

ANNO DECIMO QUARTO

VICTORIÆ REGINÆ.

An Act to incorporate the Proprietors of a certain Banking Company called "The Bank of New South Wales" and for other purposes therein mentioned. [23rd September, 1850.]

BANK OF
NEW SOUTH WALES.

WHEREAS a joint stock banking company called "The Bank of New South Wales" has been lately established at Sydney in the Colony of New South Wales under and subject to the same rules regulations and provisions contained in a certain indenture or deed of settlement bearing date the twenty-third day of August in the year of our Lord one thousand eight hundred and fifty purporting to be a deed of settlement of the said company but the said company has not yet commenced business And whereas by the said indenture or deed of settlement the several parties thereto have respectively and mutually covenanted and agreed to be and continue (until dissolved under the provisions in that behalf therein contained) a joint stock company or partnership under the name style and title of "The Bank of New South Wales" for the purpose of carrying on the business of a bank of issue and deposit and the lending moneys on cash credits promissory notes bills of exchange or letters of credit and on other securities also the dealing in money bullion specie and exchanges of and with all countries and in notes bills or other securities for money and generally the transacting all such other business as shall or may at any time hereafter be usual and lawful for establishments carrying on banking in all its branches or dealing in money bullion specie exchanges or in notes bills or loans to do or transact and the establishment of agencies or connections relating to the said business in any part of the British dominions as may be considered desirable for the company and may promote the convenience of merchants and others and the giving letters of credit on agents and banking connections abroad and the establishing a branch bank or branch banks and agencies in such place or places within the Australasian Territories as may be thought expedient And whereas it was by the said indenture or deed of settlement further agreed that the capital of the company shall consist of one hundred and twenty-five thousand pounds to be contributed in six thousand two hundred and fifty shares of twenty pounds each and of such further sum or sums as may hereafter be raised by the creation allotment and sale of new shares of the like amount as therein provided And whereas by the said indenture or deed of settlement provision has been made for the due management of the affairs of the said company by the directors to be from time to time elected and appointed by the proprietors of the shares in the capital stock of the said company And whereas

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Company incorpo-
rated.

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 His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That 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 said indenture or deed of settlement become proprietors of shares of or in the capital for the time being of the said company shall for the purposes aforesaid but 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 Bank of New South Wales" and by that name shall and may sue any person or persons body or bodies politic or corporate whether a member or members of the said corporation or not and may be sued implead and be impleaded in all Courts whatsoever at law or in equity and may prefer lay and prosecute any indictment information and prosecution against any person or persons whomsoever 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 the said company to be the money goods effects bills notes securities or other property of the said corporation and to designate the said company or copartnership 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 said 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 said corporation.

Confirmation of pro-
visions of deed of
settlement as by-laws
of the company sub-
ject to this Act and
the general laws.

2. And be it enacted That the several laws rules regulations clauses and agreements contained in the said indenture or 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 said 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 be and the same may be amended altered or repealed either wholly or in part in the manner provided in and by the said indenture or deed of settlement but no rule or by-law shall on any account or pretence whatsoever be made by the said corporation either under or by virtue of the said indenture or deed of settlement or of this Act in opposition to the general scope or true intent and meaning of the said deed of settlement or of this Act or of any of the laws or statutes in force in the said Colony.

Commencement and
nature of general
business.

3. And be it enacted That when and so soon as the said capital of one hundred and twenty-five thousand pounds shall have been subscribed for and a moiety thereof paid as hereinafter required but not before it shall be lawful for the said corporation subject to all the restrictions and provisions herein contained to commence and carry on the business of a bank of issue discount and deposit in the Colony of New South Wales and to make loans of money on cash credit accounts promissory notes bills of exchange or letters of credit and on other securities of the like nature or on personal security and it shall also be lawful for the said corporation to deal in money bullion specie and 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 or lawful for

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for establishments carrying on banking in all its branches to do or transact including therein the dealing in money bullion or specie or in notes or bills and to establish agencies or connections in relation to the said business in any part of the British dominions or elsewhere and to give letters of credit on agents and banking connections abroad and to establish a branch bank or branch banks and agencies for the purposes and in manner directed by the said indenture or deed of settlement but that it shall not be lawful for the said corporation to advance or lend any money upon the security of lands or houses or ships or on pledges of merchandise nor to own ships and the said corporation shall not hold shares in its own stock nor advance or lend to any shareholder or proprietor of shares in the said 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 said 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 said company 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 the lien secured by the deed of settlement to the company over the shares belonging to any proprietor becoming indebted or coming under engagements to the company or making default in the fulfilment of any covenants in the said deed of settlement contained or to prevent the company from holding the shares forfeited by such default for the purpose of sale as provided in the said deed of settlement And provided further that nothing herein contained shall be taken or construed to prevent the said corporation from taking security by the hypothecation of bills of lading for the payment of any bill or bills of exchange drawn against any shipment of wool tallow or other colonial produce or any other description of merchandise shipped for exportation either to any port or place beyond the sea or from one port to another within the Australasian Territories.

