removals, filling up vacancies and compensation.
- 143. Style and duties of official liquidator.
- 144. Power of official liquidator.
- 145. Discretion of official liquidator.
- 146. Appointment of attorney or vakil to official liquidator.

Ordinary Powers of Court.

- 147. Collection and application of assets.
- 148. Provision as to representative contributories.
- 149. Power of Court to require delivery of property.
- 150. Power of Court to order payment of debts by contributory.
- 151. Power of Court to make calls.
- 152. Power of Court to order payment into Bank.
- 153. Regulation of account with Court.
- 154. Provision in case of representative contributory not paying monies ordered.
- 155. Order conclusive evidence.
- 156. Court may exclude creditors not proving within certain time.
- 157. Court to adjust rights of contributories.

158. Court.

1882.]

Companies.

SECTIONS.

- 158. Court to order costs.
- 159. Dissolution of Company.
- 160. Registrar to make minute of dissolution of Company.
- 161. Penalty for not reporting dissolution of Company.

Extraordinary Powers of Court.

- 162. Power of Court to summon persons before it suspected of having property of Company.
- 163. Examination of parties by Court.
- 164. Power to arrest contributory about to abscond or to remove or conceal any of his property.
- 165. Powers of Court cumulative.

Enforcement of, and Appeal from, Orders.

- 166. Power to enforce orders.
- 167. Order made in any Court to be enforced by other Courts.
- 168. Mode of dealing with orders to be enforced by other Courts.
- 169. Appeals from orders.
- 170. Judicial notice to be taken of signature of officers.
- 171. Special Commissioners for receiving evidence.
- 172. Affidavits, &c., may be sworn in British India, Great Britain or Ireland or abroad, before any competent Court or person.

Voluntary winding-up of Company.

- 173. Circumstances under which Company may be wound up voluntarily.
- 174. Commencement of voluntary winding-up.
- 175. Effect of voluntary winding-up on status of Company.
- 176. Notice of resolution to wind up voluntarily.
- 177. Consequence of voluntary winding-up.
- 178. Effect of winding-up on share-capital of Company limited by guarantee.
- 179. Power of Company to delegate authority to appoint liquidators.
- 180. Arrangement when binding on creditors.
- 181. Power of creditor or contributory to appeal.
- 182. Power for liquidators or contributories in voluntary winding-up to apply to Court.
- 183. Power of liquidators to call general meeting.
- 184. Power to fill up vacancy in office of liquidators.
- 185. Power of Court to appoint liquidators.
- 186. Liquidators on conclusion of winding-up to make up an account.
- 187. Liquidators to report meeting to Registrar.
- 188. Costs of voluntary liquidation.
- 189. Saving of rights of creditors.

190. Power

SECTIONS.

190. Power of Court to adopt proceedings of voluntary winding-up.

Winding-up subject to the Supervision of the Court.

191. Power of Court, on application, to direct winding-up subject to supervision.
192. Petition for winding-up subject to supervision.
193. Court may have regard to wishes of creditors.
194. Power to Court to appoint additional liquidator in winding-up subject to supervision.
195. Effect of order of Court for winding-up subject to supervision.
196. Appointment in certain cases of voluntary liquidators to office of official liquidators.

Supplemental Provisions.

197. Dispositions after commencement of winding-up avoided.
198. Books of Company to be evidence.
199. Disposal of books, accounts and documents of Company.
200. Inspection of books.
201. General scheme of liquidation may be sanctioned.
202. Power to compromise.
203. Where compromise proposed, Court may order a meeting of creditors, &c., to decide as to such compromise.
204. Power for liquidators to accept shares, &c., as a consideration for sale of property of Company.
205. Mode of determining price.
206. Appointment of arbitrator when questions are to be determined by arbitration.
207. Vacancy of arbitrator to be supplied.
208. Appointment of umpire.
209. Power of arbitrators to call for books, &c.
210. Costs to be in discretion of arbitrators.
211. Submission to arbitration may be filed in Court.
212. Certain attachments, distresses and executions to be void.
213. Fraudulent preference.
214. Power of Court to assess damages against delinquent directors and officers.
215. Penalty on falsification of books.
216. Prosecution of delinquent directors in case of winding-up by Court.
217. Penalty for false evidence.
218. Winding-up may be referred to District Court.
219. Transfer of winding-up from one District Court to another.

1882.]

Companies.

PART V.

REGISTRATION-OFFICE.

SECTIONS.

220. Constitution of registration-office.
-

PART VI.

APPLICATION OF ACT TO COMPANIES REGISTERED UNDER THE JOINT STOCK COMPANIES ACTS.

221. Application of Act to Companies formed under Act XIX of 1857 or VII of 1860.
222. Application of Act to Companies registered under Act XIX of 1857 or VII of 1860.
223. Mode of transferring shares.
-

PART VII.

COMPANIES AUTHORIZED TO REGISTER UNDER THIS ACT.

224. Companies capable of being registered.
225. Regulations as to registration of existing Companies.
226. Definition of "joint stock Company."
227. Requisitions for registration by Companies.
228. Requisitions for registration by existing Company not being a joint stock Company.
229. Power for existing Company to register amount of stock instead of shares.
230. Authentication of statements of existing Companies.
231. Registrar may require evidence as to nature of Company.
232. On registration of banking Company with limited liability, notice to be given to customers.
233. Exemption of certain Companies from payment of fees.
234. Company to change name.
235. Certificate of registration of existing Companies.
236. Certificate to be evidence of compliance with Act.
237. Transfer of property to Company.
238. Registration under this Act not to affect obligations incurred previously to registration.
239. Continuation of existing suits.
240. Effect of registration under Act.
241. Power of Court to restrain further proceedings.
242. Order for winding-up Company.
-

PART VIII.

PART VIII.

APPLICATION OF ACT TO UNREGISTERED COMPANIES.

SECTIONS.

- 243. Winding-up unregistered Companies.
- 244. Who to be deemed a contributory in the event of Company being wound up.
- 245. Power of Court to restrain further proceedings.
- 246. Effect of order for winding-up Company.
- 247. Provision in case of unregistered Company.
- 248. Provisions of this Part of Act cumulative.

PART IX.

MISCELLANEOUS PROVISIONS.

- 249. Company not to buy its own shares.
- 250. Saving of existing proceedings for winding-up.
- 251. Saving of conveyances.
- 252. Cognizance of offences.
Punishment of offences committed within Presidency-towns.
- 253. Power to make orders as to costs.
- 254. Power of High Court to make rules.
- 255. Construction of "Registrar of Joint Stock Companies" in Act XXI of 1860.
- 256. Act not to apply to Bank of Bengal, Madras or Bombay.

FIRST SCHEDULE.

SECOND SCHEDULE.

1882.]

ACT No. VI OF 1882.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 24th February, 1882.)

An Act for the incorporation, regulation and winding-up of Trading Companies and other Associations.

WHEREAS it is expedient to amend the law relating to the incorporation, regulation and winding-up of Trading Companies and other Associations; It is hereby enacted as follows: Preamble.

PRELIMINARY.

1. This Act may be cited as "The Indian Companies Act, 1882": Short title.

it extends to the whole of British India: Local extent.

it shall come into force on the first day of May, 1882; and the time at which it comes into force is hereinafter referred to as the commencement of this Act. Commencement.

2. On and from the commencement of this Act, the Indian Companies Act, 1866, shall be repealed. But such repeal shall not affect— Repeal of Act X of 1866.

(a) the incorporation of any Company registered under the said Act or any Act thereby repealed;

(b) any right or privilege acquired, or liability incurred, under the said Act or any Act thereby repealed;

(c) table B in the schedule annexed to Act No. XIX of 1857 or any part thereof, so far as the same applies to any Company existing at the time of the commencement of this Act.

And

And all references to the said Indian Companies Act, 1866, in Acts or Regulations passed before the commencement of this Act shall be read as if made to this Act; and all rules made, fees directed, resolutions passed and other things duly done under the same Act shall be deemed to be respectively made, directed, passed and done under this Act; and all Companies under the same Act shall be deemed to be Companies under this Act.

Interpreta-
tion-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

"Insurance
Company";

"Insurance Company" means a Company that carries on the business of insurance either solely or in common with any other business or businesses;

"Court";

"Court" means the principal civil Court of original jurisdiction in a district, and includes the High Court in the exercise of its ordinary original civil jurisdiction;

"District
Court."

"District Court" means the principal civil Court of original jurisdiction in a district, but does not include the High Court in the exercise of its ordinary original civil jurisdiction.

Prohibition
of partner-
ships exceed-
ing certain
number.

4. No Company, Association or Partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking, unless it is registered as a Company under this Act, or is formed in pursuance of an Act of Parliament or some other Act of the Governor General in Council, or by Royal Charter or Letters Patent; and no Company, Association or Partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any other business that has for its object the acquisition of gain by the Company, Association or Partnership, or by the individual members thereof, unless it is registered as a Company under this Act, or is formed in pursuance of some other Act or of Letters Patent.

Division of
Act.

5. This Act is divided into nine Parts, relating to the following subject-matters:—

The first Part—to the constitution and incorporation of Companies and Associations under this Act;

The

1882.]

Companies.

The second Part—to the distribution of the capital and liability of members of Companies and Associations under this Act;

The third Part—to the management and administration of Companies and Associations under this Act;

The fourth Part—to the winding-up of Companies and Associations under this Act;

The fifth Part—to the registration-office;

The sixth Part—to the application of this Act to Companies registered under Act No. XIX of 1857 (*for the incorporation and regulation of Joint Stock Companies and other Associations, either with or without limited liability of the members thereof*), and Act No. VII of 1860 (*to enable Joint Stock Banking Companies to be formed on the principle of limited liability*), or either of them;

The seventh Part—to Companies authorized to register under this Act;

The eighth Part—to the application of this Act to unregistered Companies;

The ninth Part—to miscellaneous provisions.

PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES
AND ASSOCIATIONS UNDER THIS ACT.

Memorandum of Association.

6. Any seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requisitions of this Act in respect of registration, form an incorporated Company, with or without limited liability.

Mode of
forming Com-
pany.

Explanation.—Foreigners are persons within the meaning of this section, although the whole or any part of the business of the proposed Company is intended to be transacted out of British India.

7. The

Mode of
limiting li-
ability of
members.

7. The liability of the members of a Company formed under this Act may, according to the memorandum of association, be limited either to the amount, if any, unpaid on the shares respectively held by them, or to such amount as the members may respectively undertake by the memorandum of association to contribute to the assets of the Company in the event of its being wound up.

Directors
with unlimit-
ed liability.

Where a Company is formed as a Limited Company, the liability of the directors or managers of such Company, or of the managing director, may, if so provided by the memorandum of association, be unlimited.

Memorandum
of association
of a Company
limited by
shares.

8. Where a Company is formed on the principle of having the liability of its members limited to the amount unpaid on their shares, hereinafter referred to as a Company limited by shares, the memorandum of association shall contain the following things (that is to say):—

(a) the name of the proposed Company with the addition of the word “limited” as the last word in such name;

(b) the part of British India in which the registered office of the Company is proposed to be situate;

(c) the objects for which the proposed Company is to be established;

(d) a declaration that the liability of the members is limited;

(e) the amount of capital with which the Company proposes to be registered divided into shares of a certain fixed amount:

Subject to the following regulations:—

(f) that no subscriber shall take less than one share;

(g) that each subscriber of the memorandum of association shall write opposite to his name the number of shares he takes.

Memorandum
of association
of a Company

9. Where a Company is formed on the principle of having the liability of its members limited to such amount

1882.]

Companies.

amount as the members respectively undertake to contribute to the assets of the Company in the event of the same being wound up (hereinafter referred to as a Company limited by guarantee), the memorandum of association shall contain the following things (that is to say) :—

(a) the name of the proposed Company, with the addition of the word "limited" as the last word in such name;

(b) the part of British India in which the registered office of the Company is proposed to be situate;

(c) the objects for which the proposed Company is to be established;

(d) a declaration that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member, or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and of the costs, charges and expenses of winding-up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding a specified amount.

10. Where a Company is formed on the principle of having no limit placed on the liability of its members (hereinafter referred to as an unlimited Company), the memorandum of association shall contain the following things (that is to say) :—

(a) the name of the proposed Company;

(b) the part of British India in which the registered office of the Company is proposed to be situate;

(c) the objects for which the proposed Company is to be established.

11. The memorandum of association shall be signed by each subscriber in the presence of, and be attested by, one witness at the least. It shall, when registered, bind the Company and the members thereof to the same extent as if each member had subscribed his name

thereto,

Memorandum
of association
of an unlimited
Company.

Signature
and effect of
memorandum
of association.

thereto, and there were in the memorandum contained, on the part of himself, his heirs, executors and administrators, a contract to observe all the conditions of such memorandum subject to the provisions of this Act.

Power of certain Companies to alter memorandum of association.

12. Any Company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized to do so by its regulations as originally framed, or as altered by special resolution in manner hereinafter mentioned, as to increase its capital, by the issue of new shares of such amount as it thinks expedient, or to consolidate and divide its capital into shares of larger amount than its existing shares, or to convert its paid up shares into stock; but, save as aforesaid, and save as hereinafter provided, no alteration shall be made by any Company in the conditions contained in its memorandum of association.

Reduction of Capital and Shares.

Power to Company to reduce capital.

13. Any Company limited by shares may, by special resolution, so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed, or as altered by special resolution, as to reduce its capital; but no such resolution for reducing the capital of any Company shall come into operation until an order of the Court is registered by the Registrar of joint stock Companies, as is hereinafter mentioned.

Explanation I.—The word “capital” includes paid up capital.

Explanation II.—The power to reduce capital conferred by this section includes a power to cancel any lost capital, or any capital unrepresented by available assets, or to pay off any capital which may be in excess of the wants of the Company; and paid up capital may be reduced either with or without extinguishing or reducing the liability (if any) remaining on the shares of the Company; and, to the extent to which such liability is not extinguished or reduced, it shall be deemed to be preserved, notwithstanding anything hereinafter contained.

14. The

1882.]

Companies.

14. The Company shall, after the date of the passing of any special resolution for reducing its capital, add to its name, until such date as the Court may fix, the words "and reduced," as the last words in its name, and those words shall, until such date, be deemed to be part of the name of the Company.

Company to add "and reduced" to its name for a limited period.

15. A Company which has passed a special resolution for reducing its capital may apply to the Court by petition for an order confirming the reduction, and, on the hearing of the petition, the Court, if satisfied that, with respect to every creditor of the Company who, under the provisions of this Act, is entitled to object to the reduction, either his consent to the reduction has been obtained, or his debt or claim has been discharged or has determined, or has been secured as hereinafter provided, may make an order confirming the reduction on such terms and subject to such conditions as it deems fit.

Company to apply to the Court for an order confirming reduction.

When the reduction does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid up capital, the creditors of the Company shall not, unless the Court otherwise directs, be entitled to object, or required to consent, to the reduction; and it shall not be necessary, before the presentation of any petition under this section, to add, and the Court may, if it thinks fit so to do, dispense with the addition of, the words "and reduced," as mentioned in section fourteen.

In any case that the Court thinks fit so to do, it may require the Company to publish, in such manner as the Court thinks fit, the reasons for the reduction or such other information regarding the same as the Court may think expedient with a view to give proper information to the public in relation to such reduction, and if the Court thinks fit, the cause which led thereto.

16. Where a Company proposes to reduce its capital, every creditor of the Company who, at the date fixed by the Court, is entitled to any debt or claim which, if that date were the commencement of

Creditors may object to reduction, and list of objecting creditors to be settled by Court.

the

the winding-up of the Company, would be admissible in proof against the Company, shall be entitled to object to the proposed reduction, and to be entered in the list of creditors who are so entitled to object.

The Court shall settle a list of such creditors, and for that purpose shall ascertain as far as possible, without requiring an application from any creditor, the names of such creditors and the nature and amount of their debts or claims, and may publish notices fixing a certain day or days within which creditors of the Company who are not entered on the list are to claim to be so entered, or to be excluded from the right of objecting to the proposed reduction :

Provided that, when the reduction does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid up capital, the creditors of the Company shall not, unless the Court otherwise directs, be entitled to object, or required to consent, to the reduction.

Court may
dispense with
consent of
creditor on
security
being given
for his debt.

17. Where a creditor whose name is entered on the list of creditors, and whose debt or claim is not discharged or determined, does not consent to the proposed reduction, the Court may (if it thinks fit) dispense with such consent on the Company securing the payment of the debt or claim of such creditor by setting apart and appropriating, in such manner as the Court may direct, a sum of such amount as is hereinafter mentioned (that is to say) :—

(a) If the full amount of the debt or claim of the creditor is admitted by the Company, or, though not admitted, is such as the Company are willing to set apart and appropriate, then the full amount of the debt or claim shall be set apart and appropriated.

(b) If the full amount of the debt or claim of the creditor is not admitted by the Company, and is not such as the Company are willing to set apart and appropriate, or if the amount is contingent or not ascertained, then the Court may, if it thinks fit, inquire into and adjudicate upon the validity of such debt or claim, and the amount for which the Company may

1882.]

Companies.

may be liable in respect thereof, in the same manner as if the Company were being wound up by the Court; and the amount fixed by the Court on such inquiry and adjudication shall be set apart and appropriated.

18. The Registrar of joint stock Companies, upon the production to him of an order of the Court confirming the reduction of the capital of a Company, and the delivery to him of a copy of the order and of a minute (approved by the Court), showing, with respect to the capital of the Company as altered by the order, the amount of such capital, the number of shares in which it is to be divided, and the amount of each share, and the amount (if any) at the date of the registration of the minute proposed to be deemed to have been paid up on each share, shall register the order and minute; and, on the registration, the special resolution confirmed by the order so registered shall take effect.

Order and minute to be registered.

Notice of such registration shall be published in such manner as the Court may direct.

The Registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requisitions of this Act, with respect to the reduction of capital, have been complied with, and that the capital of the Company is such as is stated in the minute.

19. The minute, when registered, shall be deemed to be substituted for the corresponding part of the memorandum of association of the Company, and shall be of the same validity, and subject to the same alterations, as if it had been originally contained in the memorandum of association; and, subject as in this Act mentioned, no member of the Company, whether past or present, shall be liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between the amount which has been paid on such share and the amount of the share as fixed by the minute.

Minute to form part of memorandum of association.

20. If any creditor who is entitled in respect of any debt or claim to object to the reduction of the

Saving of rights of creditors who

capital

are ignorant
of proceed-
ings.

capital of a Company under this Act is, in consequence of his ignorance of the proceedings taken with a view to such reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and after such reduction the Company is unable, within the meaning of this Act, to pay to the creditor the amount of such debt or claim, every person who was a member of the Company at the date of the registration of the order and minute relating to the reduction of its capital shall be liable to contribute for the payment of such debt or claim an amount not exceeding the amount which he would have been liable to contribute if the Company had commenced to be wound up on the day prior to such registration;

and, on the Company being wound up, the Court, on the application of such creditor, and on proof that he was ignorant of the proceedings taken with a view to the reduction, or of their nature and effect with respect to his claim, may, if it thinks fit, settle a list of such contributories accordingly, and make and enforce calls and orders on the contributories settled on such list in the same manner in all respects as if they were ordinary contributories in a winding-up.

Nothing in this section shall affect the rights of the contributories of the Company among themselves.

Registered
minute to
be embodied
in memoran-
dum of asso-
ciation.

21. A minute, when registered, shall be embodied in every copy of the memorandum of association issued after its registration; and, if any Company makes default in complying with the provisions of this section, it shall incur a penalty not exceeding ten rupees for each copy in respect of which such default is made; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

Penalty on
concealment
of name of
creditor.

22. If any director, manager or officer of the Company wilfully conceals the name of any creditor of the Company who is entitled to object to the proposed reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor of the Company, or if any director or manager of the Com-
pany

pany abets, within the meaning of the Indian Penal Code, any such concealment or misrepresentation as aforesaid, every such director, manager or officer shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

23. Any Company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed or as altered by special resolution, as to reduce its capital by cancelling any shares which, at the date of passing such resolution, have not been taken or agreed to be taken by any persons; and the provisions as to reduction of capital contained in the other sections of this Act shall not apply to any reduction made in pursuance of this section.

Power to reduce capital by cancellation of unissued shares.

Sub-division of Shares.

24. Any Company limited by shares may, by special resolution, so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed or as altered by special resolution, as, by sub-division of its existing shares or any of them, to divide its capital, or any part thereof, into shares of smaller amount than is fixed by its memorandum of association :

Shares may be divided into shares of smaller amount.

Provided that, in the sub-division of the existing shares, the proportion between the amount which is paid and the amount (if any) which is unpaid on each share of reduced amount shall be the same as it was in the case of the existing share or shares from which the share of reduced amount is derived.

25. The statement of the number and amount of the shares into which the capital of the Company is divided, contained in every copy of the memorandum of association issued after the passing of any such special resolution, shall be in accordance with such resolution; and any Company which makes default in complying with the provisions of this section shall incur a penalty not exceeding twenty rupees for each copy in respect of which such default is made; and every director and manager of the Company who knowingly

Special resolution to be embodied in memorandum of association.

knowingly or wilfully authorizes or permits such default shall incur the like penalty.

Associations not for Profit.

Special provisions as to associations formed for purposes not of gain.

26. Where any association which might be formed under this Act as a limited Company proves to the Local Government that it is formed for the purpose of promoting commerce, art, science, charity, or any other useful object, and that it is the intention of such association to apply the profits, if any, or other income of the association, in promoting its objects, and to prohibit the payment of any dividend to its members, the Local Government may, by license under the hand of one of its Secretaries, direct such association to be registered with limited liability, without the addition of the word "limited" to its name; and such association may be registered accordingly, and upon registration shall enjoy all the privileges and be subject to the obligations by this Act imposed on limited Companies; with the exceptions that none of the provisions of this Act that require a limited Company to use the word "limited" as any part of its name, or to publish its name, or to send a list of its members, directors or managers to the Registrar, shall apply to an association so registered.

The license by the Local Government may be granted upon such conditions and subject to such regulations as the Local Government thinks fit to impose; and such conditions and regulations shall be binding on the association, and may at the option of the Local Government be inserted in the memorandum and articles of association, or in both or one of such documents.

Calls upon Shares.

Company may have some shares fully paid, and others not.

27. Nothing herein contained shall be deemed to prevent any Company under this Act, if authorized by its regulations as originally framed or as altered by special resolution, from doing any one or more of the following things, namely:—

(a) making arrangements on the issue of shares for a difference between the holders of such shares in the

1882.]

Companies.

the amount of calls to be paid, and in the time of payment of such calls;

(b) accepting from any member of the Company who assents thereto the whole or a part of the amount remaining unpaid on any share or shares held by him, either in discharge of the amount of a call payable in respect of any other share or shares held by him or without any call having been made;

(c) paying dividend in proportion to the amount paid up on each share in cases where a larger amount is paid up on some shares than on others.

28. Every share in any Company shall be deemed and taken to have been issued and to be held subject to the payment of the whole amount thereof in cash, unless the same has been otherwise determined by a contract duly made in writing and filed with the Registrar of joint stock Companies at or before the issue of such shares.

Manner in which shares are to be issued and held.

Transfer of Shares.

29. A Company shall, on the application of the transferor of any share or interest in the Company, enter in its register of members the name of the transferee of such share or interest in the same manner and subject to the same conditions as if the application for such entry were made by the transferee.

Transfer may be registered at request of transferor.

Share-warrants to Bearer.

30. In the case of a Company limited by shares, the Company, if authorized so to do by its regulations as originally framed or as altered by special resolution, and subject to the provisions of such regulations, may, with respect to any share which is fully paid up, or with respect to stock, issue under their common seal a warrant (hereinafter referred to as a share-warrant) stating that the bearer thereof is entitled to the shares or stock therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on such shares or stock.

Warrant of limited shares fully paid up may be issued in name of bearer.

Coupons.

31. A share-warrant shall entitle the bearer thereof to the shares or stock specified therein; and such

Effect of share-warrant.

shares

shares or stock may be transferred by the delivery of the share-warrant.

Re-registra-
tion of bearer
of a share-
warrant in
the register.

32. The bearer of a share-warrant shall, subject to the regulations of the Company, be entitled, on surrendering such warrant for cancellation, to have his name entered as a member in the register of members; and the Company shall be responsible for any loss incurred by any person by reason of the Company entering in its register of members the name of any bearer of a share-warrant in respect of the shares or stock specified therein without the share-warrant being surrendered and cancelled.

Regulations
of the Com-
pany may
make the
bearer of a
share-war-
rant a mem-
ber.

33. The bearer of a share-warrant may, if the regulations of the Company so provide, be deemed to be a member of the Company within the meaning of this Act, either to the full extent or for such purposes as may be prescribed by the regulations:

Provided that the bearer of a share-warrant shall not be qualified in respect of the shares or stock specified in such warrant for being a director or manager of the Company in cases where such a qualification is prescribed by the regulations of the Company.

Entries in
register
where share-
warrant
issued.

34. On the issue of a share-warrant in respect of any share or stock, the Company shall strike out of its register of members the name of the member then entered therein as holding such share or stock, as if he had ceased to be a member, and shall enter in the register the following particulars:—

- (a) the fact of the issue of the warrant;
- (b) a statement of the shares or stock included in the warrant, distinguishing each share by its number;
- (c) the date of the issue of the warrant.

Stamps on
share-war-
rants.

35. There shall be charged on every share-warrant a stamp-duty of an amount equal to three times the amount of the *ad valorem* stamp-duty which would be chargeable on an instrument transferring the shares or stock specified in the warrant if the consideration for the transfer were the nominal value of such shares or stock.

If

1882.]

If a share-warrant is issued without being duly stamped, the Company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the Company, shall forfeit the sum of five hundred rupees.

Penalty for
issuing share-
warrant
not duly
stamped.

Change of Name.

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

Power of
Companies to
change name.

Explanation.—The issue of the certificate of incorporation is necessary to complete the change of name.

Articles of Association.

37. The memorandum of association may, in the case of a Company limited by shares, and shall, in the case of a Company limited by guarantee or unlimited, be accompanied, when registered, by articles of association signed by the subscribers to the memorandum of association, and prescribing such regulations for the Company as the subscribers to the memorandum of association deem expedient.

Regulations
to be pre-
scribed by
articles of
association.

The articles shall be expressed in separate paragraphs, numbered consecutively. They may adopt all or any of the provisions contained in the table marked A in the first schedule hereto. They shall, in the

case

case of a Company, whether limited by guarantee or unlimited, that has a capital divided into shares, state the amount of capital with which the Company proposes to be registered, and in the case of a Company, whether limited by guarantee or unlimited, that has not a capital divided into shares, state the number of members with which the Company proposes to be registered, for the purpose of enabling the Registrar to determine the fees payable on registration.

In a Company limited by guarantee or unlimited, and having a capital divided into shares, each subscriber shall take one share at the least, and shall write opposite to his name in the memorandum of association the number of shares he takes.

Application
of table A.

38. In the case of a Company limited by shares, if the memorandum of association is not accompanied by articles of association, or, in so far as the articles do not exclude or modify the regulations contained in the table marked A in the first schedule hereto, the last-mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the Company, in the same manner and to the same extent as if they had been inserted in articles of association and the articles had been duly registered.

Signature
and effect of
articles of
association.

39. The articles of association shall be printed, and shall be signed by each subscriber in the presence of, and be attested by, one witness at the least.

When registered, they shall bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto and as if such articles contained a contract on the part of himself, his heirs, executors and administrators to conform to all the regulations contained in such articles subject to the provisions of this Act.

All monies payable by any member to the Company in pursuance of the conditions and regulations of the Company, or any of such conditions or regulations, shall be deemed to be a debt due from such member to the Company.

General

General Provisions.

40. The memorandum of association, and the articles of association, if any, shall be delivered to the Registrar of joint stock Companies hereinafter mentioned, who shall retain and register the same. It is not his duty to require evidence as to whether the several subscribers to a memorandum of association so delivered are competent to contract.

Registration of memorandum of association and articles of association with fees as in table B.

There shall be paid to the Registrar by a Company having a capital divided into shares, in respect of the several matters mentioned in the table marked B in the first schedule hereto, the several fees therein specified, or such smaller fees as the Governor General in Council may from time to time direct, and by a Company not having a capital divided into shares, in respect of the several matters mentioned in the table marked C in the first schedule hereto, the several fees therein specified, or such smaller fees as the Governor General in Council may from time to time direct.

All fees paid to the said Registrar in pursuance of this Act shall be accounted for to Government.

41. Upon the registration of the memorandum of association, and of the articles of association in cases where articles of association are required by this Act or by the desire of the parties to be registered, the Registrar shall certify under his hand that the Company is incorporated, and in the case of a limited Company that the Company is limited: the subscribers of the memorandum of association, together with such other persons as may from time to time become members of the Company, shall thereupon be a body corporate by the name contained in the memorandum of association, capable forthwith of exercising all the functions of an incorporated Company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the Company, in the event of the same being wound up, as is hereinafter mentioned.

Effect of registration.

A certificate

A certificate of the incorporation of any Company given by the Registrar shall be conclusive evidence that all the requisitions of this Act in respect of registration have been complied with.

Copies of memorandum and articles to be given to members.

42. A copy of the memorandum of association, having annexed thereto the articles of association, if any, shall be forwarded to every member, at his request, on payment of such sum, not exceeding one rupee, as may be prescribed by the Company for each copy; and if any Company makes default in forwarding a copy of the memorandum of association and articles of association, if any, to a member in pursuance of this section, the Company so making default shall for each such offence incur a penalty not exceeding twenty rupees.

Prohibition against identity of names in Companies.

43. No Company shall be registered under a name identical with that by which a subsisting Company is already registered, or so nearly resembling the same as to be calculated to deceive, except in a case where such subsisting Company is in the course of being dissolved and testifies its consent in such manner as the Registrar requires.

If any Company, through inadvertence or otherwise, is, without such consent as aforesaid, 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 deceive, such first-mentioned Company may, with the sanction of the Registrar, change its name; and, upon such change being made, the Registrar shall enter the new name on the register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company, and any legal proceedings may be continued or commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

1882.]

Companies.

PART II.

DISTRIBUTION OF CAPITAL AND LIABILITY OF MEMBERS OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Distribution of Capital.

44. The shares or other interest of any member in a Company under this Act shall be moveable property, capable of being transferred in manner provided by the regulations of the Company, and shall not be of the nature of real estate or immoveable property; and each share shall, in the case of a Company having a capital divided into shares, be distinguished by its appropriate number.

Nature of
interest in
Company.

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

Definition of
"member."

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

Transfer by
personal re-
presentative.

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

Register of
members.

(a) the names and addresses, and the occupations, if any, of the members of the Company, with the addition, in the case of a Company having a capital divided

divided into shares, of a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member;

(b) the date at which the name of any person was entered in the register as a member;

(c) the date at which any person ceased to be a member.

Where a share-warrant has been issued under section thirty, until the warrant is surrendered, the particulars mentioned in section thirty-four shall be deemed to be the particulars which are required by this section to be entered in the register of members of a Company; and, on the surrender of a warrant, the date of such surrender shall be entered as if it were the date at which a person ceased to be a member.

Any Company acting in contravention of this section shall incur a penalty not exceeding fifty rupees for every day during which its default in complying with the provisions of this section continues, and every director or manager of the Company who knowingly and wilfully authorizes or permits such contravention shall incur the like penalty.

Annual list
of members.

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

(a) the amount of the capital of the Company and the number of shares into which it is divided;

(b) the number of shares taken from the commencement of the Company up to the date of the summary;

(c) the

- (c) the amount of calls made on each share ;
- (d) the total amount of calls received ;
- (e) the total amount of calls unpaid ;
- (f) the total amount of shares forfeited ;
- (g) the names, addresses and occupations of the persons who have ceased to be members since the last list was made, and the number of shares held by each of them.

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

49. After the issue by the Company of a share-warrant, the annual summary required by section forty-eight shall contain the following particulars (namely) :—the total amount of shares or stock for which share-warrants are outstanding at the date of the summary, and the total amount of share-warrants which have been issued and surrendered respectively since the last summary was made, and the number of shares or amount of stock comprised in each warrant.

Particulars to be contained in annual summary.

50. If any Company under this Act and having a capital divided into shares makes default in complying with the provisions of this Act with respect to forwarding such list of members or summary as is hereinbefore mentioned to the Registrar, such Company shall incur a penalty not exceeding fifty rupees for every day during which such default continues ; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

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

51. Every Company under this Act having a capital divided into shares that has consolidated and divided its capital into shares of larger amount than its existing shares, or converted any portion of its capital into stock, shall, within fifteen days of such consolidation, division or conversion, give notice to

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

the

the Registrar of joint stock Companies of the same, specifying the shares so consolidated, divided or converted.

Effect of
conversion of
shares into
stock.

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

Entry of
trusts on
register.

53. No notice of any trust, express, implied or constructive, shall be entered on the register or be receivable by the Registrar in the case of Companies under this Act and registered in British India.

Certificate of
shares or
stock.

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

Inspection of
register.

55. The register of members, commencing from the date of the registration of the Company, shall be kept at the registered office of the Company hereinafter mentioned. Except when closed as hereinafter mentioned, it shall, during business hours, but subject to such reasonable restrictions as the Company in general meeting may impose, so that not less than two hours in each day be appointed for inspection, be open to the inspection of any member gratis, and to the inspection of any other person on the payment of one rupee, or such less sum as the Company may prescribe, for each inspection.

Every such member or other person may require a copy of such register, or of any part thereof, or of such list or summary of members as is hereinbefore mentioned, on payment of two annas for every hundred words required to be copied.

If

If such inspection or copy is refused, the Company shall incur for each refusal a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues.

Every director and manager of the Company who knowingly authorizes or permits such refusal shall incur the like penalty.

In addition to the above penalty any Judge of a High Court may, by order, compel an immediate inspection of the register.

56. Any Company under this Act may, upon giving notice by advertisement in some newspaper circulating in the district in which the registered office of the Company is situate and in the local official Gazette, close the register of members for any time or times not exceeding in the whole thirty days in each year.

Power to close register.

57. Where a Company has a capital divided into shares, whether such shares may or may not have been converted into stock, notice of any increase in such capital beyond the registered capital, and where a Company has not a capital divided into shares, notice of any increase in the number of members beyond the registered number, shall be given to the Registrar, in the case of an increase of capital, within fifteen days from the date of the passing of the resolution by which such increase has been authorized, and in the case of an increase of members, within fifteen days from the time at which such increase of members has been resolved on or has taken place; and the Registrar shall forthwith record the amount of such increase of capital or members.

Notice of increase of capital and of members to be given to Registrar.

If such notice is not given within the period aforesaid, the Company in default shall incur a penalty not exceeding one hundred rupees for every day during which such neglect to give notice continues; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

Remedy for
improper en-
try or omis-
sion of entry
in register.

58. If the name of any person is fraudulently or without sufficient cause entered in, or omitted from, the register of members kept by any Company under this Act, or if default is made, or unnecessary delay takes place, in entering on the register the fact of any person having ceased to be a member of the Company, the person or member aggrieved, or any member of the Company, or the Company itself, may, by application to the principal Court of original civil jurisdiction in the district or place in which the registered office of the Company is situate, apply for an order of the Court that the register may be rectified; and the Court may either refuse such application, with or without costs to be paid by the applicant, or it may, if satisfied of the justice of the case, make an order for the rectification of the register, and may direct the Company to pay all the costs of such application, and any damages the party aggrieved may have sustained.

