

New Zealand.

ANNO VICESIMO OCTAVO

VICTORIÆ REGINÆ.

[*Local and Personal.*]

No. 5.

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AN ACT to Incorporate the Shareholders of a certain Banking Company called "The Commercial Bank of New Zealand (Limited)" and to enable the said Company to carry on its business and issue Notes in New Zealand.

[13th December 1864.]

WHEREAS a Joint-Stock Banking Company called "The New Zealand Banking Corporation (Limited)" has been lately established in England under the Act of the Imperial Legislature known as "The Companies Act 1862" and subject to the provisions and regulations contained in the Memorandum of Association and the special resolutions thereof settled and agreed to on the second and twenty-third days of May One Thousand Eight Hundred and Sixty-four And whereas it is provided by such Memorandum of Association that the registered office of the said Company shall be situated in England and that the objects for which the said Company was established are the transacting of every kind of Banking business in London and Westminster and by means of Banks Branch Banks or Agencies in such other places in the United Kingdom of Great Britain and Ireland and in New Zealand and elsewhere as therein mentioned and the other purposes therein mentioned including the issue of promissory-notes payable to bearer on demand and that the liability of the members is limited and that the nominal capital of the Company is Six Hundred Thousand Pounds And whereas it is desirable that the said Company should have the

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power and privileges necessary or expedient for enabling it to carry on its business in New Zealand including the privilege of issuing notes payable to bearer as hereinafter mentioned and that it should be incorporated in the Colony under the name of "The Commercial Bank of New Zealand (Limited)."

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows—

Short Title.

I. The Short Title of this Act shall be "The Commercial Bank of New Zealand (Limited) Act 1864."

Company incorporated and empowered to sue &c.

II. 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 Memorandum of Association and special resolutions 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 Commercial Bank of New Zealand (Limited)" 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 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.

Bye-Laws.

III. The several laws rules and regulations by which the said Company shall for the time being be regulated or governed in England shall be the laws rules and regulations for the time being of the said Corporation in the Colony of New Zealand save so far as any of them may be repugnant to or incompatible with the provisions of this Act or any laws for the time being in force in the said Colony Provided always that in case any alteration shall be made in any such laws rules and regulations in England such alteration shall not affect anything done or any right acquired or liability penalty or punishment incurred in the said Colony prior to such alteration becoming known at the principal banking-house or Office of the said Corporation in the said Colony.

Business of the Bank.

IV. It shall be lawful for the said Corporation to carry on in the said Colony of New Zealand all such Banking and other business as is specified in the said Memorandum of Association thereof but subject to the restrictions in this Act contained and for the purpose of such business to establish such Banks Branch Banks Agencies or Offices in the Colony and to exercise such powers and privileges as are or may for the time being be vested in or possessed by the said Corporation in England save so far as such powers and privileges are or may be repugnant to or incompatible with the provisions in this Act contained or any laws for the time being in force in the said Colony but it shall not be lawful for the said Corporation to hold shares in its own stock

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nor to advance or lend to any shareholders 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 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 con- Powers restricted.

tained shall invalidate the lien secured by the said Special Resolutions 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 Special Resolutions contained or to prevent the Company from holding the shares forfeited by such default for the purpose of sale as provided in the said Special Resolutions And provided further that nothing herein contained shall be taken or construed to prevent the said Corporation from taking as collateral security for any advances of money made by the said Corporation or any money due to the said Corporation any lands houses or ships or 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 gold 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 part to another within the said Colony.

V. It shall be lawful for the said Corporation to make issue and circulate at or from any city town or place at which they may have opened or established any Bank Branch Bank or Agency under or by virtue of this Act or of the said Special Resolutions 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 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 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 and 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 may be issued and circulated.

VI. 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 to bearer on demand at the place of date and also at the principal Banking Establishment of the Corporation at Dunedin in the said Colony and the total amount of the promissory notes payable on demand issued and in circulation within the Colony shall not at any one time exceed the amount of the coin bullion and public securities which shall for the time being be held by the said Corporation within the Colony nor shall the proportion of coin be less than one-third part of the amount of the coin bullion and public securities so held by the said Corporation within the Colony. Bank notes how dated and payable. Limit.

