

An Act to enable the Proprietors of a certain BATHURST BANK.
Banking Company carried on in the Town of Bathurst in the Colony of New South Wales under the name style and firm of "The Bathurst Bank" to sue and be sued in the name of the President of the said Company for the time being and for other purposes therein mentioned. [19th November, 1839.]

WHEREAS several persons have formed themselves into a Preamble. company or society established at Bathurst under the name style or firm of "The Bathurst Bank" as well for the purpose of discounting and issuing of promissory notes and bills of exchange and lending moneys on securities and cash accounts as also for receiving moneys on deposit accounts and for the safe custody of moneys and securities for moneys for the general public accommodation and benefit and also for transacting and negotiating all such other matters and things as are usually done and performed in relation to or connection with the ordinary business of banking. And whereas the said bank is now being carried on in Bathurst and is under the care management and superintendence of seven directors one of whom is President of the said bank. And whereas difficulties may arise in recovering debts due to the said banking company 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 moneys goods chattels or effects of the said bank. And whereas it would be convenient and just that persons having demands against the said bank should be entitled to sue some member thereof in place and stead of the whole. And whereas it is also deemed expedient and necessary that the names residences and descriptions of all the members of the said company should be recorded for public information 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 thereof That from and after the passing of this Act all actions and suits and all proceedings at law or in equity to be commenced instituted and prosecuted or carried on 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 whether a member or members of the said bank or otherwise shall and may be lawfully commenced instituted and prosecuted or carried on in the name of the person who shall be President of the said bank Actions at law &c.
to be in the name of
the President.

at

Bathurst Bank.

at the time any such action suit or proceeding shall be commenced or instituted as the nominal plaintiff complainant or petitioner for and on behalf of the said bank and that all actions suits or proceedings aforesaid to be commenced instituted or prosecuted against the said bank shall be commenced instituted and prosecuted against the President 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 brought instituted or carried on by or on behalf of the said bank for fraud upon or against the bank or for embezzlement robbery or stealing the bills notes bonds moneys goods chattels effects or property of the said bank or for any other offence against the said bank shall or may be so brought or instituted and carried on in the name of such President for the time being of the said bank and in all indictments and informations it shall be lawful to state the property of the said bank to be the property of such President for the time being of the said bank and any offence committed with intent to injure or defraud the said bank shall and lawfully may in any prosecution for the same be stated or laid to have been committed with intent to injure or defraud such President for the time being of the said bank and any offender or offenders may thereupon be lawfully convicted of any such offence and in all other allegations or indictments informations or other proceedings it shall and may be lawful and sufficient from and after the passing of this Act to state the name of such President and the death resignation or removal or other act of such President shall not abate any such action suit or prosecution but the same may be continued where it left off prosecuted and carried on in the name of any person who may be or become President of the said bank for the time being.

Memorial of the name of the President to be recorded in the Supreme Court of New South Wales and renewed when any new President shall be elected.

No action to be brought until memorial recorded.

The President's name being used as plaintiff not to prevent his being a witness.

Power to lend money on the security of real or chattel estates.

2. And be it enacted That a memorial of the name of the President 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 President and by a majority of the directors of the said bank 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 director of the said bank shall be newly elected President thereof a memorial of the name of such newly elected President in the same form or to the same effect as the above-mentioned memorial signed by such newly elected President and a majority of the persons who shall be directors of the said bank at the time of the election of such new President shall in like manner be recorded upon oath in the said Supreme Court within thirty days next after such President shall be elected.

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

4. Provided always and be it enacted That the President 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 President so as to prevent him from being a 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. And be it enacted That it shall be lawful for the said company to lend and advance money at interest to any person or persons upon the security of real or chattel estates by mortgage or otherwise.

Bathurst Bank.

6. And be it enacted That upon payment of the money so agreed to be lent and advanced on mortgage all the estate right title interest use trust property claim and demand in law or in equity of the party or parties or person or persons respectively to whom or to whose use the same shall be paid of in to or out of any messuages lands tenements and hereditaments so agreed to be mortgaged shall according to such terms as may be agreed upon vest in the directors of the said company for the time being and their respective successors for effecting the uses and purposes of this Act.

7. And be it enacted That all agreements conveyances leases releases assignments surrenders covenants receipts for money and other documents to be made given or granted by the said company relating to any lands tenements or hereditaments which may be or become vested in the said company or in the President thereof shall be made and executed by such President for the time being of the said company and the same shall be binding upon the said company and the capital stock thereof and pass the estate of the said company or the President and directors thereof in whom such estate may have been vested as effectually as if the same instrument or instruments had been made and executed by the person or persons in whom the estate in the premises had been originally vested for the said company.

8. And be it enacted That the moneys arising from the sale of such mortgaged lands tenements and hereditaments shall be applied and disposed of by the said directors for the purposes of the said company.

9. Provided always and be it enacted That execution upon any decree or judgment in any such action suit petition or other proceeding obtained against the President 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 such member or members personally Provided always That every such President 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 proceedings such President or member or members shall or may be put unto or become chargeable with and all such remedies shall be allowed as between the several members of the said bank for the time being as if this Act had not been passed.

