

## No. IV.

An Act to enable the Proprietors of the Banking Establishment or Company carried on in the Town of Sydney in the Colony of New South Wales under the name style and firm of the Bank of Australia to sue and be sued in the name of the Managing Director of the said Bank for the time-being and for other purposes therein mentioned. [3rd May, 1827.]

WHEREAS a Company or Society was some time since formed at Sydney in the Colony of New South Wales to establish a Bank

as well for the purpose of discount and issuing of notes and bills and lending monies on securities and cash accounts for the receiving monies on deposit accounts for the safe custody of monies and securities for monies as also for transacting and negotiating all other matters and things connected with the usual and ordinary business of banking And whereas the said Bank hath been established and is now being carried on in Sydney under the name style and firm of The Bank of Australia and the Company carrying on the same consists of upwards of one hundred different Proprietors or Shareholders some of whom reside within the Colony of New South Wales and others of whom reside within the Kingdom of Great Britain and elsewhere

And whereas the said Bank is under the management and controul of eleven Directors chosen and to be chosen from time to time from the body of the Proprietors one of which said eleven Directors must reside in the house where the business of the said Bank is carried on and who has the management and superintendence of the daily transactions of the said Bank And whereas difficulties may arise in recovering debts due to the said Company or Society and in maintaining actions or proceedings for damages done to their property and also in prosecuting persons who may steal or embezzle the bills notes bonds mortgages monies goods chattels or effects of the said Bank and it would be also convenient and just that persons having demands against the said Company or Society should be entitled to sue some member thereof in the place and stead of the whole but as these purposes 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 that all actions and suits against any person or persons indebted to the said Bank whether

BANK OF AUSTRALIA.

Bank of Australia established.

Declared to be under the management of eleven Directors one of whom is Managing Director.

Managing Director may sue and be sued in his own name on behalf of the Bank.

*Bank of Australia.*

a Member or Members thereof or otherwise and all other proceedings at law or in equity to be instituted and 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 person who shall be the Managing Director of the said Bank 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 or carried on against the said Bank shall be instituted and prosecuted against the Managing Director for the time-being of the said Bank as the nominal defendant for and on behalf of the said Bank And that all prosecutions to be instituted or carried on by or on behalf of the said Bank for fraud upon or against the said Bank or for embezzlement robbery or stealing bills notes bonds monies goods chattels or effects of the said Bank or for any other offence against the said Bank shall and lawfully may be so instituted \*[and on] in the name of such Managing Director for the time-being of the said Bank And in all informations or indictments it shall be lawful to state the property of the said Bank to be the property of such Managing Director of the said Bank for the time-being and others his partners of and in the said Bank 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 Managing Director of the said Bank for the time-being and others his partners of and in the said Bank and any offender or offenders may thereupon be lawfully convicted of any such offence and in all informations indictments allegations or other proceedings it shall and may be lawful and sufficient from and after the passing of this Act to state the name of such Managing Director of the said Bank for the time-being and the death resignation removal or other act of such Managing Director whose name shall be so made use of in any such proceeding shall not abate any such action suit prosecution 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 Managing Director of the said Bank for the time-being.

Name of the Managing Director to be recorded upon oath in the Supreme Court within twenty-eight days in a Memorial of prescribed form.

2. And be it further enacted That a Memorial of the names of the Managing Director and Directors of the said Bank in the form or to the effect for that purpose set forth in the Schedule hereunto annexed signed by the said Managing Director and by the several Directors of the said Bank shall be recorded upon the oath of one or more credible witness or witnesses in the Supreme Court of New South Wales within twenty-eight days after the passing of this Act and when any Member or Proprietor of the said Bank shall be newly elected a Director of the said Bank or any Director be elected Managing Director thereof his or their name or names shall be recorded in the said Supreme Court in like manner within twenty-eight days then next following.

Till then no action may be brought by the Bank.

3. Provided always and be it further enacted That until such Memorial as hereinbefore mentioned be recorded in manner herein directed no action suit or other proceeding shall be brought by the said Bank in the name of the Managing Director as aforesaid under the authority of this Act.

The competency of the Managing Director as a witness shall not be affected.

4. Provided always and be it further enacted That the Managing Director for the time-being being the plaintiff complainant petitioner or defendant in any such action suit petition or other proceeding as aforesaid on behalf of the said Bank shall not prevent or affect the competency of any such Managing Director being a witness

*Bank of Australia.*

witness in any such action suit petition or other proceeding in the same manner as he might have been if his name had not been made use of as such plaintiff complainant petitioner or defendant in any such action suit petition or other proceeding.