VII. No Branch Bank or Establishment of the said Corporation other than and except the principal Banking Establishment in Dunedin aforesaid shall be liable to be called upon to pay any notes or bills of the said Corporation other than and except such as have been originally Branch Bank's liability.

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made and issued at and from such particular Branch Bank or Establishment and except such notes or bills as may be specially drawn upon or made payable at such Branch Bank or Establishment.

Increase of capital.

VIII. 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 in the Memorandum of Association and subject to the rules regulations and provisions contained in the said Special Resolutions And it shall not be lawful for the Company to reduce their nominal capital anything in the said Special Resolutions contained notwithstanding.

Capital and shares to be personalty.

IX. 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 Special Resolutions.

Corporation not bound to notice trusts affecting shares.

X. 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 the share 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 in whose name such share shall so stand notwithstanding as aforesaid be binding and conclusive so 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 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 claims 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 or power of any Court 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 in whose name they may stand to such other person as such Court may think fit.

Landed property for bank purposes.

XI. It shall be lawful for the said Corporation notwithstanding any law to the contrary and notwithstanding any clause or provision herein contained to take purchase 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 or carrying on the affairs concerns and business of the said Corporation and to sell dispose of convey assign and assure such houses offices buildings lands and hereditaments as occasion may require.

Lands may be sold &c. to the Company.

XII. 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 sell dispose of grant alien convey assign or assure unto the said Corporation and their successors for the purposes aforesaid or any

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of them any such houses offices land and hereditaments whatsoever as aforesaid accordingly.

XIII. The total amount of the debts engagements and liabilities of the said Corporation within the said Colony whether upon bonds bills promissory notes or otherwise contracted within the said Colony (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 said Corporation upon any banker or banking company head office Branch Bank or Agency of the said Corporation in the United Kingdom of Great Britain and Ireland or elsewhere within the amount or value of remittances made to such banker or banking company head office branch bank or agency of the said Corporation respectively to provide for the payment of the said bills of exchange) may extend to but shall not in any case exceed three times the amount of the coin bullion and public securities which shall for the time being be held by the said Corporation within the Colony.

Amount to which general liabilities to be limited.

Certain liabilities not taken into account.

XIV. For the purposes of this Act unassayed gold shall be deemed to be bullion and all uncoined gold which shall not have been assayed shall be valued at the price of three pounds and five shillings for every ounce and all uncoined gold when assayed shall be valued at the standard value of assayed gold in Great Britain that is to say at the rate of three pounds seventeen shillings and ninepence per ounce of the fineness of twenty-two carats and in the accounts of the said Corporation and in the statements and general abstracts of the assets and liabilities which are required by law to be made out and published it shall be lawful for the said Corporation to include assayed and unassayed gold at their respective values under the name of bullion.

Assayed and unassayed gold deemed bullion.

XV. All debentures bonds or exchequer bills issued or which may be hereafter issued by the General Government of New Zealand or by any Provincial Government in New Zealand such debentures bonds or exchequer bills being secured upon the general ordinary territorial or consolidated revenues of the Colony or Province where the same are or shall be issued and every public debt contracted or guaranteed by the Government of the said Colony under the authority of the Legislature thereof shall be deemed and taken to be public securities within the meaning of this Act.

What deemed public securities.

XVI. The discounts or advances by the said Corporation on securities bearing the name of any director or officer therefor as maker drawer acceptor or endorser shall not at any time exceed in amount one-tenth of the total advances and discounts of the said Corporation.

Discounts &c. to directors or officers.

XVII. 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 nett gains and profits of the business.

Dividends out of profits only.

XVIII. Periodical accounts or statements and general abstracts of the assets and liabilities of the said Corporation shall be prepared made out and published according to the provisions of the laws for the time being in force for regulating the making or publishing of bankers' returns And such accounts and statements shall be subject to such inspection by the Government of New Zealand as may by law be hereafter provided in that behalf.

Abstract to be published.

XIX. In any action or suit to be brought by the said Corporation against any proprietor of any shares in the capital of the said Corporation to recover any sum of money due and payable to the said Corporation for or by reason of any call made by virtue of this Act or of the said Special Resolutions it shall be sufficient for the said Corporation to declare and allege that the defendant being a proprietor of so many shares in the capital of the said Corporation is indebted to the said

Actions for calls.

