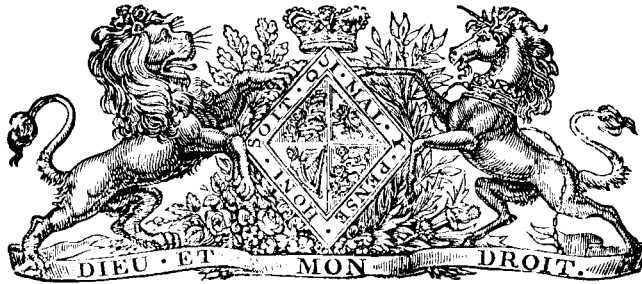


New South Wales.



ANNO TRICESIMO SEPTIMO

VICTORIÆ REGINÆ.

An Act to incorporate the Shareholders of a certain Banking Company called “The Mercantile Bank of Sydney” and for other purposes therein mentioned. [20th November, 1873.]

MERCANTILE BANK
OF SYDNEY.

WHEREAS a Joint Stock Banking Company called “The Mercantile Bank of Sydney” was established at Sydney in the Colony of New South Wales in the year one thousand eight hundred and sixty-nine and the same has been recently reconstructed under and subject to the rules regulations and provisions contained in a certain indenture or deed of settlement bearing date the first day of July in the year of our Lord one thousand eight hundred and seventy-three And whereas the said Company is desirous of being incorporated and it is expedient that it should be incorporated accordingly but subject to the provisions hereinafter contained Be it therefore enacted by the Queen’s Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

Preamble.

1. The following words and expressions in the Act shall have the several meanings hereby assigned to them unless there be something in the subject or the context repugnant to such construction (that is to say)—

Interpretation clause.

The words “The Corporation” shall mean the Company incorporated by this Act.

“The Corporation.”

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"The Directors."

The words "The Directors" shall mean the Board of Directors of the Corporation.

"Shareholder."

The word "Shareholder" shall mean shareholder of the Corporation.

"Deed of Settlement."

The words "Deed of Settlement" shall mean the said recited deed of settlement of the first day of July one thousand eight hundred and seventy-three as originally subsisting or as from time to time altered or amended by virtue of the provisions thereof.

Company incorporated.

2. Such and so many persons as have already become or at any time or times hereafter shall or may in the manner provided by and subject to the rules regulations and provisions contained in the deed of settlement become holders of shares of or in the capital for the time being of the Corporation shall subject nevertheless to the conditions restrictions regulations and provisions hereinafter contained be one body politic and corporate in name and in deed by the name of "The Mercantile Bank of Sydney" and by that name shall and may sue and implead any person or persons body or bodies politic or corporate whether a member or members of the Corporation or not and may be sued and be impleaded in all Courts whatsoever at Law or in Equity and may prefer lay and prosecute any indictment information or prosecution against any person or persons whomsoever whether a shareholder or not for any stealing embezzlement fraud forgery crime or offence and in all indictments informations and prosecutions it shall be lawful to state the money and goods effects bills notes securities or other property of whatsoever nature of the Corporation to be the money goods effects bills notes securities or other property of the Corporation and to designate the Corporation by its corporate name whenever for the purpose of any allegation of an intent to defraud or otherwise howsoever such designation shall be necessary and the Corporation shall have perpetual succession with a common seal which may be altered varied and changed from time to time at the pleasure of the Corporation and shall have power to hold lands subject nevertheless to the restrictions hereinafter contained.

Power to other persons to convey real estate to the Company and *vice versa*.

3. It shall and may be lawful to and for all and every person and persons bodies politic or corporate (not being otherwise incompetent) to grant sell alien and convey assign assure and dispose of any lands or other real estate or chattels real unto and to the use of Corporation and their successors for any of the purposes contemplated by this Act or any of them and the Corporation shall have full power to sell enfranchise release convey demise assign exchange or otherwise dispose of any lands or property vested or to be vested in the Corporation.

Confirmation of provisions of deed of settlement as by-laws of the Company subject to this Act and the general laws.