The Court may in any proceeding under this section decide any question relating to the title of any person who is a party to such proceeding to have his name entered in, or omitted from, the register, whether such question arises between two or more members or alleged members, or between any members or alleged members and the Company, and whether there has or has not been default on the part of the Company; and generally the Court may, in any such proceeding, decide any question that it may be necessary or expedient to decide for the rectification of the register: provided that the Court may direct an issue to be tried in which any question of law may be raised; and an appeal in the manner directed by the Code of Civil Procedure shall lie.

Notice to Re-
gistrar of
rectification
of register.

59. Whenever any order has been made for rectifying the register in the case of a Company hereby required to send a list of its members to the Registrar, the Court shall, by its order, direct that due notice of such rectification be given to the Registrar.

Register to
be evidence.

60. The register of members shall be *prima facie* evidence of any matters by this Act directed or authorized to be inserted therein.

Liability

Liability of Members.

61. In the event of a Company formed under this Act being wound up, every present and past member of such Company shall be liable to contribute to the assets of the Company to an amount sufficient for payment of the debts and liabilities of the Company and the costs, charges and expenses of the winding-up, and for the payment of such sums as may be required for the adjustment of the rights of the contributories amongst themselves, with the qualifications following (that is to say):—

Liability of
present and
past members
of Company.

(a) No past member shall be liable to contribute to the assets of the Company if he has ceased to be a member for a period of one year or upwards prior to the commencement of the winding-up:

(b) No past member shall be liable to contribute in respect of any debt or liability of the Company contracted after the time at which he ceased to be a member:

(c) No past member shall be liable to contribute to the assets of the Company unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act:

(d) In the case of a Company limited by shares, no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member:

(e) In the case of a Company limited by guarantee, no contribution shall be required from any member exceeding the amount of the undertaking entered into on his behalf by the memorandum of association:

(f) Nothing in this Act contained shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members upon any such policy or contract is restricted, or whereby the funds of the Company are alone made liable in respect of such policy or contract:

(g) No

(g) No sum due to any member of a Company in his character of a member, by way of dividends, profits or otherwise, shall be deemed to be a debt of the Company payable to such member in a case of competition between himself and any other creditor not being a member of the Company; but any such sum may be taken into account for the purposes of the final adjustment of the rights of the contributories amongst themselves.

Explanation I.—The liability of past members is a liability to contribute to the general assets of the Company, against which assets creditors (at whatever time their debts may have been contracted) have equal rights.

Explanation II.—In estimating the debts to which a past member is liable, all dividends paid on these debts under the winding-up must be deducted.

Liability of
director
whose liabi-
lity is unli-
mited.

62. With respect to the contributions to be required in the event of the winding-up of a limited Company from any director or manager whose liability is unlimited, the following modifications shall be made in the last preceding section :—

(a) Subject to the provisions hereinafter contained, any such director or manager, whether past or present, shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to contribute as if he were at the date of the commencement of such winding-up a member of an unlimited Company :

(b) No contribution required from any past director or manager who has ceased to hold such office for a period of one year or upwards prior to the commencement of the winding-up shall exceed the amount (if any) which he is liable to contribute as an ordinary member of the Company :

(c) No contribution required from any past director or manager in respect of any debt or liability of the Company contracted after the time at which he ceased to hold such office shall exceed the amount (if any) which he is liable to contribute as an ordinary member of the Company :

(d) Subject

1882.]

Companies.

(d) Subject to the provisions contained in the regulations of the Company, no contribution required from any director or manager shall exceed the amount (if any) which he is liable to contribute as an ordinary member, unless the Court thinks it necessary to require such contribution in order to satisfy the debts and liabilities of the Company, or the costs, charges and expenses of the winding-up.

PART III.

MANAGEMENT AND ADMINISTRATION OF COMPANIES
AND ASSOCIATIONS UNDER THIS ACT.

Provisions for Protection of Creditors.

63. Every Company under this Act shall have a registered office to which all communications and notices may be addressed. If any Company under this Act carries on business without having such an office, it shall incur a penalty not exceeding fifty rupees for every day during which business is so carried on.

Registered
office of
Company.

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

Notice of
situation of
registered
office.

65. Every limited Company under this Act, whether limited by shares or by guarantee, shall paint or affix, and shall keep painted or affixed, its name on the outside of every office or place in which the business of the Company is carried on, in a conspicuous position, in letters easily legible, in the English language, and also, if the registered office be situate in a district beyond the local limits of the ordinary original civil jurisdiction of a High Court, in one of the vernacular languages used in such district, and shall have its name engraved in legible characters in such language or languages on its seal, and shall have its name mentioned in legible characters in such

Publication
of name by a
limited
Company.

language

language or languages in all notices, advertisements and other official publications of such Company, and in all bills of exchange, hundís, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of such Company, and in all bills of parcels, invoices, receipts and letters of credit of the Company.

Penalties on
non-publi-
cation of
name.

66. If any limited Company under this Act does not paint or affix, and keep painted or affixed, its name in manner directed by this Act, it shall be liable to a penalty not exceeding fifty rupees for not so painting or affixing its name, and for every day during which such name is not so kept painted or affixed.

Every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall be liable to the like penalty.

If any director, manager or officer of such Company, or any person on its behalf, uses or authorizes the use of any seal purporting to be a seal of the Company whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement or other official publication of such Company, or signs or authorizes to be signed on behalf of such Company any bill of exchange, hundí, promissory note, endorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt or letter of credit of the Company wherein its name is not mentioned in manner aforesaid, he shall be liable to a penalty of one thousand rupees, and shall further be personally liable to the holder of any such bill of exchange, hundí, promissory note, cheque or order for money or goods for the amount thereof, unless the same is duly paid by the Company.

Contracts.

Contracts
how made.

67. Contracts on behalf of any Company under this Act may be made as follows (that is to say) :—

(a) Any contract, which if made between private persons would be by law required to be in writing, and, if made according to English law, to be under seal,

seal, may be made on behalf of the Company in writing under the common seal of the Company; and such contract may be in the same manner varied or discharged:

(b) Any contract, which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith, may be made on behalf of the Company in writing signed by any person acting under the express or implied authority of the Company; and such contract may in the same manner be varied or discharged:

(c) Any contract, which if made between private persons would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the Company by any person acting under the express or implied authority of the Company; and such contract may in the same way be varied or discharged. And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the Company and their successors, and all other parties thereto, their heirs, executors or administrators, as the case may be.

68. Every limited Company under this Act shall keep a register of all mortgages and charges specifically affecting property of the Company, and shall enter in such register, in respect of each mortgage or charge, a short description of the property mortgaged or charged, the amount of charge created, and the names of the mortgagees or persons entitled to such charge.

Register of
mortgages.

If any property of the Company is mortgaged or charged without such entry as aforesaid being made, every director, manager or other officer of the Company who knowingly and wilfully authorizes or permits the omission of such entry shall incur a penalty not exceeding five hundred rupees.

The register of mortgages required by this section shall be open to inspection by any creditor or member of the Company at all reasonable times. If such inspection is refused, any officer of the Company refusing

ing

ing the same, and every director and manager of the Company authorizing or knowingly and wilfully permitting such refusal, shall incur a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues.

The High Court or any Judge thereof may by order compel the performance of the duty imposed by this section on a limited Company, and in addition to the above penalty may, by order, compel an immediate inspection of the register.

Explanation.—Omission to register under this section a mortgage or charge does not render the same invalid. But the officers of the Company cannot avail themselves as such of a mortgage or charge specifically affecting property of the Company and not so registered.

Certain Companies to publish statement entered in schedule.

69. Every limited banking Company, and every insurance Company, and deposit, provident or benefit Society under this Act, shall, before it commences business, and also on the first Monday in February and the first Monday in August in every year during which it carries on business, make a statement in the form marked D in the first schedule hereto, or as near thereto as circumstances will admit; and a copy of such statement shall be put up in a conspicuous place in the registered office of the Company and in every branch office or place where the business of the Company is carried on.

If default is made in compliance with the provisions of this section, the Company shall be liable to a penalty not exceeding fifty rupees for every day during which such default continues; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

Every member and every creditor of any Company mentioned in this section shall be entitled to a copy of the above-mentioned statement on payment of a sum not exceeding eight annas.

70. Every

1882.]

Companies.

70. Every Company under this Act and not having a capital divided into shares shall keep at its registered office a register containing the names and addresses and the occupations of its directors or managers, and shall send to the Registrar of joint stock Companies a copy of such register, and shall from time to time notify to the Registrar any change that takes place in such directors or managers.

List of directors to be sent to Registrar.

71. If any Company under this Act and not having a capital divided into shares makes default in keeping a register of its directors or managers, or in sending a copy of such register to the Registrar in compliance with the foregoing rules, or in notifying to the Registrar any change that takes place in such directors or managers, such delinquent Company shall incur a penalty not exceeding one hundred rupees for every day during which such default continues; and every director or manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

Penalty on Company not keeping register of directors.

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

Promissory notes, bills of exchange and hundis.

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

Prohibition against carrying on business with less than seven members.

Provisions for Protection of Members.

General
meeting of
Company.
Balance-
sheet.

74. A general meeting of every Company under this Act shall be held once at the least in every year.

A balance-sheet shall be made out and filed with the Registrar of joint stock Companies within twelve months after the Company has been registered, and once at least in every year afterwards within twelve months from the filing of the balance-sheet immediately preceding ; and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to table A in the first schedule hereto, or as near thereto as circumstances admit.

Audit.

And once at the least in every year the accounts of the Company shall be examined and the correctness of the last balance-sheet and its conformity with the law ascertained and certified by one or more auditor or auditors.

No balance-sheet shall be filed with the Registrar unless and until its correctness and conformity with the law have been so ascertained and certified, and it has been laid before and adopted by the Company in general meeting.

If default is made in compliance with any of the provisions of this section, every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall be liable to a penalty of one thousand rupees.

Meetings.

Company to
hold meeting
within six
months after
registration.

75. Every Company formed under this Act, after the commencement of this Act, shall hold a general meeting within six months after its memorandum of association is registered ; and, if such meeting is not held, the Company shall be liable to a penalty not exceeding fifty rupees a day for every day after the expiration of such six months, until the meeting is held ; and every director or manager of the Company and every subscriber of the memorandum of association

1882.]

Companies.

tion who knowingly authorizes or permits such default shall be liable to the same penalty.

76. Subject to the provisions of this Act and to the conditions contained in the memorandum of association, any Company formed under this Act or the Indian Companies Act, 1866, may, in general meeting, from time to time, by passing a special resolution in manner hereinafter mentioned, alter all or any of the regulations of the Company contained in the articles of association, or in the table marked A in the first schedule, where such table is applicable to the Company, or make new regulations to the exclusion of, or in addition to, all or any of the regulations of the Company.

Power to alter regulations by special resolution.

Any regulations so made by special resolution shall be deemed to be regulations of the Company of the same validity as if they had been originally contained in the articles of association, and shall be subject in like manner to be altered or modified by any subsequent special resolution.

Any limited Company formed under this Act or the Indian Companies Act, 1866, may by a special resolution, if authorized to do so by its regulations as originally framed or as altered by special resolution, from time to time modify the conditions contained in its memorandum of association so far as to render unlimited, from and after the date of such resolution, the liability of its directors or managers, or of the managing director. Such special resolution shall be of the same validity as if it had been originally contained in the memorandum of association, and a copy thereof shall be embodied in, or annexed to, every copy of the memorandum of association which is issued after the passing of the resolution.

Power to make liability of directors unlimited.

77. A resolution passed by a Company under this Act shall be deemed to be special whenever a resolution has been passed by a majority of not less than three-fourths of such members of the Company for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy (in cases where by the regulations of the

Definition of "special resolution."

Company

Company proxies are allowed) at any general meeting of which notice specifying the intention to propose such resolution has been duly given, and such resolution has been confirmed by a majority of such members for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy at a subsequent general meeting, of which notice has been duly given, and held at an interval of not less than fourteen days, nor more than one month, from the date of the meeting at which such resolution was first passed.

At any meeting mentioned in this section, unless a poll is demanded by at least five members, a declaration of the chairman that the resolution has been carried shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the same.

Notice of any meeting shall, for the purposes of this section, be deemed to be duly given and the meeting to be duly held whenever such notice is given and meeting held in manner prescribed by the regulations of the Company.

In computing the majority under this section when a poll is demanded, reference shall be had to the number of votes to which each member is entitled by the regulations of the Company.

Provision
where no re-
gulations as
to meetings.

78. In default of any regulations as to voting, every member shall have one vote, and, in default of any regulations as to summoning general meetings, a meeting shall be held to be duly summoned of which seven days' notice in writing has been served on every member in manner in which notices are required to be served by the table marked A in the first schedule hereto.

In default of any regulations as to the persons to summon meetings, five members shall be competent to summon the same, and, in default of any regulations as to who is to be chairman of such meeting, it shall be competent for any person elected by the members present to preside.

79. A copy

1882.]

Companies.

79. A copy of every special resolution that is passed by any Company under this Act shall be printed and forwarded to the Registrar of joint stock Companies and be recorded by him.

Registration
of special re-
solutions.

If such copy is not so forwarded within fifteen days from the date of the confirmation of the resolution, the Company shall incur a penalty not exceeding twenty rupees for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

80. Where articles of association have been registered, a copy of every special resolution for the time being in force shall be annexed to, or embodied in, every copy of the articles of association that may be issued after the passing of such resolution. Where no articles of association have been registered, a copy of every special resolution shall be forwarded in print to any member requesting the same on payment of one rupee or such less sum as the Company may direct.

Copies of
special reso-
lutions to be
embodied in
articles of as-
sociation.

If any Company makes default in complying with the provisions of this section or section seventy-six, it shall incur a penalty not exceeding twenty rupees for each copy in respect of which such default is made; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

81. Any Company under this Act may, by instrument in writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place not situate in British India; and every deed signed by such attorney on behalf of the Company and under his seal shall be binding on the Company and have the same effect as if it were under the common seal of the Company.

Execution of
deeds abroad.

82. The Local Government may appoint one or more competent inspectors to examine into the affairs of Company by

Examination
of affairs of
Company by
inspectors.

of any Company under this Act, and to report thereon in such manner as the Local Government may direct upon the applications following (that is to say) :—

(a) In the case of a banking or any other Company that has a capital divided into shares, upon the application of members holding not less than one-fifth part of the whole shares of the Company for the time being issued :

(b) In the case of any Company not having a capital divided into shares, upon the application of members being in number not less than one-fifth of the whole number of persons for the time being entered on the register of the Company as members.

Application
for inspection
to be sup-
ported by
evidence.

83. The application shall be supported by such evidence as the Local Government may require for the purpose of showing that the applicants have good reason for requiring such investigation to be made, and that they are not actuated by malicious motives in instituting the same.

The Local Government may also require the applicants to give security for payment of the costs of the inquiry before appointing any inspector or inspectors.

Inspection of
books.

84. It shall be the duty of all officers and agents of the Company to produce for the examination of the inspectors all books and documents in their custody or power.

Any inspector may examine upon oath the officers and agents of the Company in relation to its business.

If any such officer or agent refuses to produce any book or document hereby directed to be produced, or to answer any question relating to the affairs of the Company, he shall incur a penalty not exceeding one hundred rupees in respect of each such offence.

Result of ex-
amination
how dealt
with.

85. Upon the conclusion of the examination, the inspectors shall report their opinions to the Local Government. Such report shall be written or printed as the Local Government directs.

A copy shall be forwarded by the Local Government to the registered office of the Company, and a further

1882.]

Companies.

further copy shall, at the request of the members upon whose application the inspection was made, be delivered to them or to any one or more of them.

All expenses of and incidental to any such examination as aforesaid shall be defrayed by the members upon whose application the inspectors were appointed, unless the Local Government shall direct the same to be paid out of the assets of the Company, which the Local Government is hereby authorized to do.

86. Any Company under this Act may, by a special resolution, appoint inspectors for the purpose of examining into the affairs of the Company.

Power of
Company to
appoint
inspectors.

The inspectors so appointed shall have the same powers and perform the same duties as inspectors appointed by the Local Government, with this exception, that, instead of making their report to the Local Government, they shall make the same in such manner and to such persons as the Company in general meeting directs.

The officers and agents of the Company shall incur the same penalties in case of any refusal to produce any book or document hereby required to be produced to such inspectors, or to answer any question, as they would have incurred if such inspectors had been appointed by the Local Government.

87. A copy of the report of any inspectors appointed under this Act, authenticated by the seal of the Company into whose affairs they have made inspection, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in such report.

Report of
inspectors
to be
evidence.

88. Every prospectus of a Company, and every notice inviting persons to subscribe for shares in any joint stock Company, shall specify the dates and the names of the parties to any agreement enforceable by law which has been entered into by the Company, or the promoters, directors or trustees thereof, before the issue of such prospectus or notice (whether subject to adoption by the directors or the Company, or otherwise), and which might reasonably influence a person

Prospectus,
&c., to specify
dates and
names of
parties to
certain prior
contracts.

in

in determining whether he would or would not become a shareholder in the Company; and any prospectus notice not specifying the same shall be deemed fraudulent on the part of the promoters, directors and officers of the Company knowingly issuing the same as regards any person taking shares in the Company on the faith of such prospectus, unless he has had notice of such contract.

Notices.

Service of
notices on
Company.

89. Any summons, notice, order or other document required to be served upon the Company may be served by leaving the same, or sending it through the post by a registered letter addressed to the Company, at their registered office; and any notice to the Registrar of joint stock Companies may be served by sending it to him through the post by a registered letter, or by delivering it to him or by leaving it for him at his office.

Rules as to
notices by
letter.