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Corporation in such sum of money as the call in arrear shall amount to for such call of such sum of money upon so many shares belonging to the said defendant 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 any other matters except that the defendant at the time of making such call was a proprietor of some shares in the capital of the said Corporation and that such call was in fact made and that such notice thereof was given as is directed by the said Special Resolutions and that the said Corporation shall thereupon be entitled to recover what shall appear due.

Transactions before
passing of this Act.

XX. 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 special resolutions 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 call contract act deed matter or thing had been made entered into or done and every contract heretofore made by or with the said Company or by or with any person or persons as trustee or trustees agent or agents or attorney for the Company or otherwise on its behalf or for its benefit shall be performed by or to the said Corporation and the said Corporation shall and may sue and be sued at law and in equity on every contract respectively and judgment shall be given or a decree shall be made in every such suit in the same manner as if such contract had been made by or with the said Corporation after the passing of this Act.

Limit to liabilities.

XXI. 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.

Officers of Bank although proprietors
may be proceeded
against criminally.

XXII. Every manager secretary accountant or other officer clerk or servant of the said Corporation shall notwithstanding such manager secretary accountant or other officer clerk or servant of such Corporation shall or may be a proprietor and have a joint interest in the property of the said Corporation be liable to be proceeded against criminally for any offence committed by such manager secretary accountant or other officer clerk or servant of such Corporation in respect of the property of the said Corporation in like manner and in all respects as if such manager secretary accountant or other officer clerk or servant were not a proprietor and had no such joint interest.

Corporate Seal.

XXIII. The Board of Directors for the time being of the said Corporation in England shall have the custody of the common seal of the said Corporation and the form thereof and all other matters relating thereto shall from time to time be determined by the said Board of Directors of the said Corporation in the same manner as is provided in and by the said special resolutions for the determination of other matters by the Board of Directors of the said Company and the members present at the 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 authorise and empower any person without such seal to execute any deed and to do all or any such other matters or things as may be required to be executed and done on behalf of the said Company in the

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said Colony of New Zealand and in conformity with the provisions of the said special resolutions 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.

XXIV. Nothing in this Act contained shall be deemed to affect Saving rights. 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.

XXV. And whereas it is deemed expedient and necessary that the names residences and descriptions of all the members of the said Company should be recorded for public information Be it enacted that the Manager for the time being shall in the month of June One Thousand Eight Hundred and Sixty-five and thereafter in the month of June in each succeeding year cause a true list of all the then existing members of the said Company with their respective places of abode and descriptions (as far as the same may be known to him) verified by a declaration in the form or to the effect of the form set forth in the Schedule to this Act annexed to be taken and subscribed by such manager as aforesaid before a Judge of the Supreme Court of New Zealand or any Justice of the Peace and which declaration such Judge and Justice of the Peace are hereby respectively empowered and required to administer to be recorded in the said 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 any such manager shall fail to cause such list to be recorded in manner aforesaid he shall be liable to a penalty of one hundred pounds to be recovered by action of debt in the Supreme Court by any person or persons who shall sue for the same. List of members to be verified and recorded.

XXVI. Any person whose name shall be so recorded shall be considered a member of the said Company and be liable to be sued as such until a new list of members' names shall be recorded as aforesaid or until he shall have given notice of his retirement in the *New Zealand Gazette* Provided always that such notice of retirement or omission in such list shall not absolve such persons from any previous liability. Liability of Members to be sued as such—when to cease—members of the Company to be competent witnesses.

XXVII. A copy of the memorandum of association and special resolutions attested by the manager for the time being to be a true transcript of the original memorandum of association and special resolutions of the said Company shall be recorded in the Supreme Court in each division of New Zealand in the month of June 1865 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 so to record such attested copy as aforesaid he shall be liable to a penalty of one hundred pounds to be recovered by action of debt in the Supreme Court by any person or persons who shall sue for the same. Copy of Deed attested by Manager to be recorded.

SCHEDULE.

Schedule.

I of in
Manager of "The Commercial Bank of New Zealand (Limited)" do hereby declare that the foregoing [or "subscribed" or "annexed" as the case may be] list of names is a true list of all the now existing members of the said Company.

Taken and subscribed this day of A.D. 186)
before me [insert the names and additions of the } Insert the name of the
functionary before whom the declaration is taken and } declarant.
signed].