Restrictions on powers of corporation.

4. And be it enacted That it shall not be lawful for the said corporation to commence or carry on the said business of banking under or by virtue of this Act until the whole of the said capital of one hundred and twenty-five thousand pounds shall have been subscribed for and a moiety or half-part at the least of such sum of one hundred and twenty-five thousand pounds shall have been actually paid up and that the whole of the said capital shall be subscribed for within the space of eighteen calendar months to commence and be computed from the period when this Act shall come into operation and the whole of the said sum of one hundred and twenty-five thousand pounds shall be paid up within the space of two years to be computed as aforesaid.

Business not to be commenced until whole original capital subscribed for and a moiety paid up

Time limited for subscriptions and payment.

5. And be it enacted That it shall be lawful for the said corporation for and during the term of twenty-one years to commence from the period when the whole of the said capital shall have been subscribed for and a moiety thereof paid as aforesaid but not otherwise to make issue and circulate at and from any city town or place in which they may have opened or established any bank branch bank or agency under or by virtue of this Act or of the said indenture or deed of settlement 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 when and so often as the corporation shall think fit but such privilege shall cease in case of the suspension of specie payments on demand

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

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demand for the space of sixty days in succession or for any number of days at intervals which shall amount altogether to sixty days within any one year or in case the said 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 said corporation is empowered to open banking establishments or to issue and circulate promissory notes.

Bank notes where to be dated and payable and to be payable in specie on demand.

6. And be it enacted That 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 that the same respectively shall in all cases be payable in specie on demand at the place of date and also at the principal banking establishment of the corporation at Sydney and the total amount of the promissory notes payable on demand issued and in circulation shall not at any one time exceed the amount of the capital stock of the said corporation actually paid up.

Limit of issue and circulation.

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

7. And be it enacted That no branch bank or establishment of the said corporation other than and except the principal banking establishment shall be liable to be called upon to pay any notes or bills of the said corporation other than and except such as shall have been originally made and issued at and from such particular branch bank or establishment.

Increase of capital.

8. And be it enacted That it shall be lawful for the said 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 hereinbefore in part recited indenture or deed of settlement.

Regulations as to increase of capital.

9. And be it enacted 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 one million pounds and 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 Lords Commissioners for the time being of Her Majesty's Treasury or of the Governor for the time being of the said Colony from time to time and for that purpose first had and obtained and that at least half the amount of the increased capital shall be actually paid up before any extension of the dealings of the said corporation in respect of such new capital shall be commenced and that until half of such new capital shall be so paid up the dealings and affairs of the said corporation shall be carried on in the same manner in all respects as if such extension of capital had not taken place.

Capital and shares to be personalty.

10. And be it enacted That the capital or joint stock for the time being and all the funds and property of the said corporation and the several shares therein and the profits and advantages to be derived therefrom shall be and be deemed personal estate and be transmissible accordingly subject to the regulations of the said indenture or deed of settlement.

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

11. And be it further enacted That the corporation shall not be bound in any manner by any trusts or equitable interest or demands affecting any share or shares of the capital standing in the name of any person or persons 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 or persons in whose name or names the shares shall stand in the books of the corporation shall notwithstanding such trusts or equitable interests or demands and notice thereof to the said corporation be a good valid and conclusive discharge to the corporation for or in respect of any dividend or other money payable by the said corporation in respect of such shares and a transfer of the said shares by the person or persons in whose name or names

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names such shares shall so stand notwithstanding as aforesaid be binding and conclusive as far as may concern the said corporation against all persons claiming by virtue of such trusts or equitable interests or demands Provided always that it shall be competent to the board of directors of the said 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 said 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 said board of 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 thereafter 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.

12. And be it enacted That it shall be lawful for the said corporation notwithstanding any statute or law to the contrary and notwithstanding any clause or provision herein contained to purchase take hold and enjoy to them and their successors for any estate term of years or interest any houses offices buildings lands and other hereditaments necessary or proper for the purpose of managing conducting and carrying on the affairs concerns and business of the said corporation and also to take and to hold until the same can be advantageously disposed of for the purpose of reimbursement only and not for profit any lands houses and other real estate merchandise and ships which may be so taken by the said corporation in satisfaction liquidation or discharge of any debt due to the corporation or in security for any debt or liability *bona fide* incurred or come under previously and not in anticipation or expectation of such security but not for any other purposes and to sell convey assign assure and dispose of such houses offices buildings lands hereditaments and other real estate merchandise and ships as occasion may require.

Limited power to take and hold lands &c.