10. And be it enacted That the provisions in this Act contained shall extend and be construed deemed and taken to extend to the said bank at all times during the continuance of the same whether the said bank be now or hereafter composed of some all or any of the persons who were the original or are the present members thereof or of all or some of those persons together with some other person or persons or shall be composed altogether of persons who were not original nor are now members of the same.

11. Provided always and be it 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 from any responsibility duties contracts or obligations whatsoever which by law they now are or at any time hereafter shall be subject or liable to either between the said bank and others or between the individual members of the said bank

On payment of
mortgage money
premises to be
vested in the direc-
tors of the said
company.

Company may sell
land &c.

The moneys arising
from sale of lands to
be applied by the
directors for the pur-
poses of the company.

Execution upon any
judgment may be
issued against any
member of the bank
who shall have his
remedy against the
other members &c.

Act to be at all times
valid notwithstanding
change of
members of the bank.

Bank not incorpo-
rated by this Act.

Bathurst Bank.

or any of them and others or among themselves or in any other manner whatsoever except so far as the same is affected by the provisions of this Act and the true intent and meaning of the same.

Bonds mortgages and other securities may be put in suit &c. in the name of the President for the time being though not named in such security.

12. And be it enacted That all bonds mortgages warrants of attorney and other securities not being assignable in law which have been or which shall or may at any time hereafter be taken in the name of any person as President of the said bank for and on account of the said bank shall and may be put in suit and be sued prosecuted upon at law or in equity in the name of the President in whose name the same may have been taken or in the name of any person who shall or may succeed to that office and be the President of the said bank at the time such proceeding or proceedings shall be instituted notwithstanding the name of any such succeeding President be not inserted in such bond mortgage warrant of attorney or other such security as an obligee mortgagee assignee or payee of the sum or sums of money therein mentioned and the death resignation removal or other act of any such President 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 President 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 all legal rights and capacities in respect of the said bank shall become vested in such new President as aforesaid to all intents and purposes immediately upon the recording of the memorial of the name of such new President in the said Supreme Court and so on *toties quoties* whensoever any new appointment or election of a Chairman for the time being of the said bank shall take place and such new memorial thereof shall be enrolled as aforesaid.

Plaintiff not to be nonsuited for want of proof of the record of the memorial.

13. And be it enacted That in any action to be brought by any President of the said bank by virtue of this Act the plaintiff therein shall not be nonsuited nor shall a verdict be given against the plaintiff for want of proof of the record of such memorial or memorials as hereinbefore mentioned but in case the defendant in any such action shall make it appear on such trial that no such memorial or memorials have been recorded then a nonsuit shall be entered in such action.

President to cause a list of the names of all members to be recorded on oath in the office of the Registrar of the Supreme Court.

14. And be it enacted That the President of the said bank shall within fifteen days from the first day of January in each year cause a true list of the names of all the then existing members of such company with their respective places of abode and description to be recorded on oath in the office of the Registrar of the Supreme Court 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 President of the said bank shall fail to cause such list to be recorded in manner 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.

Persons whose names are so recorded to be considered members of the company until new list made out or notice given in the *Government Gazette*.

15. And be it enacted That every person whose name shall be so recorded shall be considered a member of the said bank or 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 have given notice of his retirement in the *New South Wales Government Gazette*.

Nothing in this Act contained to affect or apply to any right &c. of Her Majesty or any bodies politic or corporate.

16. Provided always and be it enacted That nothing in this Act contained shall be deemed to affect or apply to any right title or interest of Her Majesty Her Heirs and Successors or of any body or bodies politic or corporate or of any other person or persons excepting such as are mentioned therein or of those claiming by or under him or them.

Bathurst Bank.

17. And be it enacted That this Act shall not commence or take effect until the same shall have received the Royal approbation and the notification of such approbation shall have been made by His Excellency the Governor in the *New South Wales Government Gazette*. This Act not to take effect until the same shall receive the Royal approbation.

18. And be it enacted That when and as soon as this Act shall have received the Royal approbation and the notification of such approbation shall have been made as aforesaid by His Excellency the Governor in the *New South Wales Government Gazette* this Act shall be deemed and taken to be a public Act and shall be judicially taken notice of as such by the Judges of the Supreme Court of New South Wales and its dependencies without being specially pleaded. This Act to be deemed a public Act.

SCHEDULE REFERRED TO.

MEMORIAL of the name of the President of "The Bathurst Bank" to be recorded in the Supreme Court of New South Wales pursuant to an Act of the Governor and Council passed in the third year of the reign of Her Majesty Queen Victoria intituled "An Act to enable the Proprietors of a certain Banking Company carried on in the Town of Bathurst in the Colony of New South Wales under the name style and firm of 'The Bathurst Bank' to sue and be sued in the name of the President of the said Company for the time being and for other purposes therein mentioned."

A. B. President.

C. D. } E. F. } G. H. }	Directors.	I. K. L. M. N. O.
-------------------------------	------------	-------------------------

P. Q. of Bathurst gentleman
the above-named bank maketh oath and saith that he was present and did see the foregoing memorial signed by the above-named President and Directors respectively whose names appear thereto. of

Sworn this
day of 18 }