

No. III.

An Act to enable the Proprietors of a certain Banking Company heretofore carried on at Sydney under the name and designation of the Bank of New South Wales commonly called the Old Bank of New South Wales to sue and be sued in the name of the President for the time-being of the said Bank And also to enable the Proprietors of a certain Banking Company to be established in Sydney under the name style and firm of the Bank of New South Wales commonly called the New Bank of New South Wales to sue and be sued in like manner in the name of the President for the time-being and for other purposes therein mentioned.

NEW SOUTH WALES
BANK.

WHEREAS the Old Bank of New South Wales notwithstanding the Charter of Incorporation which was granted to it by His late Excellency Sir Thomas Brisbane then Governor-in-Chief of the Territory of New South Wales and its Dependencies is and hath been in contemplation of law only a Joint Stock Company since the period of its establishment And whereas upon full knowledge and consideration of this matter it has been nevertheless deemed expedient by the majority of the Proprietors of the Joint Stock and Capital thereof that the said Bank of New South Wales should be remodelled and continued as well for the purpose of discount the issuing of notes and bills the lending of monies on securities and cash accounts the receiving of monies on deposit accounts the safe custody of monies securities for monies bullion treasure jewels plate and other articles not liable to spoil or waste as for the transacting and negotiating of all such other matters and things as have been heretofore done and performed by the said Old Bank of New South Wales or as are usually done and performed in anywise relating to the ordinary business of banking or as may hereafter be found advisable And whereas the Company about to carry on the said bank in such its remodelled and continued form consists of certain shareholders now resident within the said Colony of New South Wales but many of whom or whose assignees may and will in the ordinary course of events become resident elsewhere And whereas the said shareholders by reason of the assignable property of the shares of the said bank must be and continue liable to constant change and fluctuation And whereas in order to obviate the difficulties that may arise by reason of the premises in the institution of civil proceedings for debts damage or other legal or equitable liability by or against the said Company it would be convenient and just that some member of the Company should be enabled to sue and be liable to be sued in the place of the whole of the shareholders thereof And whereas in consequence of the remodelling and continuing of the Bank of New South Wales as aforesaid it has been agreed by the majority of the proprietors of old bank stock that the Charter of Incorporation

New South Wales Bank.

Incorporation so granted as aforesaid shall cease to be acted upon after the thirty-first day of December one thousand eight hundred and twenty-seven And it would be also expedient in order to enable the said Old Bank of New South Wales the more expeditiously to settle its affairs and for the further security of the proprietors thereof that the like power of suing and being sued should be vested in some one proprietor thereof in place of the whole proprietors

President of the Bank of New South Wales may sue and be sued in his own name on behalf thereof.

Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council That all actions and suits against any person or persons indebted or to be indebted to either of the said Banks of New South Wales whether a proprietor or proprietors thereof respectively or otherwise and all other proceedings at Law or in Equity to be commenced and prosecuted by or on behalf of the said banks respectively or wherein the said banks respectively are or shall be in anywise concerned against any person or persons body or bodies corporate or politic shall and may be lawfully commenced and prosecuted in the name of the person who shall be the President of the said respective banks at the time any such action suit or other proceeding shall be instituted as the nominal plaintiff complainant or petitioner for and on behalf of the said respective banks And that in all actions at law and all other suits and proceedings wherein an affidavit of debt is required or customary it shall be lawful for the respective President of the said banks to depose and swear that the person or persons liable or indebted to the proprietors of the said banks respectively on any note bill bond mortgage or other security is and are indebted in the amount thereof to the said President on behalf of himself and others his partners in the said respective banks And that all actions suits and other proceedings at Law or in Equity to be commenced and prosecuted against the said bank respectively shall be commenced and prosecuted against the respective Presidents thereof for the time-being as the nominal defendants for and on behalf of the said banks respectively And that the death resignation removal or other act of the respective President of either of the said banks shall not abate any such action suit or other proceeding but the same may be continued where it left off and be prosecuted and carried on in the name of any person who may be or become the respective President for the time-being of the said bank by which the same shall have been instituted and prosecuted.

Name of the President for the time-being to be recorded upon oath in the Supreme Court within thirty-one days in a Memorial of prescribed form.

