

Sydney Banking Company.

SYDNEY BANKING
COMPANY.

An Act to simplify Proceedings at Law or in Equity by or against "The Sydney Banking Company" and for other purposes therein mentioned. [1st September, 1840.]

Preamble.

Actions &c. by
company to be in
the name of the
Manager.

Proceedings not to
abate on account
of the death &c. of
Manager.

Memorial of names
of Manager and
directors to be re-
corded in Supreme
Court.

WHEREAS a banking company carrying on business under the style and firm of "The Sydney Banking Company" is established in this Colony and it is expedient to simplify proceedings at law or in equity commenced by or against the said company 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 every action suit or proceeding at law or in equity to be commenced or prosecuted by or on behalf of the said company against any person or persons (whether a member or members of such company or otherwise) or against any body or bodies politic or corporate for recovering any debt due to or enforcing any claim or demand of the said company or relating to any matter connected with the concerns of the said company shall be commenced and prosecuted in the name of the Manager for the time being of the said company as the nominal plaintiff complainant or petitioner on behalf of the said company and that all actions suits or proceedings as aforesaid to be commenced or prosecuted against the said company shall be commenced instituted or prosecuted against the Manager for the time being of the said company as the nominal defendant for and on behalf of the said company and in all criminal prosecutions to be instituted or carried on by or on behalf of the said company for fraud upon or against the said company or for embezzlement robbery stealing or counterfeiting the bills notes bonds moneys effects or property of the said company or for any felony misdemeanor or other offence in which the said company shall or may be concerned it shall be lawful to state the property of the said company to be the property of such Manager for the time being of the said company and any offender or offenders may be thereupon lawfully convicted of any such offence and that neither the death resignation suspension or removal of such Manager shall abate or prejudice any such action suit or proceeding but the same may be continued in the name of the next or any succeeding Manager for the time being of the said company Provided nevertheless that the body or goods lands or tenements of such Manager shall not by reason of his being defendant in any such action suit or proceeding be liable to be arrested seized or taken in execution And provided further that all costs and expenses to be incurred by such Manager in prosecuting or defending any action or suit for or on behalf of the said company shall be defrayed out of the funds of the said company.

2. And be it enacted That as soon as conveniently may be after the passing of this Act and from time to time upon or as soon as conveniently may be after the appointment of any new Manager of the said company a memorial in writing shall be recorded in the Supreme Court of New South Wales wherein shall be set forth in words at length the style and firm of the said company and the christian and surnames additions and places of abode of the Manager and of every director for the time being of the said company in the form or to the effect set forth in the Schedule to this Act annexed and that every such memorial shall be signed by the Manager for the time being of the said company and by three of the directors therein named and verified

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verified by the oath of the said Manager (made before the Registrar or some Commissioner of the said Court) that the same contains a true account of the several particulars therein set forth to the best of the knowledge and belief of the deponent.

3. And be it enacted That until the first of such memorials so verified shall be recorded as aforesaid no action suit or other proceeding at law or in equity shall be commenced for or on behalf of the said company under the provisions of this Act and unless such memorial shall be from time to time recorded as aforesaid within the space of thirty days after the appointment of any new Manager as aforesaid no action suit or other proceeding as aforesaid shall be commenced or if commenced shall be continued for or on behalf of the said company until the memorial hereby required upon such appointments respectively shall be duly recorded.

No proceeding to be commenced or continued until memorial duly recorded.

4. And be it enacted That in any action to be brought by any Manager of the said company 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 as hereinbefore mentioned but in case the defendant in any such action shall make it appear on such trial that no such memorial has been recorded then a nonsuit shall be entered in such action.

Plaintiff in any action not to be nonsuited for want of proof of record of memorial.

5. And be it enacted That in all actions suits petitions or other proceedings in which the said Manager for the time being shall be on behalf of the said company plaintiff complainant petitioner or defendant it shall and may be lawful for such Manager or for any other officer engaged in the executive duties of the said company to give evidence in any such action suit or other proceeding notwithstanding that the name of such Manager shall be used as plaintiff complainant petitioner or defendant and notwithstanding that such Manager or other officer may be interested in the result of such action suit petition or proceeding as a shareholder or copartner in the said company.

Manager or other officers to give evidence notwithstanding their interest.

6. And be it enacted That execution upon any judgment or decree in any such action suit petition or other proceeding obtained against the Manager for the time being of the said company whether he be plaintiff or defendant therein may be issued against and levied upon the goods chattels lands and tenements of any member or members whomsoever of the said company in like manner as if such judgment or decree had been obtained against such member or members personally.

Execution may issue against individual members.

7. And be it enacted That for the purpose of giving better effect to the provision last hereinbefore contained the Manager for the time being of the said company shall within thirty days from the passing of this Act and thereafter in the month 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 descriptions to be recorded on oath in the office of the Registrar of the Supreme Court and 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 Manager shall fail to cause such list to be recorded in the 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.

List of members to be recorded on oath in the office of Registrar of Supreme Court.

8. And be it enacted That every person whose name shall be so recorded shall be considered a member of the said company and be liable as such until a new list of the members' names shall be recorded as aforesaid or until he shall have given notice in the *New South Wales Government Gazette* of his or her retirement from the said company Provided always that every such Manager in whose

Every person included in such list to be considered a member until new list recorded or until he or she shall have given notice in the *Government Gazette* of his or her retirement.