4. The several laws rules regulations clauses covenants and agreements contained in the deed of settlement or to be made under or by virtue or in pursuance thereof are and shall be deemed and considered to be and shall be the by-laws for the time being of the Corporation save and except in so far as any of them are or shall or may be altered varied or repealed by or are or shall or may be inconsistent or incompatible with or repugnant to any of the provisions of this Act or of any of the laws or statutes in force in the said Colony subject nevertheless to being and the same may be amended altered or repealed either wholly or in part in the manner provided in and by the deed of settlement but no rule or by-law shall on any account or pretence whatsoever be made by the Corporation either under or by virtue of the deed of settlement or of this Act in opposition to the general scope or true intent and meaning of this Act or any of the laws or statutes in force in the said Colony.

Evidence of by-laws.

5. The production of a written or printed copy of the deed of settlement or of any by-laws to be made in pursuance thereof or in pursuance

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pursuance of this Act having the common seal of the Corporation affixed thereto shall be sufficient evidence in every Court of Civil or Criminal jurisdiction of such deed of settlement or of such by-laws.

6. The whole of the capital of one hundred and twenty thousand pounds having been subscribed for and actually paid up it shall be lawful for the Corporation subject to all the restrictions and provisions herein contained to carry on the business of a Bank of issue discount and deposit in the Colony of New South Wales and elsewhere and to make loans of money on cash credit accounts promissory-notes bills of exchange letters of credit and on any personal or other security and it shall also be lawful for the Corporation to deal in money bullion and specie and in exchanges of and with all countries and in notes bills or other securities for money and generally to transact all such other business as it is or shall or may at any time hereafter be usual and lawful for establishments carrying on banking in all its branches to do or transact and to establish agencies branch Banks or connexions in relation to the said business in any part of the Australasian Colonies the British Dominions or elsewhere and to give letters of credit thereon but that it shall not be lawful for the Corporation to advance or lend money solely upon the security of lands or houses or ships nor to own ships except as hereinafter provided and the Corporation shall not hold shares in its own stock nor advance or lend to any shareholder or proprietor of shares in the Corporation any sum or sums of money on the security of his share or shares nor invest lay out employ advance or embark any part of the capital or funds of the Corporation in the purchase of any lands houses or other real or leasehold property whatsoever (save and except as herein specially provided) nor of any share or shares in the capital stock for the time-being of the Corporation nor in any trading or mercantile speculation or business whatsoever not usually considered as falling within the ordinary and legitimate purposes and operations of Banking establishments Provided always that nothing herein contained shall invalidate any lien claim interest or title acquired or to be acquired by the Corporation by way of equitable mortgage or by deposit of deeds or other documents or by mortgage of lands or other property taken or to be taken by the Corporation or any person or persons on their behalf as security collateral to any bill promissory-note bond or other security or any right claim or title to lands or other property thence to arise or the lien secured by the deed of settlement to the Corporation over the shares belonging to any shareholder becoming indebted or coming under engagements to the Corporation or making default in the fulfilment of any covenant in the deed of settlement contained or prevent the Corporation from holding the shares forfeited by such default for the purpose of sale as provided in the deed of settlement or from taking security by the hypothecation of merchandise or bills of lading thereof for the payment of any bill or bills of exchange drawn against any shipment of wool tallow or any other merchandise shipped for exportation either to or from any port or place beyond the sea or from one port to another within the Australasian territories or from taking any mortgage or lien on any stations runs sheep or cattle their increase progeny wool and other produce or from taking holding and enjoying to them and their successors for any estate term of years or interest for purpose of reimbursement only and not for profit any lands houses or other hereditaments or any merchandise or ships which may be taken by the Corporation in satisfaction liquidation or discharge of or as security for any debt then due or thereafter to become due to the Corporation or from selling conveying and assuring the same as occasion may require And it is hereby declared that all such liens mortgages securities rights claims and holdings shall be valid accordingly.

Nature of general business.

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Limited power to hold lands.

7. It shall be lawful for the Corporation notwithstanding any provisions herein contained to the contrary to purchase take hold and enjoy to them and their successors for any estate term of years or interest any houses offices buildings or lands necessary or expedient for the purpose of managing conducting and carrying on the affairs concerns and business of the Corporation also to build suitable offices on land purchased for that purpose or otherwise acquired under the provisions of this Act.

Property at present in trustees to become vested in Corporation.