2. And be it further enacted That a separate Memorial of the names of the respective Presidents for the time-being of the said banks in the form and to the effect for that purpose set forth in the Schedule hereunto annexed signed by the respective President and Directors of the said banks shall be recorded upon the oath of one or more creditable witness or witnesses in the Supreme Court of New South Wales within thirty-one days after the passing of this Act and when any Director shall be newly elected President of either of the said banks his name shall be recorded in the said Supreme Court in like manner within thirty-one days then next following Provided always that the President and Directors for the time-being of the Old Bank of New South Wales on the said thirty-first day of December one thousand eight hundred and twenty-seven and the survivor or survivors of them shall be considered held and adjudged to be President and Directors of the said bank until the final close and settlement of the affairs and concerns of the same and until full and complete dividend division and transfer of all the capital stock estate effects property and increase thereof shall have been made and perfected among all such of the proprietors thereof and all such other persons as are entitled thereto and that in the event of the death retirement or removal of the Director who shall fill such office of President for the time-being of the

New South Wales Bank.

the said bank on the said thirty-first day of December then a Memorial signed by the Director who shall at any time thereafter be elected President for the time-being of the said bank in the place or stead of such dying retiring or removed President and by the then surviving Directors of the said bank shall be recorded in the said Supreme Court in manner and within the time aforesaid and so *toties quoties* whensoever any new election of a President for the time-being of the said bank shall become necessary by any of the causes aforesaid until the final close and settlement of the affairs and concerns thereof.

3. Provided always and be it further enacted That until such separate Memorial be recorded by the said banks respectively in manner aforesaid no action suit or other proceeding shall be brought by such of the said banks as shall omit and neglect to cause such Memorial to be recorded in the name of the President thereof for the time-being under the authority of this Act.

Till then no action may be brought by the banks.

4. And be it further enacted That execution upon any decree or judgment in any such action suit or other proceeding obtained against the President for the time-being of the said banks respectively whether he be plaintiff or defendant therein may be issued against and levied upon the goods and chattels lands and tenements of any proprietor or proprietors whomsoever of the said bank for the time-being in like manner but not otherwise than as if such decree or judgment had been obtained against him her or them personally provided always that every such President in whose name any such action suit or other proceeding shall be commenced prosecuted carried on or defended and every such proprietor or proprietors against whose goods and chattels lands and tenements execution upon any judgment or decree shall be issued or levied as aforesaid shall in all cases be reimbursed and paid out of the funds of the said respective banks or in case of the insufficiency of such funds by general contribution among the respective proprietors thereof for the time-being all such damages dues expenses costs and charges as by the event of any such action suit or other proceeding he she or they shall or may be put unto or become chargeable with and all such remedies shall be allowed as between the several proprietors of the said banks respectively for the time-being as if this Act or Ordinance had not been passed.

Execution obtained against the President may be issued against any proprietor or proprietors of the banks.

And he or they shall be reimbursed out of its funds.

5. And be it further enacted That the provisions in this Act contained shall extend and be construed deemed and taken to extend to the said banks respectively as far as they are respectively applicable to the same at all times during the respective continuance of the said banks and whether the said banks respectively be now or hereafter be composed of some all or any of the persons who were the original or are the present proprietors thereof respectively or be composed altogether of persons who were not the original nor are the present proprietors of the said banks respectively.

This Act not to be affected by change of proprietors of the banks.

6. Provided always and be it further enacted That nothing herein contained shall extend or be deemed taken or construed to extend to incorporate the proprietors of the said banks respectively or to relieve or discharge them or any of them from any responsibility duties contracts or obligations whatsoever which by law the said respective proprietors now are or at any time hereafter shall be subject or liable to either between the said banks respectively or other persons or between the individual proprietors of the said respective banks or any of them and others or amongst themselves respectively or in any other manner whatsoever except so far as the same responsibility duties contracts or obligations is are or may be affected by the provisions of this Act or Ordinance and the true intent and meaning of the same.

Does not incorporate the proprietors or relieve them from individual responsibility.

Census.

MEMORIAL of _____ the name of the President of the Bank of New South Wales (commonly called the New Bank of New South Wales) to be recorded in the Supreme Court of New South Wales in pursuance of an Act of His Excellency the Governor in Chief of the Territory of New South Wales and its Dependencies with the advice of the Legislative Council passed in the ninth year of the reign of His Majesty King George the Fourth intituled "*An Act to enable the Proprietors of a certain Banking Company heretofore carried on at Sydney under the name and designation of the Bank of New South Wales commonly called the Old Bank of New South Wales to sue and be sued in the name of the President for the time-being of the said Bank and also to enable the Proprietors of a certain Banking Company to be established in Sydney under the name style and firm of the Bank of New South Wales (commonly called the New Bank of New South Wales) to sue and be sued in like manner in the name of the President for the time-being and for other purposes therein mentioned.*"

A. B. PRESIDENT.
 (Signed) C. D. } DIRECTORS { I. J.
 E. F. } { K. L.
 G. H. } { M. N.

O. P. of Sydney gentleman secretary accountant teller or clerk (as the case may be) of the Bank of New South Wales commonly called the New Bank of New South Wales maketh oath and saith that he was present and did see the foregoing Memorial signed by the respective parties whose names appear thereto.
