

UNION BANK ACT 1845

ACT No XXIII OF 1845

(Rep., Act 8 of 1868)

[22<sup>nd</sup> November, 1845.]

*Passed by the Hon'ble the President of the Council of India in Council on the 22d November, 1845, with the assent of the Right Hon'ble the Governor General of India.*

AN Act to enable “The Union Bank of Calcutta” to sue and to be used in the name of the Secretary or of the Treasurer of the said Company.

Whereas by and under a certain Deed of Partnership or Association or an Agreement in writing of that nature bearing date the First day of August 1839, several persons have formed themselves into a certain Company or Co-partnership by the name of “The Union Bank of Calcutta,” by which said Deed or Agreement it was and is provided (amongst other things) that the business of the said Company should consist in issuing Promissory Notes payable to bearer on demand at their Office in Calcutta for any sum of not less than Eight Company’s Rupees, and not exceeding One Thousands Company’s Rupees, and Bills of Exchange payable at such time after date or sight as the Directors for the time being should fix to parties who should require the same and deposit the amount of such Bills in the said Bank, which deposit should bear interest at such rate as the Directors should fix, and also in discounting Bills and Promissory Notes not having a longer period to run than four months from the time of discounting the same respectively, and also in lending money on the Security of personal property for any period not exceeding four months, or in case accounts to persons depositing undoubted Security, such accounts to be settled at the end of every three months and in all other branches of business usually transacted by Bankers in Calcutta, and by which said Deed or Agreement it was and is further provided, that the Capital Stock and Fund of the said Company should amount to the sum of 10,00,000 Company’s Rupees, with certain provisos for increasing the same when and if it should be deemed expedient. And whereas difficulties have arisen and may hereafter arise in recovering debts and monies due to the said Company called “The Union Bank of Calcutta,” and in maintaining actions for damages done to the same Company, or to the property of the said Union Bank since by law all the Members for the time being of the said Company must be named in every action or suit carried on for such purpose. And whereas it would be convenient that persons having demands against the said Company should be entitled to sue one of the two Officer hereafter mentioned or described in that behalf; therefore for obviating and removing the difficulties aforesaid—It is hereby enacted, that from and after the passing of this Act, all actions, suits and other proceedings whatsoever, at Law or in Equity, for any injury or wrong done to any real or personal property of the said Union Bank, in whomsoever the same may for the time being be vested whether in the said Company, or in some person or persons in trust for the said Company, or upon or in respect of any present liability or liabilities to the said Union Bank, or to any person or persons in trust for the said Union Bank, or upon any Bonds Covenants, Contracts or Agreements which already have been or hereafter shall be given or entered into with the said Company, or to or with any person or persons whomsoever

in trust for the said Union Bank, or wherein the said Union Bank is or shall be interested, and also all instruments and petitions to found any adjudication of Insolvency in any Court for the Relief of Insolvent Debtors against any person or persons indebted to the said Union Bank, and liable to have been made insolvent by the Laws or at any time hereafter in force relating to insolvents in the East India and generally all other proceedings whatsoever at Law or in Equity to be commenced, instituted or carried on by or on behalf of the said Union Bank, or wherein the said Union Bank is or shall be concerned or interested against any person or persons body or bodies, politic or corporate, or others, whether such person or persons, body or bodies, politic or corporate, is or are or shall then be a Member or Member, Proprietor or Proprietors of, or in the said Union Bank, or not, shall and lawful may be commenced, instituted, presented and prosecuted or carried on in the name of the person who shall be the Secretary, or of the person who shall be the Treasurer of the Union Bank at the time such action, suit or proceeding shall be commenced or instituted as the nominal plaintiff or petitioner for or on behalf of the said Union Bank, and all actions, suits and proceeding at Law or in Equity as well for subsisting as future accruing claims, debts or demands to be commenced or instituted against the said Union Bank by any person or persons, body or bodies, politic or corporate, whether such person or person, body or bodies, politic or corporate, is or are, or shall then be a Member or Members, Proprietor or Proprietors of, or in the said Union Bank or not, shall be commenced, instituted and prosecuted against the said Secretary for the time being of the said Union, Bank or of the said Treasurer for the time being of the said Union Bank, as the nominal defendant, respondent or defender for and on behalf of the said Union Bank, and death, removal, resignation or any other act of such Secretary or Treasurer, or the Bankruptcy or Insolvency of such Secretary or Treasurer shall not abate or prejudice any action, suit or other proceeding at Law or in Equity commenced under this Act, but the same may be continued, prosecuted and carried on or defended in the name of any other the Secretary or Treasurer for the time being of the said Company.

