

UNION BANK.

An Act for facilitating Proceedings by and against a certain Banking Company called "The Union Bank of Australia" and for other purposes therein mentioned. [5th September, 1839.]

Preamble.

WHEREAS a joint stock company was some time since formed in London under the style or firm of "The Union Bank of Australia" for the purpose of carrying on the business of banking in its various branches in the Australasian Colonies and the said bank is now fully established in the two Colonies of New South Wales and Van Diemen's Land having branch banks in the towns of Sydney Hobart Town Launceston and Melbourne where the said company discounts bills issues notes and transacts all the ordinary operations of that business And whereas the joint stock of the said company is held by proprietors partly residing in Great Britain and partly in the said Colonies of New South Wales and Van Diemen's Land And whereas the said bank as to the said Colonies is under the management and superintendence of an Inspector appointed by the Directors of the said company in London and of Local Boards of Directors resident respectively at Sydney and Melbourne in the said Colony of New South Wales and at Hobart Town and Launceston in Van Diemen's Land each Board having its Chairman such Directors being severally shareholders in the said company possessing twenty shares or upwards in their own right who conduct and superintend the affairs of the said company in the discounting of bills receiving of deposits issuing notes and otherwise carrying on the said business And whereas for enabling the said company the more readily to enforce payment of moneys that may become due to them from time to time and also to provide an easy remedy against the said company and the several proprietors of shares therein for moneys that may be due to them also for facilitating any prosecution that may hereafter be instituted by the said company it is expedient to simplify all proceedings both at law and in equity by or against the said company by allowing one member thereof to sue and be sued in the place and stead of the whole which cannot be effected without the aid and authority of the Legislature Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof

Company to sue in the name of Inspector or a local Director.

That

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That all actions or suits against any person or persons indebted to the said bank whether a member thereof or otherwise and all other proceedings at law or in equity to be instituted or prosecuted by or on behalf of the said bank or wherein the said bank is or shall be in any way concerned against any person or persons body or bodies politic or corporate shall and may be lawfully instituted and prosecuted in the name of the Inspector for the time being of the said bank and in the event of his death or absence from the said Colony in the name or names of any one of the Board of Directors in Sydney 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 bank and that all actions suits and other proceedings at law or in equity to be commenced instituted and prosecuted against the said bank shall be instituted and prosecuted against the said Inspector or one of the said Directors for the time being of the said Board of Direction in Sydney as the nominal defendant for and on behalf of the said bank and that in all prosecutions to be instituted or carried on by or on behalf of the said bank for fraud upon or against the said banking company or for embezzlement forgery robbery or stealing or other offence against the said company or any felony or misdemeanor in which the said company shall be concerned it shall be lawful to state the property of the said company to be the property of such Inspector or Director for the time being of the said Board of Direction in Sydney and any offence committed with intent to injure or defraud the said bank shall and lawfully may in such prosecutions or proceedings be stated or laid to have been committed with intent to injure or defraud such Inspector or Director for the time being of the said company and any offender or offenders may thereupon be lawfully convicted of any such offence and generally that in all cases wherein it would otherwise have been necessary to mention the names of the members composing the said company it shall be sufficient to use the name of such Inspector or Director for the time being of the Board of Direction in Sydney.

2. And be it enacted That neither the death resignation nor removal of any such Inspector or Director for the time being shall abate or prejudice any such action suit prosecution or proceeding but the same may be continued in the name of the next or other succeeding Inspector or Director for the time being of the said bank Provided always that no second suit action or other proceeding shall be at any time commenced by or against any such Inspector or Director for the same cause of action where the merits shall have been tried and decided in the first suit or action.

Proceedings not to abate by death of the party to the suit.