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

Authentica-
tion of
notices by
Company.

91. Any summons, notice, order or proceeding requiring authentication by the Company may be signed by any director, secretary or other authorized officer of the Company, and need not be under the common seal of the Company; and the same may be in writing or in print, or partly in writing and partly in print.

Legal Proceedings.

Evidence of
proceedings
at meetings.

92. Every Company under this Act shall cause minutes of all resolutions and proceedings of general meetings of the Company, and of the directors or managers of the Company in cases where there are directors or managers, to be duly entered in books to be from time to time provided for the purpose; and any such minute as aforesaid, if purporting to be signed by the chairman

chairman of the meeting at which such resolutions were passed or proceedings had, or by the chairman of the next succeeding meeting, shall be received as evidence in all legal proceedings.

Until the contrary is proved, every general meeting of the Company or meeting of directors or managers, in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings had to have been duly passed and had, and all appointments of directors, managers or liquidators shall be deemed to be valid, and all acts done by such directors, managers or liquidators shall be valid, notwithstanding any defect that may afterwards be discovered in their appointments or qualifications.

Explanation.—Nothing in this section shall be deemed to give validity to acts done by a liquidator after his appointment has been shown to be invalid.

93. Where a limited Company is plaintiff in any suit, if it appears from the evidence adduced that there is reason to believe that, if the defendant be successful in his defence, the assets of the Company will be insufficient to pay his costs, any Judge having jurisdiction in the matter may require sufficient security to be given for such costs, and may stay all proceedings until such security is given.

Provision as to costs in suits brought by certain limited Companies.

94. In any suit brought by the Company against any member to recover any call or other monies due from such member in his character of member, it shall be sufficient to allege that the defendant is a member of the Company and is indebted to the Company in respect of a call made or other monies due whereby a suit has accrued to the Company.

Plaints in suits against members.

Alteration of Forms.

95. The forms set forth in the second schedule hereto, or forms as near thereto as circumstances admit, shall be used in all matters to which such forms refer.

Forms to be used.

The Governor General in Council may from time to time

General in
Council may
alter forms.

to time make such alterations in the tables and forms contained in the first schedule hereto, so that he does not increase the amount of fees payable to the Registrar in the said schedule mentioned, and in the forms in the second schedule, or make such additions to the last-mentioned forms, as he deems requisite.

Any such table or form, when altered, shall be published in the *Gazette of India*, and, upon such publication being made, such table or form shall have the same force as if it were included in the schedule to this Act; but no alteration made by the Governor-General in Council in the table marked A contained in the first schedule shall affect any Company registered prior to the date of such alteration, or repeal, as respects such Company, any portion of such table.

Arbitrations.

Power for
Companies
to refer mat-
ters to arbi-
tration.

96. Any Company under this Act may from time to time, by writing under its common seal, agree to refer, and may refer, to arbitration any matter whatsoever in dispute between itself and any other Company or person; and the Companies, parties to the arbitration, may delegate to the person or persons, to whom the reference is made, power to settle any terms or to determine any matter capable of being lawfully settled or determined by the Companies themselves, or by the directors or other managing body of such Companies.

Power to
alter or re-
voke agree-
ments for
reference.

97. The Companies jointly, but not otherwise, from time to time, by writing under their respective common seals, may add to, alter or revoke any agreement for reference in accordance with this Act theretofore entered into between the Companies, or any of the terms, conditions or stipulations thereof.

Agreements
to be carried
into effect.

98. Every reference or agreement in accordance with this Act, except so far as it is from time to time revoked or modified in accordance with this Act, shall bind the Companies, and may and shall be carried into full effect.

Reference to
arbitrator.

99. Where the Companies agree, the reference shall be made to a single arbitrator.

100. Except

1882.]

Companies.

100. Except where the Companies agree that the reference shall be made to a single arbitrator, the reference shall be made as follows, to wit:—

Reference to two or more arbitrators.

where there are two Companies, the reference shall be made to two arbitrators;

where there are three or more Companies, the reference shall be made to so many arbitrators as there are Companies.

101. Where there are to be two or more arbitrators, every Company shall by writing under their common seal appoint one of the arbitrators, and shall give notice in writing thereof to the other Company or Companies.

Appointment of arbitrators by Companies.

102. Where there are to be two or more arbitrators, if any of the Companies fail to appoint an arbitrator within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government, instead of the Company so failing to appoint an arbitrator, may appoint an arbitrator. The arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

Appointment of arbitrators by Local Government.

103. Where the reference is made to two or more arbitrators, if before the matters referred to them are determined any arbitrator dies, or becomes incapable or unfit, or for seven consecutive days fails to act as arbitrator, the Company by which he was appointed shall by writing under their common seal appoint an arbitrator in his place.

Appointment of arbitrators by Companies to supply vacancies.

104. Where the Company, by which an arbitrator ought to be appointed in the place of the arbitrator so deceased, incapable, unfit or failing to act, fails to make the appointment within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government may appoint an arbitrator.

Appointment of arbitrators by Local Government to supply vacancies.

The arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

Appointment of arbitrator not revocable.

105. When any appointment of an arbitrator is made, the Company making the appointment shall have no power to revoke the same without the previous consent in writing of the other Company or every other Company in writing under their common seal.

Appointment of umpire by arbitrators.

106. Where two or more arbitrators are appointed, they shall, before entering on the business of the reference, appoint by writing under their hands an impartial and qualified person to be their umpire.

Appointment of umpire by Local Government.

107. If the arbitrators do not appoint an umpire within seven days after the reference is made to the arbitrators, then, on the application of the Companies or any of them, the Local Government may appoint an umpire; and the umpire so appointed shall for the purposes of this Act be deemed to be appointed by the arbitrators.

Appointment of umpire by arbitrators to supply vacancy.

108. Where two or more arbitrators are appointed, if before the matters referred to them are determined their umpire dies, or becomes incapable or unfit, or for seven consecutive days fails to act as umpire, the arbitrators shall by writing under their hands appoint an impartial and qualified person to be their umpire in his place.

Appointment of umpire by Local Government to supply vacancy.

109. If the arbitrators fail to appoint an umpire within seven days after notice in writing to them of the decease, incapacity, unfitness or failure to act of their umpire, then, on the application of the Companies or any of them, the Local Government may appoint an umpire.

The umpire so appointed shall for the purposes of this Act be deemed to be appointed by the arbitrators so failing.

Succeeding arbitrators and umpires to have powers of predecessors.

110. Every arbitrator appointed in the place of a preceding arbitrator, and every umpire appointed in the place of a preceding umpire, shall respectively have the like powers and authorities as his respective predecessor.

111. Where

111. Where there are two or more arbitrators, if they do not within such a time as the Companies agree on, or, failing such agreement, within thirty days next after the reference is made to the arbitrators, agree on their award thereon, then the matters referred to them, or such of those matters as are not then determined, shall stand referred to their umpire.

Reference to umpire.

112. The arbitrator, and the arbitrators and the umpire respectively may call for the production of any documents or evidence in the possession or power of the Companies respectively, or which they respectively can produce, and which the arbitrator, or the arbitrators or the umpire shall think necessary for determining the matters referred, and may examine the witnesses of the Companies respectively on oath.

Power for arbitrators, &c., to call for books, &c., and examine witnesses on oath.

113. Except where and as the Companies otherwise agree, the arbitrator, and the arbitrators and the umpire respectively may proceed in the business of the reference in such manner as he and they respectively shall think fit.

Procedure in the arbitration.

114. The arbitrator, and the arbitrators and the umpire respectively may proceed in the absence of all or any of the Companies in every case in which, after giving notice in that behalf to the Companies respectively, the arbitrator, or the arbitrators or the umpire shall think fit so to proceed.

Arbitration may proceed in absence of Companies.

115. The arbitrator, and the arbitrators and the umpire respectively may, if he and they respectively think fit, make several awards, each on part of the matters referred, instead of one award on all the matters referred.

Several awards may be made.

Every such award on part of the matters shall, for such time as shall be stated in the award, the same being such as shall have been specified in the agreement for arbitration, or, in the event of no time having been so specified, for any time which the arbitrator may be legally entitled to fix, be binding as to all the matters to which it extends, and as if the matters awarded on were all the matters referred, and that

that notwithstanding the other matters or any of them be not then or thereafter awarded on.

Awards made
in due time
to bind all
parties.

116. The award of the arbitrator, or of the arbitrators or of the umpire, if made in writing under his or their respective hand or hands, and ready to be delivered to the Companies within such a time as the Companies agree on, or, failing such agreement, within thirty days next after the matters in difference are referred to (as the case may be) the arbitrator or the arbitrators or the umpire, shall be binding and conclusive on all the Companies.

Power for
umpire to
extend period
for making
his award.

117. Provided always that (except where and as the Companies otherwise agree) the umpire, from time to time by writing under his hand, may extend the period within which his award is to be made. If it be made and ready to be delivered within the extended time, it shall be as valid and effectual as if made within the prescribed period.

Awards not
to be set
aside for
informality.

118. No award made on any arbitration in accordance with this Act shall be set aside for any irregularity or informality.

Awards to
be obeyed.

119. Except only so far as the Companies bound by any award in accordance with this Act from time to time otherwise agree, all things by every award in accordance with this Act lawfully required to be done, omitted or suffered shall be done, omitted or suffered accordingly.

Agreements,
arbitrations
and awards
to have
effect.

120. Full effect shall be given by the Courts according to their respective jurisdictions, and by the Companies respectively, and otherwise, to all agreements, references, arbitrations and awards in accordance with this Act; and the performance or observance thereof, may, where the Courts think fit, be compelled by any process against the Companies respectively or their respective property that the Courts or any Judge thereof shall direct, and where requisite frame, for the purpose.

Costs of ar-
bitration and
award.

121. Except where and as the Companies otherwise agree, the costs of and attending the arbitration and the award shall be in the discretion of the arbitrator, and the arbitrators and the umpire respectively.

122. Except

1882.]

122. Except where and as the Companies otherwise agree, and if and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by the Companies in equal shares, and in other respects the Companies shall bear their own respective costs.

Payment of costs.

123. On the application of any party interested, the submission to any such arbitration may be filed in the High Court, and an order of reference may be made thereon, with any directions the Court thinks fit; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

Submission to arbitration to be filed in Court.

PART IV.

WINDING-UP OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Preliminary.

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

Meaning of "contributory."

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

Nature of liability of contributory.

No claim founded on the liability of a contributory shall be cognizable by any Court of Small Causes situate

situate outside the towns of Calcutta, Madras and Bombay.

Contributor-
ies in case of
death.

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

Contributor-
ies in case of
insolvency.

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

Winding-up by Court.

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

128. A Company under this Act may be wound up by the Court as hereinafter defined under the following circumstances (that is to say) :—

(a) whenever the Company has passed a special resolution requiring the Company to be wound up by the Court;

(b) whenever the Company does not commence its business within a year from its incorporation, or suspends its business for the space of a whole year;

(c) whenever the members are reduced in number to less than seven;

(d) whenever the Company is unable to pay its debts;

(e) whenever for any other reason of a like nature the Court is of opinion that it is just and equitable that the Company should be wound up.

129. A Company

to be unable to pay its debts.

unable to pay its debts.

or
ories
ives,
of
om-
used
ins
ries
her
on-
ent
up,
ly,
ast
to
ny
bi-
ag

(a) whenever a creditor, by assignment or otherwise, to whom the Company is indebted in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at its registered office, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the reasonable satisfaction of the creditor;

(b) whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company is returned unsatisfied in whole or in part;

(c) whenever it is proved to the satisfaction of the Court that the Company is unable to pay its debts.

130. The expression "the Court" as used in this Part of this Act shall mean the principal Court having original civil jurisdiction in the place in which the registered office of the Company is situate, unless the regulations for the management of the Company it shall be stipulated that the Company, if wound up, shall be wound up by the High Court of Judicature at Fort William, Madras or Bombay (as the case may be), or by the Chief Court of the Panjáb, in which case the word "Court" shall mean the said High Court or Chief Court (as the case may be) in the exercise of its original civil jurisdiction.

Definition of
"the Court."

The expression "debts" as used in this part of this Act means debts actually due, of which the creditor could claim immediate payment, except in the case of a Company issuing or liable under policies of assurance upon human life within British India, or granting annuities upon human life within British India. In the case of such a Company (hereinafter called a life-assurance Company), the expression "debts," as so used, includes also contingent or prospective liability

Definition of
"debts."

under

under policies and annuity and other existing contracts.

Application
for winding-
up to be
made by
petition.

131. Any application to the Court for the winding-up of a Company under this Act shall be by petition, which may be presented by the Company, or by any one or more creditor or creditors, contributory or contributories, of the Company, or by all or any of the above parties, together or separately.

The petition must allege facts which, if proved, will justify an order for winding-up the Company. Every order which may be made on any such petition shall operate in favour of all the creditors and all the contributories of the Company in the same manner as if it had been made upon the joint petition of a creditor and a contributory.

In the case of a life-assurance Company the Court shall not give a hearing to the petition until security for costs for such amount as the Judge thinks reasonable is given, and until a *prima facie* case is also established to the satisfaction of the Judge; and, where the Company has an uncalled capital of an amount sufficient, with the future premiums receivable by the Company, to make up the actual invested assets equal to the amount of the estimated liabilities, the Court shall suspend further proceedings on the petition for a reasonable time to enable the uncalled capital, or a sufficient part thereof, to be called up; and, if at the end of the original or any suspended time for which the proceedings have been suspended such an amount has not been realised by means of calls as with the already invested assets is equal to the liabilities, an order shall be made on the petition as if the Company had been proved to be unable to pay its debts.

Explanation.—Nothing in this section authorizes the presentation of a petition by a member of a Company who is indebted to the Company in respect of a call made, or other monies due.

Contributory
when not
qualified to
present wind-
ing-up peti-
tion.

132. No contributory of a Company under this Act shall be capable of presenting a petition for winding-up such Company unless the members of the Company

Company are reduced in number to less than seven, or unless the shares in respect of which he is a contributory, or some of them, either were originally allotted to him, or have been held by him, and registered in his name, for a period of at least six months during the eighteen months previous to the commencement of the winding-up, or have devolved upon him through the death of a former holder :

Provided that, where a share has, during the whole or any part of the six months, been held by or registered in the name of the wife of a contributory either before or after her marriage, or by or in the name of any trustee for such wife, or for the contributory, such share shall, for the purposes of this section, be deemed to have been held by and registered in the name of the contributory.

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

Commencement of winding-up by Court.

134. The Court may, at any time after the presentation of a petition for winding-up a Company under this Act, and before making an order for winding-up the Company, upon the application of the Company or of any creditor or contributory of the Company, restrain further proceedings in any suit or proceeding against the Company, upon such terms as the Court thinks fit.

Court may grant injunction.

The Court may also at any time after the presentation of such petition, and before the first appointment of liquidators, appoint provisionally an official liquidator of the estate and effects of the Company.

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

Course to be pursued by Court on hearing petition.

136. When an order has been made for winding-up a Company under this Act, no suit or other proceeding shall be proceeded with or commenced against

Suits to be stayed after order for winding-up.

the

the Company except with the leave of the Court and subject to such terms as the Court may impose.

Copy of order
to be for-
warded to
Registrar.

137. When an order has been made for winding-up a Company under this Act, a copy of such order shall forthwith be forwarded by the Company to the Registrar of joint stock Companies, who shall make a minute thereof in his books relating to the Company.

Such order shall be deemed to be notice of discharge to the servants of the Company, except when the business of the Company is continued.

Power of
Court to stay
proceedings.

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

Effect of
order on
share-capital
of Company
limited by
guarantee.

139. When an order has been made for winding-up a Company limited by guarantee and having a capital divided into shares, any share-capital that may not have been called up shall be deemed to be assets of the Company and to be a debt due to the Company from each member to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the Court.

Court may
have regard
to wishes of
creditors or
contributor-
ies.

140. The Court may, as to all matters relating to the winding-up, have regard to the wishes of creditors or contributories as proved to it by any sufficient evidence, and may, if it thinks fit, direct meetings of the creditors or contributories to be summoned, held and conducted in such manner as the Court directs, for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such meeting to the Court.

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

Official

Official Liquidators.

141. For the purpose of conducting the proceedings in winding-up a Company and assisting the Court therein, there may be appointed a person or persons, to be called an official liquidator or official liquidators.

Appointment
of official
liquidator.

The Court may appoint such person or persons, either provisionally or otherwise, as it thinks fit, to the office of official liquidator or official liquidators.

In all cases, if more persons than one are appointed to the office of official liquidator, the Court shall declare whether any act hereby required or authorized to be done by the official liquidator is to be done by all or any one or more of such persons.

The Court may also determine whether any, and what, security is to be given by any official liquidator on his appointment.

If no official liquidator is appointed, or during any vacancy in such appointment, all the property of the Company shall be deemed to be in the custody of the Court.

A receiver shall not be appointed of assets in the hands of an official liquidator.

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

Resignations,
removals,
filling up
vacancies
and com-
pensation.

143. The official liquidator shall be described by the style of the official liquidator of the particular Company in respect of which he is appointed, and not by his individual name. He shall take into his custody, or under his control, all the property, effects and actionable claims to which the Company is or appears to be entitled, and shall perform such duties in reference to

Style and
duties of offi-
cial liquid-
ator.

the

the winding-up of the Company as may be imposed by the Court.

Power of
official liquid-
ator.

