

# New Zealand.

ANNO VICESIMO OCTAVO

## VICTORIÆ REGINÆ.

[*Local and Personal.*]

### No. 3.

#### ANALYSIS.

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|--|--|
| Title.   | 13. Amount to which general liabilities to be limited. Certain liabilities not taken into account. |
| Preamble.  | 14. Assayed and non-assayed gold deemed bullion.   |
| 1. Short Title.  | 15. What deemed public securities.   |
| 2. Company incorporated and empowered to sue &c.                 | 16. Discounts &c. to directors or officers.  |
| 3. Bye Laws.   | 17. Dividends out of profits only.   |
| 4. Business of the Bank. Powers restricted.                      | 18. Abstract to be published.  |
| 5. Bank notes may be issued and circulated.                      | 19. Actions for Calls.   |
| 6. Bank notes how dated and payable. Limit.                      | 20. Transactions before passing of the Act.  |
| 7. Branch Banks' liability.                                      | 21. Limit to Liabilities.  |
| 8. Increase of capital.  | 22. Officers of Bank although proprietors may be proceeded against criminally.                     |
| 9. Capital and Shares to be personalty.                          | 23. Corporate Seal.  |
| 10. Corporation not bound to notice Trusts affecting any shares. | 24. Saving rights.   |
| 11. Landed property for Bank purposes.                           |  |
| 12. Lands may be sold &c. to the Company.                        |  |

## **AN ACT to incorporate the proprietors of a certain Banking Company called "The Bank of Auckland" and for other purposes.** Title. **[13th December 1864.]**

**WHEREAS** a Joint Stock Banking Company called the "Bank of Auckland" has been lately established in the Colony of New Zealand under and subject to rules regulations and provisions contained in a certain Deed of Settlement bearing date the tenth day of June in the year of our Lord one thousand eight hundred and sixty-four purporting to be a Deed of Settlement of the said Company And whereas by the said 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 Auckland" for the purpose of carrying on the business of Bankers as in the said deed of settlement is more fully set forth And whereas by the said Deed of Settlement provision has been made for the due management of the affairs of the said Company by a board of Directors of the said Company 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 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. Preamble.

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

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*Bank of Auckland.*

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Short Title.

I. The Short Title of this Act shall be "The Bank of Auckland 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 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 Auckland" 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 Company and to designate the said Company or co-partnership 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 Company 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 Company.

Bye laws.

III. The several laws rules regulations clauses and agreements contained in the said 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 bye laws for the time being of the said Company save and except in so far as any of them are or shall or may be altered varied or repealed by 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 Deed of Settlement but no rule provision or bye laws shall on any account or pretence whatsoever be made by the said Company either under or by virtue of the said 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.

Business of the Bank.

IV. It shall be lawful for the said Company subject to all the restrictions and provisions herein contained to carry on the business of a bank of issue discount and deposit in the Colony of New Zealand 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 be lawful for the said Company to deal in money bullion specie precious metals 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 establishments carrying on banking in all its branches to do or transact including therein the dealing in money bullion or specie precious metals or in notes or bills and to establish agencies or connexions in relation to the said business in any part of the world and to give letters of credit on agents and banking connexions abroad but it shall not be lawful for the said Company to hold shares in its own stock nor advance or lend to any shareholders or proprietor of shares in the said Company any sum or sums of money on the security of his

Powers restricted.

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*Bank of Auckland.*

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share or shares nor invest lay out employ advance or embark any part of the capital or funds of the said Company 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 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 fulfilments of any covenant 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 Company from taking as collateral security for any advances of money made by the said Company or any money due to the said Company 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 merchandize 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 Company to make issue and circulate at or 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 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 to re-issue any such notes or bills when and so often as the Company 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 Company 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 Company 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 Company at Auckland 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 Company 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 Company within the Colony.

Bank notes how dated and payable.

Limit.

VII. No Branch Bank or Establishment of the said Company other than and except the principal Banking Establishment in Auckland aforesaid shall be liable to be called upon to pay any Notes or Bills of the said Company other than and except such as have been originally 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.

Branch Banks' liability.

*Bank of Auckland.*

Increase of Capital.

VIII. It shall be lawful for the said Company 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 said Deed of Settlement.

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 Company 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 Deed of Settlement.

Company not bound to notice Trusts affecting shares.

X. The Company 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 trust or equitable interest or demands but the receipt of the person in whose name the share shall stand in the books of the Company shall notwithstanding such trust or equitable interest or demands and notice thereof to the said Company be a good valid and conclusive discharge to the Company for or in respect of any dividend or other money payable by the said Company in respect of such shares and a transfer of the said shares by the person in whose name such shares shall so stand notwithstanding as aforesaid be binding and conclusive so far as may concern the said Company 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 Company 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 Company 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 or power of any Court to restrain the payment of any such dividend or other money payable thereafter by the Company 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 Company 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 Company 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 Company and to sell dispose of convey assign and assure such houses offices buildings land and hereditaments as occasion may require.

Lands may be sold &amp;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 Company and their successors for the purposes aforesaid or any of them any such houses offices lands and hereditaments whatsoever as aforesaid accordingly.

Amount to which general liabilities to be limited.

XIII. The total amount of the debts engagements and liabilities of the said Company 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 Company upon any Banker or Banking Company Branch

*Bank of Auckland.*

Bank or Agency of the said Company 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 Branch Bank or Agency of the said Company 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 Company within the Colony.

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 Company 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 Company 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 hereafter be 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 Company on securities bearing the name of any director or officer thereof as maker drawer acceptor or indorser shall not at any time exceed in amount one-tenth of the total advances and discounts of the said Company.

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 Company or otherwise than out of the net 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 Company 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 to be brought by the said Company against any proprietor of any shares in the capital of the said Company to recover any sum of money due and payable to the said Company for or by reason of any call made by virtue of this Act or of the said Deed of Settlement it shall be sufficient for the said Company to declare and allege that the defendant being a proprietor of so many shares in the capital of the said Company is indebted to the said Company 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 has accrued to the said Company without setting forth any special matter and on the trial of such action 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 Company and that such call was in fact made and that such notice thereof was given as is directed by the

Actions for Calls.

*Bank of Auckland.*

said Deed of Settlement and the said Company shall thereupon be entitled to recover what shall appear due.

Transactions before  
passing of the 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 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 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 for the Company or otherwise on its behalf or for its benefit shall be performed by or to the said Company and the said Company 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 Company after passing of this Act.

Limit to liabilities.

XXI. In the event of the assets of the said Company 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 Accountant or other Officer Clerk or Servant of the said Company shall notwithstanding such Manager Accountant or other Officer Clerk or Servant of such Company shall or may be a proprietor and have a joint interest in the property of the said Company be liable to be proceeded against criminally for any offence committed by such Manager Accountant or other Officer Clerk or Servant of such Company in respect of the property of the said Company in like manner and in all respects as if such Manager 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 Company shall have the custody of the common seal of the said Company and the form thereof and all other matters relating thereto shall from time to time be determined by the Board of Directors of the said Company in the same manner as is provided in and by the said Deed of Settlement 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 Company shall have power to use the common seal of the said Company for the affairs and concerns of the said Company and under such seal to authorize and empower any person without such seal to execute any deeds 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 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 or proceeding.

Saving rights.

XXIV. 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.