II. And it is hereby enacted, that from and after the passing of this Act in all indictments, information and other criminal proceedings brought, instituted or carried on by, or on the behalf of the said Union Bank for fraud or injury upon or against the said Union Bank, or for any delonies, taking, stealing or embezzlement, damaging or destroying, or for any offence whatever relating to any Money, Notes, Bills, Effects, Securities, or any real or personal property of the said Union Bank, or for any other offence against the said Union bank, I shall be lawful to state such Money, Notes, Bills, Effects and Securities, and other real and personal property in whomsoever the same may be vested whether in the said Union Bank, or in some person or persons in trust for the said Union Bank, to be the Money, Notes, Bills, Effects and Securities, or property of the said Union Bank, or of such Secretary or Treasurer for the time being of the said Union Bank ; and any offence committed with intent to injure or defraud the said Union Bank, shall and lawfully may in such prosecution be laid to have been committed with intent to injure or defraud the said Union Bank, or such Secretary or Treasurer for the time being of the said Union Bank, and any offender or offenders may hereupon be lawfully convicted of any such offence, and in all other allegations or indictments, informations, or other proceedings in which before the passing of this Act, it would have been necessary to state the names of the persons composing the said Union Bank, it shall be lawful and sufficient to state the name of such Secretary or Treasurer, and the death, resignation

or removal of such Secretary or Treasurer, shall not abate or render defective or in any wise affect or prejudice such indictments, informations or other criminal proceedings.

III. And it is hereby further enacted, that no action which may be commenced against the said Union bank, or the Secretary or Treasure for the time being of the said Union Bank, upon or arising out of any contract entered into by or on behalf of the said Union Bank, shall be in any wise affected or defeated or defeated by, or by reason of the plaintiff or plaintiffs therein, or any person or persons who may be in any wise interested or concerned in such action being a Member or Members of, or a Shareholder or Shareholders, or a Partner or Partners, in the said Union Bank, but any Member or Members, or Shareholder or Shareholders of, or Partner or Partners in the said Union Bank shall and may have the same right of action and remedy to be proceeded in and enforced in the same manner against the said Union Bank, or the Secretary or Treasurer for the time being thereof, upon any contract, and for any debt, damage or demand whatsoever which he or they might have had if he or they had been a stranger or strangers, and not a Member or Members, Shareholder or Shareholders, Partner or Partners of, or in the said Union Bank.

IV. And it is hereby further enacted, that no action commenced by or on behalf of the said Union Bank in the name of the Secretary or Treasurer for the time being thereof, by virtue of this Act upon, or arising out of any contract, whatsoever entered into by or on behalf of the said Union Bank, or for the recovery of any debt or demand whatsoever due or owing to the said Union Bank, or for any other cause or any other account shall be in any wise affected or defeated by or by reason of the defendant or defendants therein, or any person or persons who may be in any wise interested or concerned in such action being a Member or Members, Shareholder or Shareholders, or Partner or Partners of or in the said Union Bank, but the said Union Bank shall and may have the same right of action and remedy to be proceeded in and enforced in the same manner against any Member or Members, Shareholder or Shareholders thereof either alone or jointly with any other person or persons upon any contract, and upon and for any debt, damage or demand whatsoever which the said Union Bank might have had if such cause of action had arisen with a stranger or strangers, and not with a Member or Members, Shareholder or Shareholders, or Partner or Partners of or in the said Union Bank.