5. Provided always and be it further enacted That execution upon any decree or judgment in any such action suit petition or other proceeding obtained against the Managing Director for the time-being of the said Bank whether he be plaintiff or defendant therein may be issued against and levied upon the goods and chattels lands and tenements of any Member or Members whomsoever of the said Bank for the time-being in like manner and not otherwise than as if such decree or judgment had been obtained against him her or them personally Provided always that every such Managing Director in whose name any such action suit petition or other proceeding shall be commenced prosecuted carried on or defended and every such Member or Members against whose goods and chattels lands and tenements execution upon any judgment or decree shall be issued or levied as aforesaid shall always be reimbursed and paid out of the funds of the said Bank all such damages dues expenses costs and charges as by the event of any such proceeding he she or they shall or may be put into or become chargeable with and restitution shall be allowed as between the several parties as if this Act had not been passed.

Execution obtained against the Managing Director may be issued against any Member or Members of the Bank.

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

6. 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 Bank of Australia at all times during the continuance of the same whether the said Bank be now or be hereafter composed of all or some of the persons who were the original Members or Proprietors thereof or be composed altogether of persons who were not the original Members or Proprietors of the same.

This Act not to be affected by change of Members or Proprietors of the Bank.

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

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

8. And be it further enacted That all bonds mortgages warrants of attorney and other securities not being of a transferable nature which shall or may at any time hereafter be taken in the name of any person as the Managing Director of the said Bank for and on account of the said Bank shall and may be put in suit and be sued and prosecuted upon at law or in equity either in the name of the Managing Director in whose name the same may have been taken or in the name of any other person who shall or may succeed to that office and be the Managing Director of the said Bank at the time any such proceedings shall or may be instituted notwithstanding the name of any such succeeding Managing Director be not inserted in such bond mortgage warrant of attorney or other security as an obligee assignee or payee of the sum or sums of money mentioned therein and the death resignation removal or other act of any such Managing Director of the said Bank for the time-being in whose name any such bond mortgage warrant of attorney or other security as aforesaid shall be so put in suit shall not abate any action suit or other proceeding had thereon but the same may be continued where it left off and be prosecuted and carried on in the name of any person who may succeed to that office or be or become the Managing Director of

All bonds and other securities not of a transferable nature may be sued for in the name of the Managing Director for the time-being.

And the legal estate  
of the said Bank  
shall become vested  
in him.

of the said Bank for the time-being and the legal estate in all lands and tenements belonging or mortgaged to the said Bank for and all legal rights and capacities in respect of the said Bank shall become vested in such new Managing Director as aforesaid to all intents and purposes immediately upon the delivering the aforesaid Memorial to the Supreme Court.

Form of Memorial  
referred to.

MEMORIAL of the Name of the Managing Director and Directors of the Bank of Australia to be recorded in the Supreme Court of New South Wales in pursuance of an Act of the Governor-in-Chief of the Territory of New South Wales and its Dependencies with the advice of the Legislative Council passed in the eighth year of the reign of His Majesty King George the Fourth intituled "*An Act to enable the Proprietors of the Banking Establishment or Company carried on in the Town of Sydney in the Colony of New South Wales under the name style and firm of the Bank of Australia to sue and be sued in the name of the Managing Director of the said Bank for the time-being and for other purposes therein mentioned.*"

Name.	Residence.	When elected.	To what office.
A. B.	.....	.....	Managing Director.
C. D.	.....	.....	Director.
E. F.	.....	.....	Ditto.
G. H.	.....	.....	Ditto.
I. K.	.....	.....	Ditto.
L. M.	.....	.....	Ditto.
N. O.	.....	.....	Ditto.
P. Q.	.....	.....	Ditto.
R. S.	.....	.....	Ditto.
T. U.	.....	.....	Ditto.
W. X.	.....	.....	Ditto.

(Signed)

A. B.  
C. D.  
E. F.  
G. H.  
I. K.  
L. M.  
N. O.  
P. Q.  
R. S.  
T. U.  
W. X.

Y. Z. of Gentleman (Accountant or Clerk in the said Bank)  
maketh Oath and saith that he was present and did see the foregoing Memorial signed by  
the respective parties whose names appear thereto.

Sworn

Y. Z.