



ANNO QUARTO

## VICTORIÆ REGINÆ,

No. 23.

*By His Excellency SIR JOHN FRANKLIN, Knight Commander of the Royal Hanoverian Guelphic Order, Knight of the Greek Order of the Redeemer, and a Captain in Her Majesty's Royal Navy, Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies, with the advice of the Legislative Council.*

***AN ACT to simplify Proceedings at Law or in Equity by or against the Directors and Company of "The Colonial Bank."***

**W**HEREAS a Banking Company under the style and firm of the Directors and Company of "The Colonial Bank" is established in this Island and it is expedient to simplify Proceedings at Law or in Equity commenced by or against the said Company—

PREAMBLE.

**BE IT THEREFORE ENACTED** by His Excellency SIR JOHN FRANKLIN Knight Commander of the Royal Hanoverian Guelphic Order Knight of the Greek Order of the Redeemer and a Captain in Her Majesty's Royal Navy Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies with the advice of the Legislative Council that after the passing of this Act every Action Suit and Proceeding at Law or in Equity to be commenced by or on behalf of the said Company against any person or persons (whether a member or members of such Company or otherwise) for recovering any debt due to or enforcing any claim or demands of the said Company or relating to any matter connected with the concerns of the said Company shall be commenced and prosecuted in the name of the Managing Director for the time being of the said Company as the nominal Plaintiff Complainant or Petitioner on behalf of the said Company and that every Action Suit or Proceeding at Law or in Equity to be commenced against the said Company by any person or persons (whether a member or members of such Company or otherwise) may be commenced and prosecuted against the Managing Director for the

Actions &c. to be in the name of the Managing Director.

How property &c.  
to be laid in Infor-  
mations &c.

Proceedings not  
to abate by death  
of the Managing  
Director.

No second Action  
to be brought if  
the merits were  
tried in the first.

Memorial of the  
name of Manager  
and other Di-  
rectors to be  
delivered to the  
Registrar.

time being of the said Company as the nominal defendant on behalf of the said Company and that in all Informations and Prosecutions to be prepared filed and carried on by or on behalf of the said Company against any person or persons whomsoever notwithstanding such person or persons may happen to be a member or members of the said Company it shall be lawful and sufficient to state the money 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 Managing Director for the time being of the said Company and that any forgery fraud crime or other offence committed against or with intent to injure or defraud the said Company shall and lawfully may in such Informations and Prosecutions notwithstanding as aforesaid be laid or stated to have been committed against or with intent to injure or defraud the Managing Director for the time being of the said Company and any Offender or Offenders may thereupon be lawfully convicted for any such forgery fraud crime or offence and that in all other Allegations Informations or other proceedings of any kind whatsoever wherein but for the passing of this Act it would have been necessary to mention the names of the members composing the said Company it shall be sufficient to mention the name of the Managing Director for the time being of the said Company and that neither the death resignation removal or suspension of the Managing Director for the time being shall abate or prejudice any such Action Suit or Proceeding but the same may be continued in the name of the next or any succeeding Managing Director for the time being of the said Company—PROVIDED ALWAYS that no second Suit or Action shall be at any time commenced by or against any Managing Director of the said Company for the same cause of action where the merits shall have been tried and decided in the first Suit or Action.

II. AND BE IT ENACTED that within Twenty-one days after the publication of this Act and in the month of January in every year and from time to time upon or within Twenty-one days next after the death resignation removal or suspension of any Managing Director or Directors or the appointment of any new Director a Memorial in writing shall be delivered to the Registrar of the Supreme Court of Van Diemen's Land wherein shall be set forth in words at length the style and firm of the said Company and the Christian and Surnames of the Managing Director and every Director and member of the said Company for the time being in the form as near as may be of the Schedule to this Act annexed and that every such Memorial shall be signed by the Cashier of the said Company and two of the Directors therein named and verified upon the oath of the said Cashier (made before the said Registrar) that the same contains a true account of the several particulars therein set forth to the best of the knowledge and belief of the deponent and upon delivery of such Memorial so verified as aforesaid the said Registrar shall immediately indorse on such Memorial a memorandum of the day when the same was so delivered and shall affix to such memorandum his signature which indorsement upon proof of the Registrar's hand-writing shall be conclusive evidence of the time of such delivery and every such Memorial so verified shall

be safely preserved by the said Registrar and shall thereafter in all cases be conclusive evidence of the truth of the several matters therein set forth until a subsequent Memorial verified as aforesaid shall be delivered in which his name be omitted—PROVIDED ALWAYS AND BE IT ENACTED that until such Memorial so verified shall be so delivered as aforesaid whenever the same is so required by this Act to be made no Action Suit or other proceeding at Law or in Equity shall be commenced or if commenced shall be continued for or on behalf of the said Company under the provisions of this Act.

No Proceedings under this Act until Memorial so delivered.

III. AND BE IT ENACTED that every judgment decree or order in any Action Suit or Proceeding at Law or in Equity against any such Managing Director shall have the same effect and operation upon the Joint Stock and Property of the said Company and the persons and separate property of every Director and member of the said Company as if every such Director and member had been party to such Action Suit or Proceeding—PROVIDED ALWAYS that every such Managing Director or Member shall be reimbursed all such damages costs and charges as by any such event of such Action Suit or Proceeding he shall sustain or be made liable to out of the Joint Stock and Funds of the said Company or in failure thereof out of the separate funds and property of the other members of the said Company in due proportion as in an ordinary case of co-partnership.

Judgments &c. against the Managing Director to have the same effect as if against the Company or members.

Managing Directors and members to be reimbursed &c.

IV. AND BE IT ENACTED that this Act and the powers and provisions herein contained shall at all times extend to the said Company and every person who shall be a member thereof for the time being at whatever time he may have become a member of the said Company and whether originally a member thereof or not.

Act to extend to all future members of the Company.

V. AND BE IT ENACTED that the Managing Director shall not by being the plaintiff complainant petitioner or defendant in any such Action Suit or Proceeding be prevented from being a witness in such Action Suit or Proceeding in the same manner as he might have been if his name had not been so made use of in the same Action Suit or Proceeding.

Use of the Managing Director's name not to prevent him from giving evidence.

VI. AND BE IT ENACTED that if any such Cashier shall knowingly depose to any statement or thing by this Act required to be contained in any such Memorial otherwise than according to the truth he shall be deemed guilty of Perjury and shall for such offence be liable to the pains and penalties to which persons are liable for wilful and corrupt Perjury.

Cashier swearing falsely.

VII. AND BE IT ENACTED that this Act shall be and be deemed and taken to be a public Act and shall be judicially taken notice of as such in all cases without being specially pleaded.

Act to be a public Act.

JOHN FRANKLIN.

Passed the Legislative Council this fifth day of October, one thousand eight hundred and forty,

RONALD C. GUNN, *Clerk of the Council.*

## SCHEDULE.

A MEMORIAL of the Names Additions and Places of Abode respectively of the Person and Persons who upon this day of 184 are respectively Managing Director Directors and Members of the Company carrying on business under the style and firm of "The Colonial Bank."

NAMES.	NAMES.
A. B. Managing Director.	I. J. Director.
C. D. Director.	K. L. ditto
E. F. ditto	M. N. Member.
G. H. ditto	O. P. ditto

A. B. Cashier.

C. D. }  
E. F. } Directors.

A.B. of Cashier of "The Colonial Bank" maketh oath and saith that the above-written Memorial contains a true and just account of the several particulars therein set forth to the best of this deponent's knowledge and belief.

Sworn, &c.

A. B.