V. And it is hereby further enacted, that the Directors of the said Union Bank shall cause a Memorial in the form and to the effect expressed in the Schedule to this Act, or as near thereto as the circumstances of the case will admit of the name, residences and descriptions of the Directors, Secretary and Treasurer and of the several person being Member and Proprietors of the said Union Bank, to be verified by a declaration in writing to be made before the Master in Equity of Here Majesty's Supreme Court of Judicature at Fort William in Bengal, by the Secretary or some one of the said Directors for the time being, and the same shall be enrolled amongst the records of the said Supreme Court within 12 Calendar months next after the passing of the Act ; and whenever any new Director or Directors, or Secretary or Treasurer shall be elected a like Memorial shall be verified and enrolled as aforesaid specifying in whose place or places he or they shall be appointed within 12 Calendar months after such appointment, and whenever any person or persons shall cease or discontinue to be a Proprietor or Proprietors of the said Union Bank a Memorial of his,

her or their names shall be in like manner verified within 12 Calendar months after such person or persons shall have so ceased or discontinued to be such Proprietor or Proprietors in the Fort expressed in the said Schedule for the purpose ; and when any new Proprietor or Proprietors shall be admitted into the said Union Bank a Memorial of his, her or their names shall be in like manner verified and enrolled among the records of the said Supreme Court of Judicature within 12 Calendar months afterwards according to the Form in the said Schedule. Provided always that if any declaration so made shall be false or untrue in any material particular the person willfully making such false declaration shall be guilty of a misdemeanor.

VI. And it is hereby further enacted, that until such Memorial as first hereinbefore mentioned shall have been deposited and enrolled as hereinbefore directed no action or suit shall be brought by the said Union Bank under the authority of this Act, and until the Memorial by this Act required to be deposited and enrolled in the event of any person or persons ceasing or discontinuing to be a Director or Secretary or Treasurer or Member of the said Union Bank, shall have been deposited and enrolled as hereinbefore mentioned, the person or persons whose name shall appear in the last Memorial which shall have been made and enrolled shall be and are hereby declared to be liable to all such actions, suits and executions upon judgment or decree and other proceedings under this Act in the same manner as if he, she, or they had not ceased or discontinued to be a Director, Secretary, or Treasurer, or Proprietor of the said Union Bank.

VII. And it is hereby further enacted, that and examined copy of every Memorial to be deposited and enrolled pursuant to this Act, Certified to be a true copy by and under the hand and signature of the Keeper of Records and Muniments for the time being of the said Supreme Court of Judicature shall be received in evidence as proof of the contents of such Memorial, and proof shall not be required that the person by whom the Memorial purports to be verified was, at time of such verification, one of the Directors of the said Union Bank.

VIII. And it is hereby further enacted, that all and every judgment and judgments, decree and decrees, order and orders, made or pronounced in any action, suit or proceedings in any Court of Law or Equity within the limits of the Territories of the East India Company against the Secretary or Treasurer for the time being of the said Union Bank shall subject to the express provisions of this Act have the like effect and operation upon and against the property and funds of the said Union Bank as if such judgment, decree or order had been made or pronounced against all the Members of the said Union Bank, and as if all the Members of the said Union Bank had been parties before the Court to such actions, suit and proceedings, and as if this Act had not passed.

IX. Provided always and it is hereby further enacted, that in case execution upon any judgment or decree in any such action or suit obtained against the Secretary or Treasurer of the said Union Bank as defendant or respondent or otherwise shall have been issued and taken out against the funds and property of the said Union Bank under the Provisions of this Act, and shall be ineffectual for obtaining full payment and satisfaction for the sum or sum sought to be recovered, then and in such case execution upon any such judgment or decree shall be issued against any other Individual, Proprietor or Proprietors of the said Union Bank successively as it may become necessary to enforce payment and satisfaction of the said Judgment or judgments. Provided also that every such