8. All the lands leases or leasehold interests mortgages securities bonds covenants debts moneys choses in actions things and property vested in the trustees of the Company at the time of incorporation hereby effected or in any other person on behalf of the Company shall immediately on the passing of this Act become vested in the Corporation for the same estate and interest and with the like power and authorities as the same are now vested in the said trustees or other person without any assignment or conveyance whatsoever and all such mortgages and securities shall be valid and effectual to protect the Corporation in respect of all operations made or to be made and all moneys advanced or to be advanced thereunder whether represented by promissory-notes or on open account and whether such operations or moneys shall be or shall not have been made or advanced in the name of the Mercantile Bank of Sydney or of any person in trust for or on behalf of such Bank notwithstanding any past or future changes in the members or shareholders thereof and notwithstanding the incorporation thereof.

Power to issue and circulate Bank notes during twenty-one years.

9. The whole of the capital of the Corporation having been subscribed for and paid it shall be lawful for the Corporation for and during the term of twenty-one years to commence from the time of the passing of this Act or until the Legislature shall make other provisions in that behalf unless the Corporation be sooner dissolved by virtue of the provisions of the deed of settlement on that behalf to make issue and circulate at and from any city town or place in which they may open or establish or may have opened or established any Bank branch Bank or agency any Bank notes or bills for one pound or five pounds sterling each or for any greater sum than five pounds sterling each but not for any fractional part of a pound and from time to time during the said term of twenty-one years to re-issue any such notes or bills where and so often as the Corporation shall think fit but such privilege shall cease in case of a suspension of specie payments on demand for the space of sixty days in succession or for any number of days at intervals which shall amount together to sixty days within any one year or in case the Corporation shall not well and truly maintain abide by perform and observe all and every the rules orders provisions and directions herein contained and set forth upon which the Corporation is empowered to open Banking establishments or to issue and circulate promissory-notes.

Form of Bank notes.

10. All such notes shall bear date at the city town or place at and from which the same respectively shall be made and issued and the same respectively shall in all cases be payable in specie on demand at the place of date and also the principal establishment of the Corporation at Sydney and the total amount of the promissory-notes payable on demand issued and in circulation may extend to but shall not at any one time exceed the amount of its actual paid-up capital and any such further amount in excess of the said capital as the Corporation shall hold in coin or gold bullion assayed by some person duly authorized by the Government for the time being of the said Company or partly coin and partly gold bullion assayed as aforesaid separate and apart from the coin and gold bullion used in the ordinary operations of the said Corporation.

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11. No branch Bank nor any establishment or agency of the Corporation other than and except the principal Banking establishment shall be liable to be called upon to pay any notes of the Corporation other than and except such as shall have been originally made and issued at or from such particular branch Bank or establishment or agency.

Only the principal establishment required to pay notes dated at other places than those of presentation.

12. It shall be lawful for the Corporation from time to time to extend or increase their capital for the time being by the creation allotment and disposal of new shares in the manner specified and set forth and subject to the rules regulations and provisions contained in the deed of settlement so that the total amount of all the new shares to be so from time to time created shall not together with the original capital exceed five hundred thousand pounds and that at least half the amount of the increased capital shall be actually paid up before any extension of the dealings of the Corporation in respect to such new capital shall be commenced. Provided that no such extension or increase of the capital of the said Corporation shall be made or take place without the previous sanction and approbation in writing of the Governor for the time-being of the said Colony from time to time and for that purpose first had and obtained.

Increase of capital.

13. The shares or other interest of the shareholders in the Corporation shall be and be deemed to be personal estate and be transmissible as such subject to the regulations of the deed of settlement.

Capital and shares to be personal estate.

14. The Corporation shall not be bound in any manner by any trusts or equitable interests or demands affecting any shares of the capital standing in the name of any person as the ostensible proprietor thereof or be required to take any notice of such trusts or equitable interests or demands but the receipt of the person in whose name any shares shall stand in the books of the Corporation or if they stand in the name of more persons than one the receipt of the person recognizable as a shareholder under the provisions of the deed of settlement shall notwithstanding such trusts or equitable interests or demands and notice thereof to the Corporation be a good valid and conclusive discharge to the Corporation for or in respect of any dividend or other money payable by the Corporation in respect of such shares and the Corporation shall not be bound to see to the application of the money paid on such receipt and a transfer of the said shares by the person in whose name such shares shall so stand shall notwithstanding as aforesaid be binding and conclusive as far as may concern the Corporation against all persons claiming by virtue of such trusts or equitable interests or demands. Provided always that it shall be competent to the Directors of the Corporation if they shall think fit so to do to withhold payment of the dividends on any such shares and to refuse to sanction the transfer of such shares in any case in which the Corporation shall have had notice of any claims under an alleged trust or equitable interest or demand and when such claim shall appear to the Directors to be well founded. And provided also that nothing herein contained shall be deemed or taken to interfere with or abridge the right and power of a Court of Equity to restrain the payment of any such dividend or other money payable thereafter by the Corporation in respect of any such shares or the transfer by the Corporation of any such shares or to direct the payment of such dividends or other money by the Corporation or the transfer of such shares by the person or persons in whose name or names they may stand to such other person or persons as such Court may think fit.