3. And be it enacted That a memorial of the name of the Inspector of the said bank and also of all the Directors for the time being of the Board of Direction in Sydney in the form of or to the effect set forth in the Schedule hereto annexed signed by the said Inspector and by each of the Directors of the Board in Sydney shall be recorded upon oath in the Supreme Court of New South Wales within thirty days after the passing of this Act and when and as often as any person shall be newly elected Inspector or Director of the said Board of Directors in Sydney a memorial of the name of such newly elected Inspector or Director in the same form or to the same effect as the above-mentioned memorial signed by such newly elected Inspector or Director shall in like manner be recorded upon oath in the said Supreme Court within thirty days next after such new Inspector or Director shall be elected Provided always that until such memorial as hereinbefore first mentioned shall be recorded in the manner herein directed no action suit or other proceeding shall be instituted or prosecuted by the said bank under the authority of this Act.

Memorial of name of Inspector and local Directors to be registered.

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Names of the then existing members of the company and their places of abode to be recorded in the Supreme Court of New South Wales.

4. And whereas also it is deemed expedient and necessary that the names residences and descriptions of all the members of the said banking company should be recorded for public information Be it enacted That the Inspector for the time being shall within thirty days after the passing of this Act and within fifteen days from the first day of July in each succeeding year cause a true list of all the then existing members of the said company with their respective places of abode (as far as the same may be known to him) and descriptions to be recorded in the Supreme Court of New South Wales and that the same shall be open for inspection at all reasonable times by any person requiring the same on payment of a fee of one shilling and if any such Inspector of the said company shall fail to cause such list to be recorded in manner aforesaid he shall be liable to a penalty of one hundred pounds to be recovered by action of debt in the said Supreme Court by any person or persons suing for the same.

Partners and officers of the bank competent witnesses.

5. And be it enacted That any person whose name shall be so recorded shall be considered a member of the said company and be liable to be sued as such until a new list of the members' names shall be recorded as aforesaid or until he shall give notice of his retirement in the *New South Wales Government Gazette* Provided always that in all actions suits prosecutions or other proceedings in which the said Inspector or Director for the time being of the Board of Direction in Sydney shall be on behalf of the said bank and under and by virtue of this Act plaintiff complainant petitioner or defendant it shall and may be lawful for the said Inspector or Director or for any other officer engaged in the executive duties of the said bank to give evidence in such action suit petition or other proceeding notwithstanding such Inspector or Director for the time being or other officer aforesaid shall or may be interested in the said action as a shareholder or copartner in the said bank or otherwise.

Attested copy of deed of copartnership and settlement to be registered in the Supreme Court.

6. And be it enacted That a copy of the deed of copartnership and settlement attested by the Inspector for the time being to be a true transcript of the original deed of copartnership and settlement of the said company shall be registered with the Registrar of the Supreme Court of the said Colony within thirty days after the passing of this Act and that the same shall be open for inspection at all reasonable times by any person requiring the same on payment of a fee of one shilling and if such inspector shall fail so to register such attested copy of the original deed of copartnership and settlement of the said company as aforesaid he shall be liable to a penalty of one hundred pounds to be recovered by action of debt in the said Supreme Court by any person or persons suing for the same.

Judgments in any suit &c. brought under this Act to affect all shareholders in the same manner as if obtained against them individually.

7. And be it enacted That every judgment decree or order in any action suit or other proceeding at law or in equity against any such Inspector or Director for the time being as aforesaid shall have the same effect and operation upon the joint stock and property of the said company and the persons and separate property of every shareholder or proprietor thereof as if every such shareholder or proprietor had been party to such action suit or proceeding and such judgment decree or order had been obtained against him or them jointly and severally and may be enforced accordingly against either such joint stock and property or against the persons and separate property of any such Inspector or Director for the time being as aforesaid or of any proprietor or shareholder of the said company Provided always that every such Inspector Director proprietor or shareholder shall be reimbursed all such costs damages and expenses as by any such event of any such suit action or other proceeding he shall sustain and be made liable to out of the joint stock and funds of the said company or in failure thereof out of the separate funds and property

Party suing for company to be reimbursed.

