

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.

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.

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.

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.

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.

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

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

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

Manager or other officers to give evidence notwithstanding their interest.

Execution may issue against individual members.

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

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.

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name any action suit petition or other proceeding shall be commenced prosecuted carried on or defended and every such member or members against whose goods chattels lands or tenements execution shall be so issued as aforesaid shall always be reimbursed and paid out of the funds of the said company all such damages costs and expenses as by the event of any such proceedings such Manager or member or members shall or may be put unto in respect thereof and all such remedies shall be allowed as between the several members of the said company for the time being as if this Act had not been passed.

Bonds &c. taken in the name of preceding Manager may be put in suit by Manager for the time being.

9. And be it enacted That all bonds warrants of attorney and other securities not assignable in law which have been or shall or may at any time hereafter be taken in the name of any person as Manager of the said company for or on account of the said company shall and may be put in suit and be sued or prosecuted upon at law or in equity in the name of the Manager for the time being of the said company and the proceedings instituted upon or in respect of such bonds warrants of attorney or other securities shall not abate by reason of the death suspension or removal of any such Manager pending such proceedings but the same may be continued prosecuted and carried on in the name of the succeeding Manager to be recorded in the memorial hereinbefore provided in that behalf and so on from time to time whensoever any new appointment or election of a Manager shall take place and such new memorial thereof shall be recorded as aforesaid.

Saving the rights of
Her Majesty and
others.

10. 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 or Successors or of any body politic or corporate or of any other person or persons excepting such as are mentioned therein or of those claiming by or under him her or them.

Act not to take effect until it shall have received the Royal approbation.

11. 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 order of His Excellency the Governor for the time being of the said Colony in the *New South Wales Government Gazette*.

**Act to be a public
Act.**

12. And be it enacted That this Act shall be deemed and taken to be a public Act and shall be judicially taken notice of as such in all cases without being specially pleaded.

SCHEDULE.

A MEMORIAL of the names additions and places of abode respectively of the person and persons respectively who upon this day of 18 are respectively Manager and Directors of the company carrying on business under the style and firm of "The Sydney Banking Company" to be recorded in the Supreme Court of New South Wales pursuant to an Act of the Governor of New South Wales with the advice of the Legislative Council thereof passed in the fourth year of the reign of Her Majesty Queen Victoria intituled "An Act to simplify Proceedings at Law or in Equity by or against 'The Sydney Banking Company' and for other purposes therein mentioned."

NAMES.	TRADE OR PROFESSION.	PLACE OF ABODE.
A. B. Director		
C. D. ditto		

G. H. J.)

E. F. of Manager of the Sydney Banking Company maketh oath and saith that the above-written memorial contains a just and true account of the several particulars therein set forth to the best of this deponent's knowledge and belief.

particulars therein set forth to the best of this deponent's knowledge and belief.
Sworn before me this day of 18 } E. F. Manager.

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