Corporation not bound to notice trusts or equitable interests affecting shares.

15. The total amount of the debts engagements and liabilities of the Corporation within the Colony of New South Wales whether upon bonds bills promissory-notes or otherwise contracted other than their liabilities on account of the ordinary cash deposits of customers and on account of bills of exchange drawn by or on behalf of the Corporation

Amount to which general liabilities to be limited.

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Corporation upon any Banker or Banking Company or agency out of the Colony of New South Wales within the amount or value of the remittances made to such Banker or Banking Company respectively to provide for payment of the said bills of exchange may extend to but shall not in any case exceed three times the amount of the actual paid-up capital stock of the Corporation.

What deemed public securities.

16. All debentures issued or which may hereafter be issued by the Government of any of the Australian Colonies or of New Zealand such debentures being secured upon the general territorial or casual revenues of the Colony where the same are or shall be issued and every public debt contracted or which may hereafter be contracted by the Government of any such Colony under the authority of the Legislature thereof shall be deemed and taken to be public securities within the meaning of this Act.

Limits to discount &c. on securities bearing the name of director or officer.

17. The discounts and advances by the Corporation on promissory-notes bills of exchange or other securities bearing the name as maker drawer acceptor or endorser of any person or of the firm or partner of any person who shall for the time being be a Director or other officer of the Corporation shall not at any time exceed in amount one-third of the total advances and discounts of the Corporation.

No dividend to be taken out of the capital but from the profits only.
Periodical accounts.

18. No dividend shall in any case be declared or paid out of the subscribed capital for the time being of the Corporation or otherwise than out of the net gains and profits of the business.

19. Periodical accounts or statements and general abstracts of the assets and liabilities of the Corporation shall be prepared made out and published according to the provisions of the Act of the Governor and Council passed in the fourth year of the reign of her present Majesty intituled "*An Act to provide for the periodical publication of the liabilities and assets of Banks in New South Wales and its dependencies and the registration of the names of the proprietors thereof.*"

Auditors to be appointed and to examine and report on affairs of Company.

20. General half-yearly meetings of the shareholders shall be held in the months of January and July in every year and at such meetings in every year two shareholders shall be elected auditors of the accounts of the Corporation for the year next ensuing and within three weeks next before every such half-yearly meeting the auditors for the time being shall fully examine into the state of the accounts and affairs of the Corporation in manner provided by the deed of settlement and shall make a just true and faithful report thereon which shall be submitted by them to the directors one week previously to such meeting and which shall be by the directors submitted to the shareholders at such meeting and the said auditors shall and they are hereby required to make a declaration before a Justice of the Peace that such report is to the best of their several and respective knowledge and belief a just true and faithful report and statement of the accounts and affairs of the Corporation and that the same is made by them after diligent and careful examination into the state of such accounts and affairs as aforesaid and a duplicate copy of such report signed by the auditors and every other report (if any) which shall be made to the shareholders at any half-yearly or other general meeting by such auditors or by any other auditors specially appointed to inquire into the state of the accounts or affairs of the Corporation shall be transmitted to the office of the Colonial Secretary at Sydney for inspection thereof within thirty days from the making of such report.

Duplicate of auditors reports to be sent to the Colonial Secretary.

Penalty for neglect in respect of audits.