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

(a) to bring or defend any suit or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the Company ;

(b) to carry on the business of the Company so far as may be necessary for the beneficial winding-up of the same ;

(c) to sell the immovable and moveable property of the Company by public auction or private contract, with power to transfer the whole thereof to any person or Company, or to sell the same in parcels ;

(d) to do all acts, and to execute, in the name and on behalf of the Company, all deeds, receipts and other documents, and for that purpose to use, when necessary, the Company's seal ;

(e) to prove, rank, claim and draw a dividend, in the matter of the insolvency of any contributory, for any balance against the estate of such contributory, and to take and receive dividends in respect of such balance, in the matter of the insolvency, as a separate debt due from such insolvent, and rateably with the other separate creditors ;

(f) to draw, accept, make and endorse any bill of exchange, hundí or promissory note in the name and on behalf of the Company ; also to raise, upon the security of the assets of the Company, from time to time, any requisite sum or sums of money ; and the drawing, accepting, making or endorsing of every such bill, hundí or note as aforesaid on behalf of the Company shall have the same effect with respect to the liability of such Company as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of such Company in the course of carrying on the business thereof ;

(g) to take out, if necessary, in his official name, letters of administration to the estate of any deceased contributory, and to do, in his official name, any other

act

act that may be necessary for obtaining payment of any monies due from a contributory or from his estate, and which act cannot be conveniently done in the name of the Company; and, in all cases where he takes out letters of administration, or otherwise uses his official name for obtaining payment of any monies due from a contributory, such monies shall, for the purpose of enabling him to take out such letters or recover such monies, be deemed to be due to the official liquidator himself: provided that nothing herein contained shall be deemed to affect the rights, duties and privileges of the Administrators General of Bengal, Madras and Bombay respectively;

(h) to do and execute all such other things as may be necessary for winding-up the affairs of the Company and distributing its assets.

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

Discretion of official liquidator.

146. The official liquidator may, with the sanction of the Court, appoint an attorney or vakil to assist him in the performance of his duties: provided that, where the official liquidator is an attorney, he shall not appoint his partner, unless the latter consents to act without remuneration.

Appointment of attorney or vakil to official liquidator.

Ordinary Powers of Court.

147. As soon as may be after making an order for winding-up the Company, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where such rectification is required in pursuance of section fifty-eight, and shall cause the assets of the Company to be collected and applied in discharge of its liabilities existing at the date of the said order.

Collection and application of assets.

148. In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right, and persons who are contributories

Provision as to representative contributories.

contributories as being representatives of, or being liable to the debts of, others.

Power of
Court to re-
quire deli-
very of pro-
perty.

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

Power of
Court to or-
der payment
of debts by
contributory.

150. The Court may, at any time after making an order for winding-up the Company, make an order on any contributory for the time being settled on the list of contributories directing payment to be made, in manner in the said order mentioned, of any monies due from him or from the estate of the person whom he represents to the Company, exclusive of any monies which he, or the estate of the person whom he represents, may be liable to contribute by virtue of any call made or to be made by the Court in pursuance of this part of this Act.

The Court may, in making such order, when the Company is not limited, allow to such contributory, by way of set-off, any monies due to him or the estate which he represents from the Company on any independent dealing or contract with the Company, but not any monies due to him as a member of the Company in respect of any dividend or profits:

Provided that, when all the creditors of any Company, whether limited or unlimited, are paid in full, any monies due on any account whatever to any contributory from the Company may be allowed to him by way of set-off against any subsequent call or calls.

In the event of the winding-up of any limited Company, the Court, if it thinks fit, may make to any director or manager of such Company whose liability is unlimited the same allowance by way of set-off

set-off as under this section it may make to a contributory where the Company is not limited.

151. The Court may, at any time after making an order for winding-up a Company, and either before or after it has ascertained the sufficiency of the assets of the Company, make calls on, and order payment thereof by, all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves.

Power of Court to make calls.

The Court may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same.

152. The Court may order any contributory, purchaser or other person from whom money is due to the Company to pay the same into the Bank of Bengal, the Bank of Madras or the Bank of Bombay, as the case may be, or any branch thereof respectively, to the account of the official liquidator instead of to the official liquidator; and such order may be enforced in the same manner as if it had directed payment to the official liquidator.

Power of Court to order payment into Bank.

153. All monies, bills, hundís, notes and other securities paid and delivered into the Bank of Bengal, the Bank of Madras or the Bank of Bombay, or any branch thereof respectively, in the event of a Company being wound up by the Court, shall be subject to such order and regulation for the keeping of the account of such monies and other effects, and for the payment and delivery in, or investment and payment and delivery out, of the same as the Court may direct.

Regulation of account with Court.

154. If any person made a contributory as personal representative of a deceased contributory makes default in paying any sum ordered to be paid by him, proceedings may be taken for administering the property of such deceased contributory, whether

Provision in case of representative contributory not paying monies ordered.

moveable

moveable or immoveable, or both, and of compelling payment thereof of the monies due.

Order con-
clusive evi-
dence.

155. Any order made by the Court in pursuance of this Act upon any contributory shall, subject to the provisions herein contained for appealing against such order, be conclusive evidence that the monies, if any, thereby appearing to be due or ordered to be paid are due; and all other pertinent matters stated in such order are to be taken to be truly stated as against all persons and in all proceedings whatsoever.

Court may
exclude credi-
tors not prov-
ing within
certain time.

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

Court to ad-
just rights of
contribu-
tories.

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

Court to
order costs.

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

Dissolution
of Company.

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

Registrar to
make minute
of dissolution
of Company.

160. Any order so made shall be reported by the official liquidator to the Registrar, who shall make a minute accordingly in his books of the dissolution of such Company.

Penalty for
not reporting
dissolution of
Company.

161. If the official liquidator makes default in reporting to the Registrar, in the case of a Company being wound up by the Court, the order that the Company be dissolved, he shall be liable to a penalty not exceeding one hundred rupees for every day during which he is so in default.

Extraordinary

Extraordinary powers of Court.

162. The Court may, after it has made an order for winding-up the Company, summon before it any officer of the Company, or person known or suspected to have in his possession any of the estate or effects of the Company, or supposed to be indebted to the Company, or any person whom the Court may deem capable of giving information concerning the trade, dealings, estate or effects of the Company.

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

If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, having no lawful impediment (made known to the Court at the time of its sitting and allowed by it), the Court may cause such person to be apprehended and brought before the Court for examination.

The Court may require any such officer or person to produce any documents in his custody or power relating to the Company. Nevertheless, in cases where any person claims any lien on documents produced by him, such production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding-up to determine all questions relating to such lien.

163. The Court may examine upon oath, either by word of mouth or upon written interrogatories, any person appearing or brought before it in manner aforesaid concerning the affairs, dealings, estate or effects of the Company, and may reduce into writing the answers of every such person, and require him to subscribe the same.

Examination of parties by Court.

164. The Court may, at any time before or after it has made an order for winding-up a Company, upon proof being given that there is probable cause for believing that any contributory to such Company is about to quit British India or otherwise abscond, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the Company, cause such contributory to be arrested, and his

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

books,

books, papers, monies, securities for monies, goods and chattels to be seized, and him and them to be safely kept until such time as the Court may order.

Powers of Court cumulative.

165. Any powers by this Act conferred on the Court shall be deemed to be in addition to, and not in restriction of, any other powers subsisting of instituting proceedings against any contributory; or the estate of any contributory, or against any debtor of the Company, for the recovery of any call or other sums due from such contributory or debtor, or his estate; and such proceedings may be instituted accordingly.

Enforcement of, and Appeal from, Orders.

Power to enforce orders.

166. All orders made by a Court under this Act may be enforced in the same manner in which decrees of such Court made in any suit pending therein may be enforced.

Order made in any Court to be enforced by other Courts.

167. Any order made by a Court for or in the course of the winding-up of a Company under this Act shall be enforced in any part of British India, other than that in which such Court is situate, in the Court that would have had jurisdiction in respect of such Company if the registered office of the Company had been situate in such other part, and in the same manner in all respects as if such order had been made by the Court that is hereby required to enforce the same.

Mode of dealing with orders to be enforced by other Courts.

168. Where any order or decree made by one Court is required to be enforced by another Court as hereinbefore provided, a certified copy of the order or decree so made shall be produced to the proper officer of the Court required to enforce the same, and the production of such certified copy shall be sufficient evidence of such order or decree having been made; and thereupon such last-mentioned Court shall take such steps in the matter as may be requisite for enforcing such order or decree, in the same manner as if it were the order or decree of the Court enforcing the same.

169. Re-hearings

169. Re-hearings of, and appeals from, any order or decision made or given in the matter of the winding-up of a Company by the Court may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court in cases within its ordinary jurisdiction; subject to this restriction, that no such re-hearing or appeal shall be heard unless notice of the same is given within three weeks after any order complained of has been made, in manner in which notices of appeal are ordinarily given under the Code of Civil Procedure, unless such time is extended by the Court of appeal.

Appeals from orders.

170. In all proceedings under this Part of this Act, every Court, Judge and person judicially acting, and all other officers, judicial or ministerial, of any Court, or employed in enforcing the process of any Court, shall take judicial notice of the signature of any officer of any other Court, and also of the official seal of any other Court, when such seal is appended to any document made, issued or signed under the provisions of this Part of this Act, or any official copy thereof.

Judicial notice to be taken of signature of officers.

171. The Judges of the District Courts, who sit at places more than twenty English miles from the usual place of sitting of the High Court, shall be Commissioners for the purpose of taking evidence under this Act in cases where any Company is wound up in a High Court; and it shall be lawful for the High Court to refer the whole or any part of the examination of any witnesses under this Act to any person hereby appointed Commissioner, although such Commissioner is out of the jurisdiction of the Court that made the order or decree for winding-up the Company.

Special Commissioners for receiving evidence.

Every such Commissioner shall, in addition to any power of summoning and examining witnesses and requiring the production or delivery of documents and certifying or punishing defaults by witnesses, which he might lawfully exercise as a Judge of a District Court, have, in the matter so referred to him, all the

same

same powers of summoning and examining witnesses, and requiring the production or delivery of documents, and punishing defaults by witnesses, and allowing costs and charges and expenses to witnesses, as the Court which made the order for winding-up the Company has; and the examination so taken shall be returned or reported to such last-mentioned Court in such manner as it directs.

Affidavits, &c., may be sworn in British India, Great Britain or Ireland, or abroad, before any competent Court or person.

172. If any affidavit, affirmation or declaration, required to be sworn or made under the provisions or for the purposes of this Part of this Act, be lawfully sworn or made in British India, or in Great Britain or Ireland, or in any colony, island, plantation or place under the dominion of Her Majesty in foreign parts, before any Court, Judge or person lawfully authorized to take and receive affidavits, affirmations or declarations, or before any of Her Majesty's Consuls or Vice-Consuls in any foreign parts out of Her Majesty's dominions, all Courts, Judges, Justices, Commissioners and persons acting judicially in British India shall take judicial notice of the seal or stamp or signature (as the case may be) of any such Court, Judge, person, Consul or Vice Consul, attached, appended or subscribed to any such affidavit, affirmation or declaration, or to any other document to be used for the purposes of this Part of this Act.

Voluntary Winding-up of Company.

Circumstances under which Company may be wound up voluntarily.

173. A Company under this Act may be wound up voluntarily—

(a) whenever the period, if any, fixed for the duration of the Company by the articles of association expires, or whenever the event, if any, occurs upon the occurrence of which it is provided by the articles of association that the Company is to be dissolved, and the Company in general meeting has passed a resolution requiring the Company to be wound up voluntarily;

(b) whenever the Company has passed a special resolution requiring the Company to be wound up voluntarily;

(c) whenever

(c) whenever the Company has passed an extraordinary resolution to the effect that it has been proved to its satisfaction that the Company cannot by reason of its liabilities continue its business, and that it is advisable to wind up the same :

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

174. A voluntary winding-up shall be deemed to commence at the time of the passing of the resolution authorizing such winding-up. When the winding-up is in pursuance of a special resolution, it shall be deemed to commence at the time of the passing, under section seventy-seven, of the confirmatory resolution.

Commence-
ment of vo-
luntary
winding-up.

175. Whenever a Company is wound up voluntarily, the Company shall, from the date of the commencement of such winding-up, cease to carry on its business except in so far as may be required for the beneficial winding-up thereof ; and all transfers of shares, except transfers made to or with the sanction of the liquidators, or alteration in the status of the members of the Company, taking place after the commencement of such winding-up, shall be void ; but its corporate state and all its corporate powers shall, notwithstanding that its regulations otherwise provide, continue until the affairs of the Company are wound up.

Effect of vo-
luntary
winding-up
on status of
Company.

176. Notice of any special resolution or extraordinary resolution passed for winding-up a Company voluntarily shall be given by advertisement in the local official Gazette, and also in some newspaper (if any) circulating in the place where the registered office of the Company is situate.

Notice of re-
solution to
wind up vo-
luntarily.

177. The following consequences shall ensue upon the voluntary winding-up of a Company :—

Consequence
of voluntary
winding-up.

(a) the assets of the Company shall be applied in satisfaction of its liabilities *pari passu* as they exist at the commencement of the winding-up, and subject thereto shall, unless the regulations of the Company otherwise

otherwise provide, be distributed amongst the members according to their rights and interests in the Company :

(b) liquidators shall be appointed for the purpose of winding-up the affairs of the Company and distributing the assets :

(c) the Company in general meeting shall appoint such persons as it thinks fit to be liquidators, and may fix the remuneration to be paid to them :

(d) if one person only is appointed, all the provisions herein contained in reference to several liquidators shall apply to him :

(e) upon the appointment of liquidators, all the powers of the directors shall cease, except in so far as the Company in general meeting, or the liquidators, may sanction the continuance of such powers :

(f) when several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two :

(g) the liquidators may, without the sanction of the Court, exercise all powers by this Act given to the official liquidators :

(h) the liquidators may exercise the powers hereinbefore given to the Court of settling the list of contributories of the Company, and any list so settled shall be *prima facie* evidence of the liability of the persons named therein to be contributories :

(i) the liquidators may, at any time after the passing of the resolution for winding-up the Company, and before they have ascertained the sufficiency of the assets of the Company, call on all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, to pay all or any sums they deem necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves ;

themselves; and the liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same:

(j) the liquidators shall pay the debts of the Company, and adjust the rights of the contributories amongst themselves.

178. Where a Company limited by guarantee and having a capital divided into shares is being wound up voluntarily, any share-capital that may not have been called up shall be deemed to be assets of the Company, and to be a debt due from each member to the Company to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the liquidators.

Effect of winding-up on share-capital of Company limited by guarantee.

179. A Company about to be wound up voluntarily, or in the course of being wound up voluntarily, may, by an extraordinary resolution, delegate to its creditors, or to any committee of its creditors, the power of appointing liquidators or any of them, and supplying any vacancies in the appointment of liquidators, or may, by a like resolution, enter into any arrangement with respect to the powers to be exercised by the liquidators and the manner in which they are to be exercised.

Power of Company to delegate authority to appoint liquidators.

Any act done by the creditors in pursuance of such delegated power shall have the same effect as if it had been done by the Company.

180. Any arrangement which a Company about to be wound up voluntarily, or in the course of being wound up voluntarily, shall have entered into with its creditors shall be binding on the Company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors, subject to such right of appeal as is hereinafter mentioned.

Arrangement when binding on creditors.

181. Any creditor or contributory of a Company that has in manner aforesaid entered into any arrangement with its creditors may, within three weeks from

Power of creditor or contributory to appeal.

the

the date of the completion of such arrangement, appeal to the Court against such arrangement, and the Court may thereupon, as it thinks just, amend, vary or confirm the same.

Power for liquidators or contributories in voluntary winding-up to apply to Court.

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

Power of liquidators to call general meeting.

183. Where a Company is being wound up voluntarily, the liquidators may, from time to time, during the continuance of such winding-up, summon general meetings of the Company for the purpose of obtaining the sanction of the Company by special resolution or extraordinary resolution, or for any other purposes they think fit.

In the event of the winding-up continuing for more than one year, the liquidators shall summon a general meeting of the Company at the end of the first year and of each succeeding year from the commencement of the winding-up, or as soon thereafter as may be convenient, and shall lay before such meeting an account showing their acts and dealings, and the manner in which the winding-up has been conducted, during the preceding year.

Power to fill up vacancy in office of liquidators.

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

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

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

Power of Court to appoint liquidators.

186. As soon as the affairs of the Company are fully wound up, the liquidators shall make up an account showing the manner in which such winding-up has been conducted and the property of the Company disposed of : and thereupon they shall call a general meeting of the Company for the purpose of having the account laid before them, and hearing any explanation that may be given by the liquidators.

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

The meeting shall be called by advertisement, specifying the time, place and object of such meeting, and such advertisement shall be published one month at least previously to the meeting in the manner specified in section one hundred and seventy-six.

187. The liquidators shall make a return to the Registrar of such meeting having been held, and of the date at which the same was held ; and, on the expiration of three months from the date of the registration of such return, the Company shall be deemed to be dissolved.

Liquidators to report meeting to Registrar.

If the liquidators make default in making such return to the Registrar, they shall incur a penalty not exceeding fifty rupees for every day during which such default continues.

188. All

Costs of voluntary liquidation.

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

Saving of rights of creditors.

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

Power of Court to adopt proceedings of voluntary winding-up.

190. Where a Company is in course of being wound up voluntarily, and proceedings are taken for the purpose of having the same wound up by the Court, the Court may, if it thinks fit, notwithstanding that it makes an order directing the Company to be wound-up by the Court, provide in such order or in any other order for the adoption of all or any of the proceedings taken in the course of the voluntary winding-up.

Winding-up subject to the Supervision of the Court.

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

191. When a resolution has been passed by a Company to wind up voluntarily, the Court may make an order directing that the voluntary winding-up shall continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories or others to apply to the Court, and generally upon such terms and subject to such conditions, as the Court thinks just.

Petition for winding-up subject to supervision.

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

Court may have regard to wishes of creditors.

193. The Court may, in determining whether a Company is to be wound up altogether by the Court, or subject to the supervision of the Court, in the appointment

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

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

194. Where any order is made by the Court for a winding-up subject to the supervision of the Court, the Court may, in such order or in any subsequent order, appoint any additional liquidator.

