

No. LVI.

An Act to enable any Joint Stock Company to sue any of its own Members and to enable any Member of any such Joint Stock Company to sue any such Company and for other purposes. [17th June, 1848.]

COMPANIES AND
THEIR MEMBERS
MUTUAL RIGHT TO
SUE.

WHIEREAS Acts have been passed by the Governor and Legislative Council of the Colony of New South Wales to enable the proprietors of joint stock banking and other companies carrying on business in the said Colony to sue and be sued in the name of the President Chairman Manager Managing Director Inspector Local Director Treasurer Secretary Clerk or other officer in such Acts respectively named or appointed for that purpose And whereas it is expedient to extend the provisions of the said Acts Be it enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That any person now being or having been or who may hereafter be a member shareholder or proprietor of shares in any joint stock company now established and carrying on business or which may hereafter be established and carry on business in the said Colony may at any time hereafter in respect of any claim or demand which such person may have either solely or jointly with any other person against such company or the funds or property thereof commence or prosecute either solely or jointly with any other person (as the case may require) any action suit or other proceeding at Law or in Equity or in Insolvency against the officer appointed or to be appointed under the provisions of the Act which enables such company to sue and be sued in the name of an officer of the said company and that such officer may in his own name commence and prosecute any suit or other action proceeding at Law or in Equity or in Insolvency in the Supreme Court of New South Wales in any of its jurisdictions or in any other Court of the said Colony against any person being or having been a member of such company either alone or jointly with any other person against whom such company has or may have any demand whatsoever and that every person being or having been a member shareholder or proprietor of shares in such company shall either solely or jointly with any other person (as the case may require) be capable of proceeding against such company in the name of the appointed officer thereof and be liable to be proceeded against by or for the benefit of the said company by such officer as aforesaid by such proceedings and with the same legal consequences as if such person had not been a member shareholder or proprietor of the

Preamble.

A member of any company having a claim against the same may sue the officer of the said company appointed to sue and be sued on its behalf

and such officer of any company may sue any member thereof against whom such company may have a claim.

Companies and their Members mutual right to sue.

the said company and that no action or suit shall in anywise be affected or defeated by reason of the plaintiffs or defendants or any of them respectively or any other person in whom any interest may be averred or who may be in anywise interested or concerned in any such action being or having been a member shareholder or proprietor of such company and that all such actions suits and proceedings shall be conducted and have effect as if the same had been between strangers.

Claims or demands against a company on account of shares shall not be set off against claims on account of other matters which such company may have against any of its members.

2. And be it enacted That no claim or demand which any member shareholder or proprietor of shares in such company may have in respect of his share of the capital or joint stock thereof or of any dividends interest profits or bonus payable or apportionable in respect of such share shall be capable of being set off either at Law or in Equity or in Insolvency against any demand which such company may have against such member shareholder or proprietor on account of any other matter or thing whatsoever but all proceedings in respect of such other matter or thing may be carried on as if no claim or demand existed in respect of such capital or joint stock or of any dividends interests profits or bonus payable or apportionable in respect thereof.

A member of any company or corporation stealing or embezzling any of its property may be prosecuted in the name of the officer appointed to sue and be sued on its behalf.

3. And be it enacted That if any person or persons being a member or members of any such company or of any corporation shall steal or embezzle any money goods effects bills notes securities or other property of or belonging to such company or corporation or shall commit any larceny embezzlement fraud forgery crime or offence against or with intent to injure or defraud such company or corporation such member or members shall be liable to indictment information prosecution or other necessary proceedings for any stealing embezzlement fraud forgery crime or offence and in all such indictments informations prosecutions or other proceedings it shall be lawful to state the money and goods effects bills notes securities or other property of such company or corporation to be the money goods effects bills notes securities or other property of the officer of such company appointed to sue and be sued on its behalf or in the name of such corporation as the case may be and any such person or persons may thereupon be lawfully convicted as if such person or persons had not been or was or were not a member or members shareholder or shareholders proprietor or proprietors of any such company or corporation any law usage or custom to the contrary notwithstanding.

Merits of any demand by or against any company determined in an action may be pleaded in bar of any other action for the same demand.

4. And be it enacted That in case the merits of any demand by or against any such company shall have been determined in any action or suit by or against the officer of the said company appointed as aforesaid the proceedings in such action or suit may be pleaded in bar of any other action or suit by or against the said officer for the same demand.

All provisions of Acts enabling companies to sue and be sued in the name of an officer thereof to be applicable to suits under this Act.

5. And be it enacted That all the provisions of any Act enabling any such company as aforesaid to sue and be sued in the name of an officer thereof relative to actions suits and proceedings commenced or prosecuted under the authority thereof shall be applicable to actions suits and proceedings to be commenced or prosecuted under the authority of this Act.

Chairmen and officers of companies and shareholders competent witnesses.

6. Provided always and be it enacted That in all actions suits petitions or other proceedings in the Supreme Court of New South Wales in any of its jurisdictions or in any other Court of the said Colony in which such officer shall be on behalf of any such company and under and by virtue of the said Acts and of this Act or either of them plaintiff or complainant petitioner or defendant it shall and may be lawful for any President Chairman Manager Managing Director Inspector Local Director Director Auditor Treasurer Secretary Clerk or any other officer engaged in the executive duties of such company

or

Barristers' Admission.

or for any member shareholder or proprietor of such company to give evidence in such action suit petition or other proceeding notwithstanding the name of any such officer shall be used as plaintiff complainant petitioner or defendant and notwithstanding that any such President Chairman Manager Managing Director Inspector Local Director Director Auditor Treasurer Secretary Clerk or other officer member proprietor or shareholder as aforesaid shall or may be interested in the result of such action suit petition or other proceeding as a shareholder or copartner of any such company.

7. And be it enacted That every memorial of the name of the President Chairman Manager Managing Director Inspector Local Director Treasurer Secretary Clerk or other officer required by any of the Acts hereinbefore mentioned or referred to to be recorded or registered in the Supreme Court of New South Wales shall from and after the passing of this Act be recorded or registered in the office of the Registrar General of the Colony of New South Wales and that such memorial so registered in pursuance of the provisions of any of the said Acts or of this Act upon proof made that such memorial has been signed with the handwriting of the person or persons whose signatures appear thereto shall in all proceedings civil or criminal and in all cases whatever be received in evidence as proof of the appointment and authority of such President Chairman Manager Managing Director Inspector Local Director Treasurer Secretary Clerk or other officer in such memorial named and that in any action to be brought by any such President Chairman Manager Managing Director Inspector Local Director Treasurer Secretary Clerk or other officer by virtue of the Acts hereinbefore mentioned or referred to the plaintiff therein shall not be nonsuited nor shall a verdict be given against the plaintiff for want of proof of the record or registration of such memorial or memorials as hereinbefore is mentioned but in case the defendant in any such action shall make it appear on such trial that no such memorial or memorials hath or have been recorded then a nonsuit shall be entered in such action.

Memorials to be recorded in the office of the Registrar General instead of in the office of the Registrar of the Supreme Court.

Effect of such registration.