

New Zealand.



ANNO QUINTO

VICTORIÆ REGINÆ.

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[Local and Personal.]

SESSION II. No. I.

AN ORDINANCE to simplify Legal Proceedings by and against the New Zealand Banking Company.

NEW ZEALAND BANKING COMPANY.

[22nd December, 1841.]

WHEREAS several persons have formed themselves into a Joint Stock Banking Company in the Colony of New Zealand, under the name of "The New Zealand Banking Company," and it is expedient to simplify legal proceedings by and against the said Company :

Preamble.

BE IT THEREFORE ENACTED by His Excellency the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows :—

1. All legal proceedings to be commenced and carried on by or on behalf of the said Company shall be commenced and carried on in the name of the Manager for the time being of the said Bank.

Legal proceedings by the Company to be in the name of the Manager.

2. All legal proceedings to be commenced and carried on against the said Company shall be commenced and carried on against the Manager for the time being of the said Bank as the nominal defendant.

Against the Company in the name of the Manager.

3. The death resignation or removal, or any other act by which the office or power of such Manager shall cease, shall not abate any legal proceedings, but the same may be continued and carried on in the name of the succeeding Manager, or of any person who may become Manager of the said Bank for the time being.

Legal proceedings not to abate by the death of Manager.

4. All summonses subpoenas notices writs and other legal processes to be issued or served against or upon the said Company shall be issued or served against or upon the Manager for the time being of the said Bank, or at the usual place where the business of the said Bank shall be carried on at Auckland.

Legal process to be served on Manager.

5. Provided always that the body or goods lands or tenements of such Manager shall not, by reason of his name being used under the authority

Manager not to be personally liable; costs to be paid by the Company.

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authority of this Ordinance in any legal proceedings, be liable to be arrested seized or taken in execution, and that all costs and expenses to be incurred by such Manager in any such proceedings as aforesaid for or on behalf of the said Company shall be defrayed out of the funds of the said Company.

The Manager and other officers of the Bank may give evidence notwithstanding interest in the same.

6. In all legal proceedings in which the name of the Manager for the time being of the said Company shall be used or in which they shall be interested or concerned, it shall be lawful for such Manager, or for any Director, Auditor, Treasurer, Secretary, Clerk, or any other officer engaged in the executive duties of the said Bank, or for any proprietor or shareholder in the said Bank, to give evidence notwithstanding such person shall be interested in the result of such proceedings.

Execution upon any judgment may be issued against any member of the Company.

7. When any decree order or judgment in any such legal proceedings as aforesaid shall be had against the Manager of the said Bank, execution thereon may be issued against and levied upon the goods and chattels lands and tenements of any member or members of the said Bank in like manner as if such decree order or judgment had been obtained against such member or members personally.

Who shall have his remedy against the other members.

8. Every Manager in whose name any such legal proceedings shall be commenced and carried on, and every member against whose goods and chattels lands and tenements execution upon any judgment order or decree shall be issued or levied as aforesaid, shall be reimbursed out of the funds of the said Company all such damages costs charges and expenses as he shall incur or be put to by reason of such execution, and all such remedies shall be allowed, as between the several members of the said Company for the time being, as if this Ordinance had not been passed.

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

9. For the purpose of giving effect to the provision hereinbefore contained, the Manager of the said Bank shall, within thirty clear days from the passing of this Ordinance, and thereafter in the month of January in each year, cause a memorial containing a true list of the names of all the then existing members of the said Company, with their respective places of abode and descriptions, to be recorded in the office of the Registrar of the Supreme Court in the form or to the effect set forth in the Schedule hereunto annexed, on oath before the Registrar thereof, who is hereby authorized to administer the same.

List to be open for inspection.

10. And the list so recorded shall be open for inspection at all reasonable times, by any person requiring the same, on payment of a fee of one shilling.

Penalty.

11. Any Manager of the said Bank who shall fail to cause such list to be recorded in manner aforesaid, shall be liable to a penalty of one hundred pounds, to be recovered by action in the Supreme Court by any person or persons who shall sue for the same.

Falsely swearing, how punishable.

12. If any Manager of the said Company who shall take any oath under the provisions of this Ordinance shall wilfully forswear himself, such Manager shall be deemed guilty of wilful and corrupt perjury.

Every person included in such list to be considered a member until new list be recorded.

13. 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 Zealand Government Gazette* of his having ceased to be a member of the said Company.

Ordinance to be at all times valid notwithstanding change of members of the Company.

14. The provisions in this Ordinance contained shall extend to the said Banking Company at all times during the continuance of the same, whether the said Company be now or hereafter composed of some or all or any of the persons who were the original or are the present members thereof, or of all or some of those parties together with some other person or persons, or shall be composed altogether of persons who were not original or are not now members of the same.

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New Zealand Banking Company.

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15. All securities which have been or which shall or may at any time hereafter be taken in the name of any person as Manager of the said Bank, or in the name of any Director or Directors of the said Company, for and on account of the said Company, shall and may be put in suit in the name of the Manager 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 Manager of the said Bank at the time such proceedings shall be instituted, notwithstanding the name of any such succeeding Manager be not inserted in such security.

Securities taken in the name of the Manager may be put in suit in his name.

16. The legal estate in all lands and tenements belonging or mortgaged to the said Bank which may be vested in the Manager of the said Bank, and all other legal rights in respect of the said Bank which may be vested in him, shall become vested in any succeeding Manager immediately upon his appointment, and such vesting shall be deemed to relate to the time at which such legal estate or rights ceased to be vested in the preceding Manager.

Legal estate to vest in new Manager.

17. And be it enacted that in any action to be brought by any Manager of the said Bank by virtue of this Ordinance, 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 any such trial by a certificate of the Registrar of the Supreme Court, verified by the Seal thereof, that no such memorial has been recorded as aforesaid, then a nonsuit shall be entered in such action.

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

18. Provided always that nothing herein contained shall have the effect of incorporating the members or proprietors of the said Company, or to relieve or discharge them or any of them from any responsibility whatsoever which by law they now are or at any time hereafter shall be subject or liable to, either between the said Company and others or in any other manner whatsoever, except so far as the same is affected by the provisions of this Ordinance.

Bank not incorporated by this Ordinance.

19. Provided always that this Ordinance shall not affect any right title or interest of Her Majesty, her heirs or successors, or of any body or bodies politic or corporate, or of any other person or persons excepting such as are mentioned herein or those claiming under them.

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

20. And be it enacted that this Ordinance shall be deemed and taken to be a public Ordinance, and shall be judicially taken notice of as such in all cases without being specially pleaded.

Ordinance to be a public Ordinance.

SCHEDULE.

A MEMORIAL of the names additions and places of abode respectively of the persons who, upon this day of , one thousand eight hundred and forty , are members of the Company carrying on business under the style and firm of "The New Zealand Banking Company," to be recorded in the Supreme Court of New Zealand, pursuant to an Ordinance of the Governor of New Zealand, enacted with the advice and consent of the Legislative Council thereof, intituled "An Ordinance to simplify Legal Proceedings by and against the New Zealand Banking Company."

Names.	Trade or Profession.	Place of Abode.
A.B., C.D.,		

E.F., Manager.

E.F., of , Manager of "The New Zealand 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.

E.F., Manager.

Sworn before me this day of , one thousand eight hundred and forty .