Power to Court to appoint additional liquidator in winding-up subject to supervision.

Any liquidator so appointed by the Court shall have the same powers, be subject to the same obligations and in all respects stand in the same position, as if he had been appointed by the Company.

The Court may, from time to time, remove any liquidator so appointed by the Court, and fill up any vacancy occasioned by such removal, or by death or resignation.

195. Where an order is made for a winding-up subject to the supervision of the Court, the liquidator appointed to conduct such winding-up may, subject to any restrictions imposed by the Court, exercise all his powers, without the sanction or intervention of the Court, in the same manner as if the Company were being wound up altogether voluntarily.

Effect of order of Court for winding-up subject to supervision.

Save as aforesaid, any order made by the Court for a winding-up subject to the supervision of the Court shall for all purposes, including the staying of suits and other proceedings, be deemed to be an order of the Court for winding-up the Company by the Court, and shall confer full authority on the Court to

make

make calls, or to enforce calls made by the liquidators, and to exercise all other powers which it might have exercised if an order had been made for winding-up the Company altogether by the Court.

In the construction of the provisions whereby the Court is empowered to direct any act or thing to be done to or in favour of the official liquidators, the expression "official liquidator" shall be deemed to mean the liquidator conducting the winding-up subject to the supervision of the Court.

Appoint-
ment in cer-
tain cases of
voluntary
liquidators to
office of offi-
cial liquida-
tors.

196. Where an order has been made for the winding-up of a Company subject to the supervision of the Court, and such order is afterwards superseded by an order directing the Company to be wound up compulsorily, the Court may, in such last-mentioned order or in any subsequent order, appoint the voluntary liquidators or any of them, either provisionally or permanently, and either with or without the addition of any other person, to be official liquidators.

Supplemental Provisions.

Dispositions
after com-
mencement of
winding-up
avoided.

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

Books of
Company to
be evidence.

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

Disposal of
books, ac-
counts and
documents of
Company.

199. Where any Company has been wound up under this Act and is about to be dissolved, the books, accounts and documents of the Company and of the liquidator may be disposed of in the following way; that is to say, where the Company has been wound up by, or subject to the supervision of, the Court, in such way as the Court directs, and, where the Com-

pany

pany has been wound up voluntarily, in such way as the Company by an extraordinary resolution directs.

But, after the lapse of five years from the date of such dissolution, no responsibility shall rest on the Company or the liquidators, or any one to whom the custody of such books, accounts and documents has been committed, by reason that the same or any of them cannot be made forthcoming to any party or parties claiming to be interested therein.

200. Where an order has been made for winding-up a Company by the Court or subject to the supervision of the Court, the Court may make such order for the inspection by the creditors and contributories of the Company of its books and papers as the Court thinks just, and any books and papers in the possession of the Company may be inspected by creditors or contributories in conformity with the order of the Court, but not further or otherwise.

Inspection of books.

201. The liquidator may, with the sanction of the Court where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the Company where the Company is being wound up altogether voluntarily, pay any classes of creditors in full, or make such compromise or other arrangement as the liquidator may deem expedient with creditors or persons claiming to be creditors, or persons having or alleging themselves to have any claim, present or future, whereby the Company may be rendered liable.

General scheme of liquidation may be sanctioned.

202. The liquidator may, with the sanction of the Court where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the Company where the Company is being wound up altogether voluntarily, compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, whether present or future, subsisting or supposed to subsist between the Company and any contributory or alleged contributory, or other debtor or person apprehending liability to the

Power to compromise.

Company,

Company, and all questions in any way relating to or affecting the assets of the Company or the winding-up of the Company, generally upon such terms as may be agreed upon, with power for the liquidator to take any security for the discharge of such debts or liabilities, and to give complete discharges in respect of all or any such calls, debts or liabilities.

Where compromise proposed, Court may order a meeting of creditors, &c., to decide as to such compromise.

203. Where any compromise or arrangement shall be proposed between a Company which is, at the commencement of this Act or afterwards, in the course of being wound up either voluntarily or by or under the supervision of the Court, and the creditors of such Company, or any class of such creditors, it shall be lawful for the Court, in addition to any other of its powers, on the application in a summary way of any creditor or the liquidator, to order that a meeting of such creditors or class of creditors shall be summoned in such manner as the Court shall direct; and, if a majority in number, representing three-fourths in value, of such creditors or class of creditors present either in person or by proxy at such meeting shall agree to any arrangement or compromise, such arrangement or compromise shall, if sanctioned by an order of the Court, be binding on all such creditors or class of creditors, as the case may be, and also on the liquidator and contributories of the said Company.

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

204. Where any Company is proposed to be, or is in the course of being, wound up altogether voluntarily, and the whole or a portion of its business or property is proposed to be transferred or sold to another Company, the liquidators of the first-mentioned Company may, with the sanction of a special resolution of the Company by whom they were appointed, conferring either a general authority on the liquidators or an authority in respect of any particular arrangement, receive, in compensation or part compensation for such transfer or sale, shares, debentures, policies or other like interests in such other Company, for the purpose of distribution amongst the members of the Company being wound up, or may enter into any other

other arrangement whereby the members of the Company being wound up may, in lieu of receiving cash, shares, debentures, policies or other like interests, or in addition thereto, participate in the profits of, or receive any other benefit from, the purchasing Company.

Any sale made, or arrangement entered into, by the liquidator in pursuance of this section shall be binding on the members of the Company being wound up; subject to this proviso that, if any member of the Company being wound up, who has not voted in favour of the special resolution passed by the Company of which he is a member at either of the meetings held for passing the same, expresses his dissent from any such special resolution in writing addressed to the liquidators or one of them, and left at the registered office of the Company not later than seven days after the date of the meeting at which such special resolution was passed, such dissentient member may, by writing addressed and left as last aforesaid, require the liquidator to do one of the following things as the liquidator may prefer (that is to say):— either to abstain from carrying such resolution into effect, or to purchase the interest held by such dissentient member at a price to be determined in manner hereinafter mentioned; such purchase-money to be paid before the Company is dissolved, and to be raised by the liquidator in such manner as may be determined by special resolution.

No special resolution shall be deemed invalid for the purposes of this section by reason that it is passed antecedently to, or concurrently with, any resolution for winding-up the Company or for appointing liquidators; but, if an order be made within a year for winding-up the Company by or subject to the supervision of the Court, such resolution shall not be of any validity unless it is sanctioned by the Court.

205. The price to be paid for the purchase of the interest of any dissentient member may be determined by agreement. If the parties dispute about the same,

Mode of
determining
price.

such

such dispute shall be settled by arbitration under the provisions next hereinafter contained.

Appointment of arbitrator when questions are to be determined by arbitration.

206. When any dispute so directed to be settled by arbitration has arisen, then, unless both parties concur in the appointment of a single arbitrator, each party, on the request of the other party, shall by writing under his hand nominate and appoint an arbitrator to whom such dispute shall be referred.

After any such appointment has been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as such revocation.

If for the space of fourteen days after any such dispute has arisen, and after a request in writing has been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters in dispute; and in such case the award or determination of such single arbitrator shall be final.

Vacancy of arbitrator to be supplied.

207. If, before the matters so referred are determined, any arbitrator appointed by either party die, or become incapable or refuse, or for seven days neglect, to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if, for the space of seven days after notice in writing from the other party for that purpose, he fail to do so, the remaining or other arbitrator may proceed *ex parte*; and every arbitrator so substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal or disability as aforesaid.

Appointment of umpire.

208. Where more arbitrators than one have been appointed, they shall, before entering upon the matters referred to them, nominate and appoint by writing under

under their hands an umpire to decide on any such matters on which they shall differ.

If such umpire die, or refuse, or for seven days neglect, to act, they shall forthwith, after such death, refusal or neglect, appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

209. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath.

Power of arbitrators to call for books, &c.

210. The costs of and attending every such arbitration to be determined by the arbitrators shall be in the discretion of the arbitrators or their umpire, as the case may be.

Costs to be in discretion of arbitrators.

211. On the application of either of the parties, the submission to any such arbitration may be filed in the Court, and an order of reference may be made thereon; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

Submission to arbitration may be filed in Court.

212. Where any Company is being wound up by the Court or subject to the supervision of the Court, any attachment, distress or execution put in force, without the leave of the Court, against the estate or effects of the Company after the commencement of the winding-up shall be void.

Certain attachments, distresses and executions to be void.

Nothing in this section applies to proceedings by the Government.

213. Every conveyance, mortgage, delivery of goods, payment, execution or other act relating to property, which would, if made or done by, or against any individual trader, be deemed, in the event of his insolvency, to have been made or done by way of undue or fraudulent preference of the creditors of such trader, shall, if made or done by or against any Company, be deemed, in the event of such Company be-

Fraudulent preference.

ing wound up under this Act, to have been made or done by way of undue or fraudulent preference of the creditors of such Company, and shall be invalid accordingly.

For the purposes of this section, the making of an application for winding-up a Company shall, in the case of a Company being wound up by the Court or subject to the supervision of the Court, and a resolution for winding-up the Company shall, in the case of a voluntary winding-up, be deemed to correspond with the act of insolvency in the case of an individual trader; and any conveyance or assignment made by any Company formed under this Act, of all its estate and effects to trustees, for the benefit of all its creditors, shall be void.

Power of
Court to
assess
damages
against de-
linquent
directors and
officers.

214. Where, in the course of the winding-up of any Company under this Act, it appears that any past or present director, manager, official or other liquidator, or any officer of such Company, has misapplied or retained in his own hands, or become liable or accountable for, any monies of the Company, or been guilty of any misfeasance or breach of trust in relation to the Company, the Court may, on the application of any liquidator or of any creditor or contributor of the Company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such director, manager or other officer, and compel him to repay any monies so misapplied or retained, or for which such officer has become liable or accountable, together with interest after such rate as the Court thinks just, or to contribute such sums of money to the assets of the Company by way of compensation in respect of such misapplication, retainer, misfeasance or breach of trust, as the Court thinks just.

Explanation I.—The banker of a Company is not, as such, an officer within the meaning of this section.

Explanation II.—Proceedings cannot be taken under this section against the representatives of a deceased officer.

215. If any director, officer or contributory of any Company wound up under this Act destroys, mutilates, alters, falsifies or fraudulently secretes any books, papers, writings or securities, or makes, or is privy to the making of, any false or fraudulent entry in any register, book of account or other document belonging to the Company, with intent to defraud or deceive any person, every person so offending shall be punished with imprisonment for a term which may extend to two years, and shall also be liable to fine which may extend to five hundred rupees.

Penalty on falsification of books.

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

Prosecution of delinquent directors in case of winding-up by Court.

217. If any person, upon any examination upon oath authorized under this Act, or in any affidavit, deposition or solemn affirmation, in or about the winding-up of any Company under this Act, or otherwise in or about any matter arising under this Act, intentionally gives false evidence, he shall be liable to imprisonment for a term which may extend to seven years and shall also be liable to fine.

Penalty for false evidence.

218. Where the High Court makes an order for winding-up a Company under this Act, it may, if it thinks fit, direct all subsequent proceedings to be had in a District Court; and thereupon such District Court shall, for the purpose of winding-up the Company, be deemed to be "the Court" within the meaning of this Act, and shall have, for the purposes of such winding-up, all the jurisdiction and powers of the High Court.

Winding-up may be referred to District Court.

219. If

Transfer of
winding-up
from one
District
Court to
another.

219. If during the progress of a winding-up in a District Court it is made to appear to the High Court that the same could be more conveniently prosecuted in any other District Court, the High Court may transfer the same to such other Court, and thereupon the winding-up shall proceed in such other District Court.

PART V.

REGISTRATION-OFFICE.

Constitution
of regis-
tration-office.

220. The registration of Companies under this Act shall be conducted as follows (that is to say) :—

(a) The Local Government may, after the sanction of the Governor General in Council to the creation of any such offices shall have been obtained, from time to time appoint such Registrars, Assistant Registrars, clerks and servants as it may think necessary for the registration of Companies under this Act, and remove them at pleasure :

(b) The Local Government may make such regulations as it thinks fit with respect to the duties to be performed by any such Registrars, Assistant Registrars, clerks and servants as aforesaid :

(c) The Local Government may from time to time determine the places at which offices for the registration of Companies are to be established, so that there be at all times maintained in each of the towns of Calcutta, Madras and Bombay at least one such office, and that no Company shall be registered except at an office within that part of British India in which, by the memorandum of association, the registered office of the Company is declared to be established :

(d) The Local Government may from time to time direct a seal or seals to be prepared for the authentication of any documents required for or connected with the registration of Companies :

(e) Every person may inspect the documents kept by the Registrar of joint stock Companies. There shall

shall be paid for such inspection such fees as may be directed by the Local Government, not exceeding one rupee for each inspection. Any person may require a certificate of the incorporation of any Company, or a copy or extract of any other document or any part of any other document, to be certified by the Registrar. There shall be paid for such certificate of incorporation, certified copy or extract, such fees as the Local Government may direct, not exceeding three rupees for the certificate of incorporation, and not exceeding two annas for each hundred words of such copy or extract:

(f) The existing Registrar, Assistant Registrars, clerks and other officers and servants in the office for the registration of joint stock Companies shall, during the pleasure of the Local Government, hold the offices and receive the salaries hitherto held and received by them, but they shall in the execution of their duties conform to any regulations that may be issued by the Local Government:

(g) There shall be paid to any Registrar, Assistant Registrar, clerk or servant that may hereafter be employed in the registration of joint stock Companies such salaries as the Local Government may, with the sanction of the Governor General in Council, direct:

(h) Whenever any act is herein directed to be done to or by the Registrar of joint stock Companies, such act shall, until the Local Government otherwise directs, be done to or by the existing Registrar of joint stock Companies, or in his absence to or by such person as the Local Government may for the time being authorize. But, in the event of the Local Government altering the constitution of the existing registry-office, such act shall be done to or by such officer or officers, and at such place or places with reference to the local situation of the registered offices of the Companies to be registered, as the Local Government may appoint.

PART VI.

APPLICATION OF ACT TO COMPANIES REGISTERED
UNDER THE JOINT STOCK COMPANIES ACTS.

Application
of Act to
Companies
formed under
Act XIX of
1857 or VII
of 1860.

221. Subject as hereinafter mentioned, this Act, with the exception of Table A in the first schedule, shall apply to Companies formed and registered under Act No. XIX of 1857 and Act No. VII of 1860, or either of them, in the same manner, in the case of a limited Company, as if such Company had been formed and registered under this Act as a Company limited by shares, and, in the case of Company other than a limited Company, as if such Company had been formed and registered as an unlimited Company under this Act; with this qualification, that, wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them, and the power of altering regulations by special resolution given by this Act shall, in the case of any Company formed and registered under the said Acts or either of them, extend to altering any provisions contained in the table marked B annexed to Act No. XIX of 1857, and shall also, in the case of an unlimited Company formed and registered as last aforesaid, extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding that such regulations are contained in the memorandum of association.

Application
of Act to
Companies
registered
under Act
XIX of 1857
or VII of
1860.

222. This Act shall apply to Companies registered but not formed under the said Acts or either of them, in the same manner as it is hereinafter declared to apply to Companies registered but not formed under this Act; with this qualification, that, wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them.

Mode of
transferring
shares.

223. Any Company registered under the said Acts or either of them may cause its shares to be transferred

ferred in manner hitherto in use, or in such other manner as the Company may direct.

PART VII.

COMPANIES AUTHORIZED TO REGISTER UNDER THIS ACT.

224. With the exceptions made in the next following section and subject to the regulations therein contained, every Company existing at the time of the commencement of this Act, including any Company registered under either of the said Acts, consisting of seven or more members, and any Company hereafter formed in pursuance of any Act of Parliament or Act of the Governor General in Council other than this Act, or of Letters Patent, or being otherwise duly constituted by law, and consisting of seven or more members, may at any time hereafter register itself under this Act as an unlimited Company, or a Company limited by shares, or a Company limited by guarantee, and no such registration shall be invalid by reason that it has taken place with a view to the Company being wound up.

Companies
capable of
being regis-
tered.

225. The following regulations shall be observed with respect to the registration of Companies under this Part of this Act (that is to say):—

Regulations
as to regis-
tration of
existing
Companies.

(a) No Company having the liability of its members limited by Act of Parliament or Act of the Governor General in Council other than this Act, or by Letters Patent, and not being a joint stock Company as hereinafter defined, shall register under this Act in pursuance of this Part thereof:

(b) No Company having the liability of its members limited by Act of Parliament or Act of the Governor General in Council other than this Act, or by Letters Patent, shall register under this Act in pursuance of this Part thereof as an unlimited Company, or as a Company limited by guarantee:

(c) No life-assurance Company existing at the time of the commencement of this Act, and no Company that is not a joint stock Company as hereinafter defined,

defined, shall in pursuance of this Part of this Act register under this Act as a Company limited by shares :

(d) No Company shall register under this Act in pursuance of this Part thereof unless an assent to its so registering is given by a majority of such of its members as may be present personally, or by proxy in cases where proxies are allowed by the regulations of the Company, at some general meeting summoned for the purpose :

(e) Where a Company, not having the liability of its members limited by Act of Parliament, or Act of the Governor General in Council, or by Letters Patent, is about to register as a limited Company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present, personally or by proxy, at such last-mentioned general meeting :

(f) Where a Company is about to register as a Company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceased to be a member, and of the costs, charges and expenses of winding-up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding a specified amount.

In computing any majority under this section, when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the regulations of the Company of which he is a member.

Definition of
"joint stock
Company."

226. For the purposes of this Part of this Act, so far as the same relates to the description of Companies empowered to register as Companies limited by shares, a joint stock Company shall be deemed to be

be a Company having a permanent paid up or nominal capital of fixed amount, divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of shares in such capital, or the holders of such stock, and no other persons; and such Company, when registered with limited liability under this Act, shall be deemed to be a Company limited by shares.