21. If such examination into or report on the state of the accounts or affairs of the Corporation as hereinbefore required to be made by the auditors shall be neglected to be made or if a duplicate copy of any such report shall be omitted to be transmitted to the office of the Colonial Secretary as hereinbefore required the said Corporation shall for every such offence forfeit and pay to Her Majesty for the public

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public uses of the Colony the sum of one hundred pounds to be recovered by action of debt in the Supreme Court And if any such auditor shall at any time knowingly make or concur in a false or deceptive report on the state of the accounts or affairs of the Corporation such auditor shall for every such offence forfeit and pay to Her Majesty for the public uses of the Colony the sum of two hundred pounds to be recovered in the said Supreme Court and if any such auditor shall make a declaration to any such false or deceptive report knowing the same to be false and deceptive he shall be deemed guilty of perjury and shall be liable to all the pains and penalties provided by the law for such offence.

And for false or
deceptive reports.

22. In any action or suit to be brought by the Corporation against any shareholder or other person to recover any money due and payable to the Corporation for or by reason of any call made by virtue of this Act or of the deed of settlement it shall be sufficient for the Corporation to declare and allege that the defendant is the holder of shares in the capital of the Corporation stating the number of such shares and that he is indebted to the Corporation in the sum to which the call in arrear shall amount whereby an action hath accrued to the Corporation without setting forth any special matter and on the trial of such action or suit it shall not be necessary to prove the appointment of directors or any of them who made such call or any other matter except that the defendant at the time of making such call was a holder of shares in the capital of the Corporation and that such call was in fact made and that such notice thereof was given as is directed by the deed of settlement and the Corporation shall thereupon be entitled to recover what shall be due upon such call with interest thereon.

Provision as to
actions or suits
for calls.

23. The production of the shareholders register shall be *prima facie* evidence of such defendant being a shareholder and of the number of his shares.

Proof of proprietor-
ship.

24. Nothing herein contained shall prejudice or be deemed to prejudice any call made or any contract or other act deed matter or thing entered into made or done by the Company under or by virtue of the deed of settlement before this Act shall come into operation but the same call contract act deed matter or thing shall be as valid and effectual to all intents and purposes as if this Act had not been passed and may be enforced in like manner as if the Company had been incorporated by this Act before the same call contract act deed matter or thing had been made entered into or done.

Calls contracts &c.
made or done under
the deed of settle-
ment before this Act
in operation not to
be prejudiced by it.

25. In the event of the assets of the Corporation being insufficient to meet its engagements each shareholder shall over and above the shares subscribed for by him be liable only to a further additional amount equal thereto.

Liability of share-
holders.

26. In all cases in which by any Act of Parliament or by any rule or order of the Supreme Court or any other Court now or hereafter to be in force in this Colony the plaintiff or defendant in any action suit or other proceeding or any person being a party to or interested in any process or proceeding whatsoever is or shall be authorized empowered or required to make any affidavit or to sign or present any petition or to do any other act it shall be lawful and competent for the manager acting manager or other officer or agent of the Corporation (when such Corporation shall be such plaintiff defendant or party to or otherwise interested in any process or proceeding whatsoever as aforesaid) for and on behalf of the Corporation to make any such affidavit sign or present any such petition or do any such other act as aforesaid.

Manager to do cer-
tain acts.

27. The directors for the time being shall have the custody of the common seal of the Corporation and the form thereof and all other matters relating thereto shall from time to time be determined by the directors

Custody and use of
corporate seal.

Australian Jockey Club.

directors in the same manner as is provided in and by the deed of settlement for the determination of other matters by the directors and the directors present at a Board of directors of the Corporation shall have power to use such common seal for the affairs and concerns of the Corporation and to authorize and depute the manager or any one of their body to use or affix the same provided the affixing of such seal be evidenced by the signature opposite thereto of at least two directors and under such seal to authorize and empower any person without such seal to execute any deeds and do all or any such other matters and things as may be required to be executed and done on behalf of the Corporation and in conformity with the provisions of the deed of settlement and of this Act but it shall not be necessary to use the corporate seal in respect of any of the ordinary business of the Corporation or for the appointment of an attorney or solicitor for the prosecution or defence of any action suit or proceeding.

Saving the rights of
Her Majesty and of
other persons not
mentioned in this
Act.

28. 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 person or persons except such bodies politic or corporate and other persons as are mentioned in this Act and those claiming by from or under them.

Short title of Act.

29. In citing this Act in other Acts of Parliament and in legal instruments or otherwise it shall be sufficient to use the expression "The Mercantile Bank of Sydney Act."