13. And be it enacted That it shall and may be lawful to and for all and every person and persons bodies politic or corporate who are or shall be otherwise competent to grant sell alien and convey assign assure and dispose of and to the use of the said corporation and their successors for the purposes aforesaid or any of them any such houses offices lands hereditaments and other real estate whatsoever as aforesaid accordingly.

Power to other persons to convey real estate to the corporation.

14. And be it enacted That the total amount of the debts engagements and liabilities of the said corporation whether upon bonds bills promissory notes or otherwise contracted other than their liabilities on account of the ordinary cash deposits of customers with the said company's establishments shall not in any case exceed three times the amount of capital stock subscribed and actually paid up.

Restriction on extent of liabilities.

15. And be it enacted That the discounts or advances by the said corporation on securities bearing the name of any director or officer thereof as drawer acceptor or indorser shall not at any time exceed in amount one third of the total advances and discounts of the said corporation.

Limit to discounts &c. on securities bearing the name of a director or officer.

16. And be it enacted That no dividend shall in any case be declared or paid out of the subscribed capital for the time being of the said corporation or otherwise than out of the net gains and profits of the business.

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

17. And be it enacted That periodical accounts or statements and general abstracts of the assets and liabilities of the said corporation

Periodical statements accounts and abstracts to be made out and published.

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tion 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.

18. And be it enacted That general half-yearly meetings of the proprietors of the capital of the corporation shall be held in the respective months of April and October in every year and that at one of such meetings in every year two proprietors shall be elected to be auditors of the accounts of the corporation for the year next ensuing and that 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 and shall make a just true and faithful report thereon which shall be submitted by them to the directors of the corporation one week previously to such meeting and which shall be by such directors submitted to the proprietors at every such meeting and that 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 company and that the same is made by them after diligent and careful examination into the state of such accounts and affairs and a duplicate copy of such report signed by such auditors and of every other report (if any) which shall be made to the proprietors 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.

Duplicates of auditors' reports to be sent to the Colonial Secretary.

Penalties for neglects in respect of audits

19. And be it enacted That if such examination into or report on the state of the accounts or affairs of the corporation as hereinbefore required to be made by 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 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 auditors 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.

Provision as to actions or suits for calls.

20. And be it enacted That in any action or suit to be brought by the said corporation against any proprietor or proprietors of any share or shares in the capital of the said corporation to recover any sum or sums of money due and payable to the said corporation for or by reason of any call or calls made by virtue of this Act or of the said indenture or deed of settlement it shall be sufficient for the said corporation to declare and allege that the defendant or defendants being a proprietor or proprietors of such or so many share or shares in the capital of the said corporation is or are indebted to the said corporation in such sum or sums of money as the call or calls in arrear shall amount to for such and so many call or calls of such or

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so many sum or sums of money upon such or so many share or shares belonging to the said defendant or defendants (as the case may be) whereby an action hath accrued to the said 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 the directors or any of them who made such call or calls or any other matters except that the defendant or defendants at the time of making such calls was or were a proprietor or proprietors of some share or shares in the capital of the said corporation and that such call or calls was or were in fact made and that such notice thereof was given as is directed by the said indenture or deed of settlement and the said corporation shall thereupon be entitled to recover what shall appear due.

21. And be it enacted That 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 said company under or by virtue of the said indenture or 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 said company had been incorporated 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 settlement before this Act in operation not to be prejudiced by it.

22. And be it enacted That in all cases in which shares in the capital of the said corporation shall be transferred between the period of this Act coming into operation and the actual commencing of business by the said corporation the responsibility of the original holder of the transferred share shall continue for six months at least after the date of the transfer.

In case of transfer before commencement of business liability of original shareholders to continue six months.

23. And be it enacted That in the event of the assets of the said corporation being insufficient to meet its engagements then and in that case the shareholders shall be responsible to the extent of twice the amount of their subscribed shares only (that is to say) for the amount subscribed and for a further and additional amount equal thereto.

Limit to liabilities.

24. And be it enacted That the directors for the time being of the said corporation shall have the custody of the common seal of the said corporation and that the form thereof and all other matters relating thereto shall from time to time be determined at a board of directors of the said corporation in the same manner as is provided in and by the said indenture or deed of settlement for the determination of other matters by the board of directors of the said company and the directors present at a board of directors of the said corporation shall have power to use the common seal of the said corporation for the affairs and concerns of the said corporation 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 said company 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 company or for the appointment of an attorney or solicitor for the prosecution or defence of any action suit or proceeding.

Custody and use of corporate seal.

25. 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 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.

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

Penrith Nepean Bridge.

This Act to be
deemed a public Act.

26. 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 by the Judges of the Supreme Court of New South Wales and by all other Judges Justices and others within the Colony of New South Wales and its dependencies without being specially pleaded.

Interpretation
clause.

27. And be it enacted That in this Act the following words shall have the following meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction (that is to say) words importing the plural number shall include the singular number and words importing the masculine gender shall include females and bodies corporate as well as individuals.