227. Previously to the registration, in pursuance of this part of this Act, of any joint stock Company, there shall be delivered to the Registrar the following documents (that is to say) :—

Requisitions
for registra-
tion by Com-
panies.

(a) A list showing the names, addresses and occupations of all persons who, on a day named in such list and not being more than six clear days before the day of registration, were members of such Company, with the addition of the shares held by such persons respectively, distinguishing, in cases where such shares are numbered, each share by its number :

(b) A copy of any Act of Parliament or Act of the Governor General in Council, Royal Charter, Letters Patent, deed of settlement, contract of copartnery or other instrument constituting or regulating the Company :

(c) If any such joint stock Company is intended to be registered as a limited Company, the above list and copy shall be accompanied by a statement specifying the following particulars (that is to say) :—

the nominal capital of the Company and the number of shares into which it is divided ;

the number of shares taken and the amount paid on each share ;

the name of the Company, with the addition of the word "limited" as the last word thereof ;

with the addition, in the case of a Company intended to be registered as a Company limited by

guarantee,

guarantee, of the resolution declaring the amount of the guarantee.

Requisitions for registration by existing Company not being a joint stock Company.

228. Previously to the registration in pursuance of this Part of this Act of any Company not being a joint stock Company, there shall be delivered to the Registrar a list showing the names, addresses and occupations of the directors or other managers (if any) of the Company, also a copy of any Act of Parliament, Act of the Governor General in Council, Letters Patent, deed of settlement, contract of copartnership or other instrument constituting or regulating the Company, with the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the resolution declaring the amount of the guarantee.

Power for existing Company to register amount of stock instead of shares.

229. Where a joint stock Company authorized to register under this Act has had the whole or any portion of its capital converted into stock, such Company shall, as to the capital so converted, instead of delivering to the Registrar a statement of shares, deliver to the Registrar a statement of the amount of stock belonging to the Company, and the names of the persons who were holders of such stock, on some day to be named in the statement, not more than six clear days before the day of registration.

Authentication of statements of existing Companies.

230. The lists of members and directors and any other particulars relating to the Company hereby required to be delivered to the Registrar shall be verified by declaration of the directors of the Company delivering the same, or any two of them, or of any two other principal officers of the Company, made before a Justice of the Peace or a District Judge.

Registrar may require evidence as to nature of Company.

231. The Registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether an existing Company is or not a joint stock Company as hereinbefore defined.

On registration of banking Company with limited liability, notice to be given to customers.

232. Every banking Company existing at the date of the passing of this Act which registers itself as a limited Company shall, at least thirty days previous to obtaining a certificate of registration with limited liability, give notice that it is intended so to

register

register the same to every person and partnership firm having a banking account with the Company.

Such notice shall be given either by delivering the same to such person or firm, or leaving the same, or putting the same into the post addressed to him or them, at such address as shall have been last communicated or otherwise become known as his or their address to or by the Company.

In case the Company omits to give any such notice as is hereinbefore required to be given, then, as between the Company and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof down to the time at which such notice shall be given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

233. No fees shall be charged in respect of the registration in pursuance of this Part of this Act of any Company in cases where such Company is not registered as a limited Company, or where, previously to its being registered as a limited Company, the liability of the shareholders was limited by some Act of Parliament, or Act of the Governor General in Council, or by Letters Patent.

Exemption
of certain
Companies
from pay-
ment of fees.

234. Any Company authorized by this Part of this Act to register with limited liability shall, for the purpose of obtaining registration with limited liability, change its name by adding thereto the word "limited."

Company to
change name.

235. Upon compliance with the requisitions in this Part of this Act contained with respect to registration, and on payment of such fees, if any, as are payable under the tables marked B and C in the first schedule hereto, the Registrar shall certify under his hand that the Company so applying for registration is incorporated as a Company under this Act, and, in the case of a limited Company, that it is limited; and thereupon such Company shall be incorporated, and shall have perpetual succession and a common seal.

Certificate of
registration
of existing
Companies.

Certificate to
be evidence
of compliance
with Act.

236. A certificate of incorporation given at any time to any Company registered in pursuance of this Part of this Act shall be conclusive evidence that all the requisitions herein contained in respect of registration under this Act have been complied with, and that the Company is authorized to be registered under this Act as a limited or unlimited Company, as the case may be; and the date of incorporation mentioned in such certificate shall be deemed to be the date at which the Company is incorporated under this Act.

Transfer of
property to
Company.

237. All such property, moveable and immoveable, including all interests and rights in, to and out of property, moveable and immoveable, and including obligations and actionable claims, as may belong to or be vested in the Company at the date of its registration under this Act, shall, on registration, pass to and vest in the Company as incorporated under this Act for all the estate and interest of the Company therein.

Registration
under this
Act not to
affect obliga-
tions incur-
red previ-
ously to re-
gistration.

238. The registration in pursuance of this Part of this Act of any Company shall not affect or prejudice the liability of such Company to have enforced against it, or its right to enforce, any debt or obligation incurred, or any contract entered into, by, to, with or on behalf of, such Company previously to such registration.

Continuation
of existing
suits.

239. All such suits and other legal proceedings as may at the time of the registration of any Company registered in pursuance of this Part of this Act have been commenced by or against such Company, or the public officer or any member thereof, may be continued in the same manner as if such registration had not taken place. Nevertheless, execution shall not issue against the effects of any individual member of such Company upon any decree or order obtained in any suit or proceeding so commenced as aforesaid; but, in the event of the property and effects of the Company being insufficient to satisfy such decree or order, an order may be obtained for winding-up the Company.

240. When

240. When a Company is registered under this Act in pursuance of this Part thereof, all provisions contained in any Act of Parliament, Act of the Governor General in Council, deed of settlement, contract of copartnery, Letters Patent or other instrument constituting or regulating the Company, including, in the case of a Company registered as a Company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the Company, in the same manner and with the same incidents as if they were contained in a registered memorandum of association and articles of association; and all the provisions of this Act shall apply to such Company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject to the provisions following (that is to say):—

Effect of
registration
under Act.

(a) That table A in the first schedule to this Act shall not, unless adopted by special resolution, apply to any Company registered under this Act in pursuance of this Part thereof:

(b) That the provisions of this Act relating to the numbering of shares shall not apply to any joint stock Company whose shares are not numbered:

(c) That no Company shall have power to alter any provisions contained in any Act of Parliament, Act of the Legislative Council or Act of the Governor General in Council relating to the Company:

(d) That no Company shall have power, without the sanction of the Governor General in Council, to alter any provision contained in any Letters Patent relating to the Company:

(e) In the event of the Company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the Company contracted prior to registration, who is liable to pay or contribute to the payment of any debt or liability of the Company contracted prior to registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves

in

in respect of any such debt or liability, or to pay or contribute to the payment of the costs, charges and expenses of winding-up the Company, so far as relates to such debts or liabilities as aforesaid. Every such contributory shall be liable to contribute to the assets of the Company, in the course of the winding-up, all sums due from him in respect of any such liability as aforesaid. In the event of the death or insolvency of any such contributory as last aforesaid, the provisions hereinbefore contained with respect to the representatives, heirs and devisees of deceased contributories, and with reference to the assignees of insolvent contributories, shall apply :

(f) Nothing herein contained shall authorize any Company to alter any such provisions contained in any deed of settlement, contract of copartnery, Letters Patent or other instrument constituting or regulating the Company, as would, if such Company had originally been formed under this Act, have been contained in the memorandum of association, and are not authorized to be altered by this Act :

But nothing herein contained shall derogate from any power of altering its constitution or regulations which may be vested in any Company registering under this Act in pursuance of this Part thereof by virtue of any Act of Parliament, Act of the Governor General in Council, deed of settlement, contract of copartnery, Letters Patent or other instrument constituting or regulating the Company.

241. The Court may, at any time after the presentation of a petition for winding-up a Company registered in pursuance of this Part of this Act, and before making an order for winding up the Company, upon the application of any creditor of the Company, restrain further proceedings in any suit or legal proceeding against any contributory of the Company as well as against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

242. Where an order has been made for winding-up a Company registered in pursuance of this Part of this Act, in addition to the provisions hereinbefore contained,

Power of
Court to
restrain fur-
ther proceed-
ings.

Order for
winding-up
Company.

contained, it is hereby further provided that no suit or other legal proceeding shall be commenced or proceeded with against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

PART VIII.

APPLICATION OF ACT TO UNREGISTERED COMPANIES.

243. Subject as hereinafter mentioned, any Partnership, Association or Company, except Railway Companies incorporated by Act of Parliament or Act of the Governor General in Council, consisting of more than seven members and not registered under this Act, and hereinafter included under the term "unregistered Company," may be wound up under this Act, and all the provisions of this Act with respect to winding-up shall apply to such Company, with the following exceptions and additions:—

Winding-up
unregistered
Companies.

(1) An unregistered Company shall, for the purpose of determining the Court having jurisdiction in the matter of the winding-up, be deemed to be registered in that part of British India where its principal place of business is situate, or, if it has a principal place of business situate in more than one part of British India, then in each part of British India where it has a principal place of business. Moreover, the principal place of business of an unregistered Company, or (where it has a principal place of business situate in more than one part of British India) such one of its principal places of business as is situate in that part of British India in which proceedings are being instituted, shall, for all the purposes of the winding-up of such Company, be deemed to be the registered office of the Company :

(2) No unregistered Company shall be wound up under this Act voluntarily, or subject to the supervision of the Court :

(3) The

(3) The circumstances under which an unregistered Company may be wound up are as follows (that is to say) :—

(a) whenever the Company is dissolved or has ceased to carry on business, or is carrying on business only for the purpose of winding-up its affairs;

(b) whenever the Company is unable to pay its debts;

(c) whenever the Court is of opinion that it is just and equitable that the Company should be wound up :

(4) An unregistered Company shall, for the purposes of this Act, be deemed to be unable to pay its debts—

(a) whenever a creditor to whom the Company is indebted, by assignment or otherwise, in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at the principal place of business of the Company or by delivering to the secretary or some director or principal officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor;

(b) whenever any suit or other proceeding has been instituted against any member of the Company for any debt or demand due or claimed to be due from the Company, or from him in his character of member of the Company, and notice in writing of the institution of such suit or other legal proceeding having been served upon the Company by leaving the same at the principal place of business of the Company, or by delivering it to the secretary or some director, manager or principal officer of the Company, or by otherwise serving the same in such manner as

the

the Court may approve or direct, the Company has not, within ten days after service of such notice, paid, secured or compounded for such debt or demand, or procured such suit or other legal proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against such suit or other legal proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same ;

(c) whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company, or any member thereof as such, or against any person authorized to be sued as nominal defendant on behalf of the Company, is returned unsatisfied ;

(d) whenever it is otherwise proved to the satisfaction of the Court that the Company is unable to pay its debts.

244. In the event of an unregistered Company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the Company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves, or to pay or contribute to the payment of the costs, charges and expenses of winding-up the Company.

Who to be deemed a contributory in the event of Company being wound up.

Every such contributory shall be liable to contribute to the assets of the Company in the course of the winding-up all sums due from him in respect of any such liability as aforesaid.

In the event of the death or insolvency of any contributory, the provisions hereinbefore contained with respect to the personal representatives, heirs and devisees of a deceased contributory, and to the assignees of an insolvent contributory, shall apply.

245. The Court may, at any time after the making of an application for winding-up an unregistered Company, and before making an order for winding-up the Company, upon the application of any creditor of

Power of Court to restrain further proceedings.

the

the Company, restrain further proceedings in any suit or proceeding against any contributory of the Company, or against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

Effect of
order for
winding-up
Company.

246. Where an order has been made for winding-up an unregistered Company, in addition to the provisions hereinbefore contained in the case of Companies formed under this Act, it is hereby further provided that no suit shall be commenced or proceeded with against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

Provision in
case of un-
registered
Company.

247. If any unregistered Company has no power to sue and be sued in a common name, or if, for any reason, it appears expedient, the Court may, by the order made for winding-up such Company or by any subsequent order, direct that all such property, moveable and immoveable, including all interests, claims and rights into and out of property, moveable and immoveable, and including actionable claims, as may belong to or be vested in the Company, or to or in any person or persons on trust for or on behalf of the Company, or any part of such property, is to vest in the official liquidator or official liquidators by his or their official name or names; and thereupon the same or such part thereof as may be specified in the order shall vest accordingly, and the official liquidator or official liquidators may, in his or their official name or names, or in such name or names, and after giving such indemnity, as the Court directs, bring or defend any suits or other legal proceedings relating to any property vested in him or them, or any suits or other legal proceedings necessary to be brought or defended for the purposes of effectually winding-up the Company and recovering the property thereof.

Provisions of
this Part of
Act cumulative.

248. The provisions made by this Part of this Act with respect to unregistered Companies shall be deemed to be made in addition to, and not in restriction of, any provisions hereinbefore contained with respect to winding-up Companies by the Court.

The

The Court or official liquidator may, in addition to anything contained in this Part of this Act, exercise any powers or do any act in the case of unregistered Companies which might be exercised or done by it or him in winding-up Companies formed under this Act; but an unregistered Company shall not, except in the event of its being wound-up, be deemed to be a Company under this Act, and then only to the extent provided by this Part of this Act.

PART IX.

MISCELLANEOUS PROVISIONS.

249. No Company under this Act shall have power to buy its own shares.

Company not to buy its own shares.

250. Where, previously to the commencement of this Act, an order has been made for winding-up a Company under the Indian Companies Act, 1866, or a resolution has been passed for winding-up a Company voluntarily, such Company shall be wound up in the same manner and with the same incidents as if this Act were not passed; and, for the purposes of such winding-up, the Indian Companies Act, 1866, shall be deemed to remain in full force.

Saving of existing proceedings for winding-up.

251. Where, previously to the commencement of this Act, any conveyance, mortgage-deed or other instrument has been made in pursuance of the Indian Companies Act, 1866, such instrument shall be of the same force as if this Act had not passed; and, for the purposes of such instrument, the Indian Companies Act, 1866, shall be deemed to remain in full force.

Saving of conveyances.

252. All offences under this Act may be tried by any Magistrate of the first class, unless the period of imprisonment to which the offender is liable exceeds that which such officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such officer, the offender shall be committed for trial before the Court of Session.

Cognizance of offences.

If

Punishment
of offences
committed
within Pre-
sidency-
towns.

If any offence which by this Act is declared to be punishable by any penalty is committed by any person within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay, such offence shall be punishable upon summary conviction by any Presidency Magistrate of the place at which such Court is held.

Power to
make orders
as to costs.

253. Subject to the provisions hereinbefore contained, the Court may, in any proceedings under this Act, make such order as to costs as it thinks fit.

Power of
High Court
to make
rules.

254. The High Court may from time to time make rules, consistent with this Act and with the Code of Civil Procedure, concerning the mode of proceeding to be had for winding-up a Company in such Court and in the Courts subordinate thereto, and for giving effect to the provisions hereinbefore contained as to the reduction of the capital and the sub-division of the shares of a Company.

Construction
of "Regis-
trar of Joint
Stock Com-
panies" in
Act XXI of
1860.

255. In sections 1 and 18 of Act No. XXI of 1860 (*for the registration of Literary, Scientific and Charitable Societies*), the words "Registrar of Joint Stock Companies" shall be construed to mean Registrar of Joint Stock Companies under this Act or any Act for the time being in force.

Act not to
apply to
Bank of Ben-
gal, Madras
or Bombay.

256. Save as provided in sections one hundred and fifty-two and one hundred and fifty-three, nothing in this Act shall be deemed to apply to the Bank of Bengal, the Bank of Madras and the Bank of Bombay.

FIRST SCHEDULE.

TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Shares.

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

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

(3.) If such certificate is worn out or lost, it may be renewed, on payment of eight annas or such less sum as the Company in general meeting may prescribe.

Calls on Shares.

(4.) The directors may from time to time make such calls upon the members in respect of all monies unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call; and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the directors.

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

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

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

Transfers of Shares.

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

(9.) Shares in the Company shall be transferred in the following form:—

I, *A B*, of _____, in consideration of the sum of _____ rupees paid to me by *CD* of _____, do hereby transfer to the said *CD* the share (or shares) numbered _____ standing in my name in the books of the

Company,

Company, to hold unto the said *C D*, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution hereof; and I, the said *C D*, do hereby agree to take the said share (*or shares*) subject to the same conditions. As witness our hands the day of

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

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

Transmission of Shares.

(12.) The executors or administrators of a deceased member shall be the only persons recognized by the Company as having any title to his share.

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

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

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

(16.) The instrument of transfer shall be presented to the Company, together with such evidence as the directors may require to prove the title of the transferee, and thereupon the Company shall register the transferee as a member.

Forfeiture of Shares.

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

(18.) The notice shall name a further day on or before which such call and all interest and expenses that have accrued by reason of such non-payment are to be paid. It shall also name the place where payment is to be made, the place so named being either

either the registered office of the Company or some other place at which calls of the Company are usually made payable. The notice shall also state that, in the event of non-payment at or before the time and at the place appointed, the shares in respect of which such call was made will be liable to be forfeited.

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

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

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

(22.) A solemn declaration in writing, made before a Magistrate, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made and that the forfeiture of the share was made by a resolution of the directors to that effect, shall be sufficient evidence of the facts therein stated as against all persons entitled to such share, and such declaration and the receipt of the Company for the price of such share shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to the purchaser, and thereupon he shall be deemed the holder of such share discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase-money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Conversion of Shares into Stock.

(23.) The directors may, with the sanction of the Company previously given in general meeting, convert any paid up shares into stock.

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

(25.) The several holders of stock shall be entitled to participate in the dividends and profits of the Company according to the amount of their respective interests in such stock; and such interests shall, in proportion to the amount thereof, confer on the holders thereof, respectively, the same privileges and advantages

for

for the purpose of voting at meetings of the Company and for other purposes as would have been conferred by shares of equal amount in the capital of the Company; but so that none of such privileges or advantages, except the participation in the dividends and profits of the Company, shall be conferred by any such aliquot part of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages.

Increase in Capital.

(26.) The directors may, with the sanction of a special resolution of the Company previously given in general meeting, increase its capital by the issue of new shares; such aggregate increase to be of such amount, and to be divided into shares of such respective amounts, as the Company in general meeting directs, or, if no direction is given, as the directors think expedient.

(27.) Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member is entitled and limiting a time within which the offer, if not accepted, will be deemed to be declined; and after the expiration of such time, or on the receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the Company.

(28.) Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions, with reference to the payment of calls, and the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

General Meetings.

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

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

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

(32.) The directors may, whenever they think fit, and they shall, upon a requisition made in writing by not less than one-

fifth

fifth in number of the members of the Company, convene an extraordinary general meeting.

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

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

Proceedings at General Meeting.

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

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

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

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

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

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

(41.) The

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

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

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

Votes of Members.

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

(45.) If any member is a lunatic or idiot, he may vote by his committee or other legal curator; and if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

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

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

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

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

(50.) The instrument appointing a proxy shall be deposited at the registered office of the Company not less than seventy-two hours

hours before the time for holding the meeting at which the person named in such instrument proposes to vote; but no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

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

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

Directors.

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

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

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

Powers of Directors.

(55.) The business of the Company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the Company, and may exercise all such powers of the Company as are not by the foregoing Act, or by these articles, required to be exercised by the Company in general meeting, subject nevertheless to any regulations of these articles, to the provisions of the foregoing Act and to such regulations, being not inconsistent with the aforesaid regulations, or provisions, as may be prescribed by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

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

Disqualification of Directors.

(57.) The office of director shall be vacated—

if he, or any partner of his, or the firm of which he is a member,

member, holds any other office or place of profit under the Company;

if he becomes bankrupt or insolvent;

if he is punished under any of the penal provisions of the foregoing Act;

if he is concerned in or participates in the profits of any contract with the Company.

But the above rules shall be subject to the following exceptions:—that no director shall vacate his office by reason of his being a member of any Company which has entered into contracts with or done any work for the Company of which he is director; nevertheless, he shall not vote in respect of such contract or work, and, if he does so vote, his vote shall not be counted.

Rotation of Directors.

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

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

(60.) A retiring director shall be re-eligible.

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

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

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

(64.) Any casual vacancy occurring in the board of directors may be filled up by the directors, but any person so chosen shall
retain

retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

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

Proceedings of Directors.

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

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

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

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

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

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

Dividends.

(72.) The directors may, with the sanction of the Company

in

Companies.

[ACT VI

in general meeting, declare a dividend to be paid to the members in proportion to their shares.

(73.) No dividend shall be payable except out of the profits arising from the business of the Company.

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

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

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

(77.) No dividend shall bear interest as against the Company.

Accounts.

(78.) The directors shall cause true accounts to be kept—
of the stock in trade of the Company;

of the sums of money received and expended by the Company, and the matters in respect of which such receipt and expenditure take place; and

of the credits and liabilities of the Company.

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

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

(80.) The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expenses of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and, in cases where any item of
expenditure

expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

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

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

Audit.

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

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

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

(86.) The auditors may be members of the Company; but no person is eligible as an auditor who is interested otherwise than as a member in any transaction of the Company; and no director or other officer of the Company is eligible during his continuance in office.

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

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

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

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

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

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

(93.) Every

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

(94.) The auditors shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs, and, in case they have called for explanations or information from the directors, whether such explanations or information have or has been given by the directors, and whether they or it have or has been satisfactory. Such report shall be read, together with the report of the directors, at the ordinary meeting.

Notices.

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

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

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

Balance-sheet.

Dr.

Balance-sheet (a) of the

Company made up to

18

Cr.

1882.]

Companies.

CAPITAL AND LIABILITIES.		PROPERTY AND ASSETS.	
	Rs. As.		Rs. As.
I. CAPITAL.		III. PROPERTY HELD BY THE COMPANY.	
1 The number of shares	...	7	
2 The amount paid per share	...		
3 If any arrears of calls, the nature of the arrear	...		
4 The particulars of any forfeited shares	...		
II. DEBTS AND LIABILITIES OF THE COMPANY.			
5 The amount of loans on mortgages or debenture-bonds	...	8	
6 The amount of debts owing by the Company—	...		
(a) Debts for which acceptances have been given	...		
(b) Debts to tradesmen for supplies of stock in trade or other articles	...		
(c) Debts for law-expenses	...		
(d) Debts for interest on debentures or other loans	...		
(e) Undeclared dividends	...		
(f) Debts not enumerated above	...		
VI. RESERVE FUND.		9	
VII. PROFIT AND LOSS.		10	
		11	
		12	
		13	
CONTINGENT LIABILITIES.			

(a) See clauses 81 and 82 of the foregoing Table A.

TABLE B.

TABLE B.

TABLE OF FEES to be paid to the Registrar of joint stock Companies by a Company having a capital divided into shares.

	Rs.	A.	P.
For registration of a Company whose nominal capital does not exceed Rs. 20,000, a fee of	40	0	0
For registration of a Company whose nominal capital exceeds Rs. 20,000, the above fee of forty rupees, with the following additional fees regulated according to the amount of nominal capital; (that is to say)—			
For every 10,000 rupees of nominal capital, or part of 10,000 rupees, after the first 20,000 rupees up to 50,000 rupees	20	0 ^a	0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees, after the first 50,000 rupees up to 10,00,000 rupees	5	0	0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees, after the first 10,00,000 rupees	1	0	0
For registration of any increase of capital made after the first registration of the Company, the same fees per 10,000 rupees, or part of 10,000 rupees, as would have been payable if such increased capital had formed part of the original capital at the time of registration.			
Provided that no Company shall be liable to pay in respect of nominal capital on registration, or afterwards, any greater amount of fees than 1,000 rupees, taking into account, in the case of fees payable on an increase of capital after registration, the fees paid on registration.			
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association	5	0	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of	5	0	0

TABLE C.

1882.]

Companies.

TABLE C.

TABLE OF FEES to be paid to the Registrar of joint stock Companies by a Company not having a capital divided into shares:—

	Rs.	A.	P.
For registration of a Company whose number of members, as stated in the articles of association, does not exceed 20	40	0	0
For registration of a Company whose number of members, as stated in the articles of association, exceeds 20, but does not exceed 100	100	0	0
For registration of a Company whose number of members, as stated in the articles of association, exceeds 100, but is not stated to be unlimited, the above fee of Rs. 100 with an additional Rs. 5 for every 50 members, or less number than 50 members, after the first 100.			
For registration of a Company in which the number of members is stated in the articles of association to be unlimited, a fee of	400	0	0
For registration of any increase on the number of members made after the registration of the Company, in respect of every 50 members, or less than 50 members, of such increase	5	0	0
Provided that no one Company shall be liable to pay on the whole a greater fee than Rs. 400 in respect of its number of members, taking into account the fee paid on the first registration of the Company.			
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association	5	0	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of	5	0	0

FORM D.

[ACT VI]

FORM OF STATEMENT REFERRED TO IN PART III OF THE ACT.

The number of shares issued is . Calls to the amount of Rs. per share have been made, under which the sum of Rs. has been received.

Debts owing to sundry persons by the Company :

The assets of the Company on that day were:—

Government securities [*stating them*], Rs.
Bills of exchange, hundís and promissory notes, Rs.
Cash at the bankers, Rs.
Other securities, Rs.

(SEE SECTION 95.)

Memorandum of association of a Company limited by shares.
1st.—The name of the Company is “The Company,
Limited.”

3rd.—The objects for which the Company is established are
 “ and the doing all such other things as
 are incidental or conducive to the attainment of the
 above objects.”

5th.—The capital of the Company is Rs. _____ divided
into _____ shares of Rs. _____ each.

* If the Company has no capital divided into shares, the portion of the statement relating to capital and shares must be omitted.

1882.]

Companies.

agree to take the number of shares in the capital of the Com-
pany set opposite our respective names :—

Names, addresses and descriptions of subscribers.	Number of shares taken by each subscriber.
1. <i>A.</i> <i>B.</i> of ...	
2. <i>C.</i> <i>D.</i> " ...	
3. <i>E.</i> <i>F.</i> " ...	
4. <i>G.</i> <i>H.</i> " ...	
5. <i>I.</i> <i>J.</i> " ...	
6. <i>K.</i> <i>L.</i> " ...	
7. <i>M.</i> <i>N.</i> " ...	
Total shares taken ...	

Dated the *day of*

Witness to the above signatures.

O. P. of

FORM B.

Memorandum and articles of association of a Company limited
by guarantee, and not having a capital divided into shares.

Memorandum of Association.

1st.—The name of the Company is "The Mutual Calcutta
Marine Association, Limited."

2nd.—The registered office of the Company will be situate in
Calcutta.

3rd.—The objects for which the Company is established are
"the mutual insurance of ships belonging to mem-
bers of the Company, and the doing all such other
things as are incidental or conducive to the attain-
ment of the above objects."

4th.—Every member of the Company undertakes to contri-
bute to the assets of the Company, in the event of
the same being wound up during the time that he
is a member or within one year afterwards, for pay-
ment of the debts and liabilities of the Company
contracted before the time at which he ceases to be
a member, and the costs, charges and expenses of
winding-up the same, and for the adjustment of the
rights of the contributories amongst themselves,

such

Companies.

[ACT VI

such amount as may be required not exceeding Rs. 100.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses and Descriptions of Subscribers.

1.	A.	B.	of
2.	C.	D.	"
3.	E.	F.	"
4.	G.	H.	"
5.	I.	J.	"
6.	K.	L.	"
7.	M.	N.	"

Dated the day of

Witness to the above signatures.

O. P. of

Articles of Association to accompany preceding Memorandum of Association.

(1.) The Company, for the purpose of registration, is declared to consist of five hundred members.

(2.) The directors hereinafter mentioned may, whenever the business of the association requires it, register an increase of members.

Definition of Members.

(3.) Every person shall be deemed to have agreed to become a member of the Company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

General Meetings.

(4.) The first general meeting shall be held at such time, not being more than three months after the incorporation of the Company, and at such place, as the directors may determine.

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

(6.) The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

(7.) The directors may, whenever they think fit, and they shall, upon a requisition made in writing by any five or more members, convene an extraordinary general meeting.

(8.) Any

(8.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered office of the Company.

(9.) Upon the receipt of such requisition, the directors shall forthwith proceed to convene a general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other five members may themselves convene a meeting.

Proceedings at General Meetings.

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

(11.) All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance-sheets and the ordinary report of the directors.

(12.) No business shall be transacted at any meeting except the declaration of a dividend unless a quorum of members is present at the commencement of such business. Such quorum shall be ascertained as follows, that is to say:—if the members of the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty; with this limitation, that no quorum shall in any case exceed thirty.

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

(14.) The chairman (if any) of the directors shall preside as chairman at every general meeting of the Company.

(15.) If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be chairman of such meeting.

(16.) The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting

other

other than the business left unfinished at the meeting from which the adjournment took place.

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

(18.) If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs; and the result of such poll shall be deemed to be the resolution of the Company in general meeting.

Votes of Members.

(19.) Every member shall have one vote and no more.

(20.) If any member is a lunatic or idiot, he may vote by his committee or other legal curator: if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(21.) No member shall be entitled to vote at any meeting unless all monies due from him to the Company have been paid.

(22.) Votes may be given either personally or by proxies. A proxy shall be appointed in writing under the hand of the appointor, or, if such appointor is a corporation, under its common seal.

(23.) No person shall be appointed a proxy who is not a member, and the instrument appointing him shall be deposited at the registered office of the Company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

(24.) Any instrument appointing a proxy shall be in the following form:—

I, _____, of _____ Company, Limited, being a member of the _____ Company, Limited, hereby appoint _____ of _____, as my proxy, to vote for me and on my behalf at the [ordinary or extraordinary, as the case may be] general meeting of the Company to be held on the _____ day of _____ and at any adjournment thereof [or at any meeting of the Company that may be held in the year _____].

As witness my hand, this _____ day of _____ Signed by the said _____ in the presence of _____

Directors.

(25.) The number of the directors and the names of the first directors shall be determined by the subscribers of the memorandum of association.

(26.) Until

(26.) Until directors are appointed, the subscribers of the memorandum of association shall be deemed to be directors.

Powers of Directors.

(27.) The business of the Company shall be managed by the directors, who may exercise all such powers of the Company as are not hereby required to be exercised by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

Election of Directors.

(28.) The directors shall be elected annually by the Company in general meeting.

Business of Company.

(Here insert rules as to mode in which business of insurance is to be conducted.)

Accounts.

(29.) The accounts of the Company shall be audited by a committee of five members, to be called the audit-committee.

(30.) The first audit-committee shall be nominated by the directors out of the body of members.

(31.) Subsequent audit-committees shall be nominated by the members at the ordinary general meeting in each year.

(32.) The audit-committee shall be supplied with a copy of the balance-sheet, and it shall be their duty to examine the same with the accounts and vouchers relating thereto.

(33.) The audit-committee shall have a list delivered to them of all books kept by the Company, and they shall at all reasonable times have access to the books and accounts of the Company.

They may, at the expense of the Company, employ accountants or other persons to assist them in investigating such accounts, and they may, in relation to such accounts, examine the directors or any other officer of the Company.

(34.) The audit-committee shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing the particulars required by these regulations and properly drawn up, so as to exhibit a true and correct view of the state of the Company's affairs, and, in case they have called for explanations or information from the directors, whether such explanations or information have or has been given by the directors, and whether they or it have or has been satisfactory; and such report shall be read together with the report of the directors at the ordinary meeting.

Notices.

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

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

Winding-up.

(37.) The Company shall be wound up voluntarily whenever an extraordinary resolution, as defined by The Indian Companies Act, 1882, is passed, requiring the Company to be wound up voluntarily.

Names, Addresses and Descriptions of Subscribers.

1.	A. B. of	...	...	Merchant.
2.	C. D. of	...	...	"
3.	E. F. of	...	...	"
4.	G. H. of	...	...	"
5.	I. J. of	...	...	"
6.	K. L. of	...	...	"
7.	M. N. of	...	...	"

Dated the day of 18 .

Witness to the above signatures.

O. P. of

FORM C.

Memorandum and articles of association of a Company limited by guarantee, and having a capital divided into shares.

Memorandum of Association.

1st.—The name of the Company is "The Hotel Company, Limited."

2nd.—The registered office of the Company will be situate in

3rd.—The objects for which the Company is established are "the facilitating travelling in by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conducive to the attainment of the above objects."

4th.—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being

1882.]

Companies.

being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 200.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated the day of 18 .

Witness to the above signatures.

O. P. of

Articles of Association to accompany preceding Memorandum of Association.

1. The capital of the Company shall consist of five l  khs of rupees divided into five thousand shares of one hundred rupees each.

2. The directors may, with the sanction of the Company in general meeting, reduce the amount of shares.

3. The directors may, with the sanction of the Company in general meeting, cancel any shares belonging to the Company.

4. All the articles of Table A shall be deemed to be incorporated with these articles, and to apply to the Company.

We, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the Company set opposite our respective names.

Names, addresses and descriptions of subscribers.	Number of shares taken by each subscriber.
1. A. B. of	
2. C. D. of	
3. E. F. of	
4. G. H. of	
5. I. J. of	
6. K. L. of	
7. M. N. of	

Total shares taken

Dated the day of 18 .

Witness to the above signatures.

O. P. of

. Memorandum

Memorandum and articles of association of an unlimited Company having a capital divided into shares.

Memorandum of Association.

1st.—The name of the Company is "The Patent Company."

2nd.—The registered office of the Company will be situate in

3rd.—The objects for which the Company is established are "the working of a patent method of _____, of which method O. P. of _____ is the sole patentee."

We, the several persons whose names are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated the _____ day of _____ 18 .

Witness to the above signatures.

Q. R. of

Articles of Association to accompany the preceding Memorandum of Association.

Capital of the Company.

The capital of the Company is twenty thousand rupees divided into twenty shares of one thousand rupees each.

Application of Table A.

All the articles of Table A shall be deemed to be incorporated with these articles, and to apply to the Company.

We, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the Company set opposite our respective names.

Names

1882.]

Companies.

Names, addresses and descriptions of subscribers.	Number of shares taken by subscribers.
1. <i>A. B.</i> of 2. <i>C. D.</i> of 3. <i>E. F.</i> of 4. <i>G. H.</i> of 5. <i>I. J.</i> of 6. <i>K. L.</i> of 7. <i>M. N.</i> of	
Total shares taken	

Dated the

day of

18

Witness to the above signatures.

Q. R. of

FORM E.

As required by the second part of the foregoing Act.

Summary of capital and shares of the Company made up to the day of

Nominal capital Rs. , divided into shares of Rs. each.

Number of shares taken up to the day of

There has been called up on each share Rs.

Total amount of calls received Rs.

Total amount of calls unpaid Rs.

List of persons holding shares in the Company
 on the day of and of persons who have held
 shares therein at any time during the year immediately preced-
 ing the said day of showing their
 names and addresses and an account of the shares so held.

Folio

Folio in register ledger containing particulars.	NAMES, ADDRESSES AND OCCUPATIONS.				ACCOUNT OF SHARES.				REMARKS.
	Surname.	Christian name.	Address.	Occupation.	Shares held by existing members on the day of .	Additional shares held by existing members during preceding year.		Shares held by persons no longer members.	
						Number.	Date of transfer.		