Secretary or Treasurer in whose name any such action or suit shall be commenced, prosecuted or defended, and every Director or Member against whom execution upon any judgment or decree obtained in any such action or suit shall be issued as aforesaid, or as hereinafter mentioned shall always be reimbursed and paid out of the funds or property of the said Union Bank, all such loss, damages, costs and charges as by the event of any such proceedings he or they shall be put unto or become chargeable with, and if the funds or property of the said Union Bank shall be insufficient to pay the said loss, damages, costs or charges then the deficiency shall be made good by the Proprietors for the time being of the said Union Bank. Provided also, that if any such execution against the Secretary or Treasurer or Member or Members for the time being of the said Union Bank shall be ineffectual for obtaining payment of the sum or sums sought to be recovered thereby, it shall be lawful for the party or parties so having obtained judgment or decree against the Secretary or Treasurer for the time being of the said Union Bank to issue execution against any other person or persons who was or were a Member or Members thereof at the time the Contract or Contracts Was or were entered into upon which such action or suit was or were institution, but no such execution shall be issued against any other person than the actual party to the action or suit without leave first granted in open Court by the Court by the Court in which such action or suit may have been brought or instituted, and when motion shall be made or notice to the person or persons sought to be charged. Provided also, that nothing herein contained shall render such past Members or Proprietors liable for payment of any debt or claim for which such action, suit or proceedings may have been brought to which they would not have been liable by operation of law as Partners in case any action or other proceeding had been originally brought against them for the same.

X. And whereas it is expedient that every Member of the said Union Bank against whom any execution shall be issued upon any judgment or decree under the authority of this Act should have an easy and expeditious mode of recovering all such losses, damages, costs and charges as he or she shall be put to or become chargeable with in consequence thereof. It is therefore hereby enacted, that if any execution upon any judgment or decree obtained in any action, suit or proceeding under this Act shall be issued against any other Proprietor or Member of the said Union Bank, and such Proprietor or Member shall not within the space of one month next after the issuing thereof be reimbursed out of the funds or property of the said Union Bank, all such monies, costs, charges, losses and expenses as he or she shall have paid or been put to or become chargeable with in consequence of such execution having been issued against him or her, it shall be lawful for such Member or Proprietor to divide such monies or cost or charges, or so much thereof as he or she shall not have been reimbursed as aforesaid into as many equal parts or shares as the Capital of the said Union Bank shall at that time be divided into, and each and every Proprietor for the time being of any share or shares in the said Company shall in proportion to the number of shares which he or she may hold in the said Union Bank pay one or more of such parts or shares upon demand to the Member or Proprietor against whom such execution shall have issued, or to his or here Executors or Administrators, and upon the neglect or refusal of any Proprietor of such the said Company to pay upon demand his or her due and fair proportion of such monies, costs and charges, then and in such case it shall be lawful for the Proprietor, or such person to whom the same ought to have been paid, to sue for and recover the same in and by action, suit or plaint against the

Proprietor, or the Executors or Administrators of any Proprietors who shall no neglect or refuse as aforesaid in Her Majesty's Supreme Court of Judicature in Calcutta.

XI. And it is hereby enacted, that the Secretary or Treasurer for the time being of the said Union Bank, or any Member of the said Union Bank being the Plaintiff, appellant petitioner or prosecutor, or being the defendant or respondent in any action suit, petition, proceeding, prosecution or indictment commenced, instituted or prosecuted in the Courts, and within the limits aforesaid by or against the said Union Bank, shall not by reason thereof be deemed incompetent to be a witness in any such action, suit, petition, proceeding, prosecution or indictment ; but such Secretary or Treasurer, or Member of the said Union Bank as aforesaid shall and may if not otherwise interested or objectionable be a good and competent witness, and be admissible and be admitted as such in all the courts above mentioned, and by and before all Judges, Justices and others, within the limits aforesaid in any such action, suit, petition, proceeding, prosecution or indictment in the same manner as he or they might have been if his or their name or names had not been made use of as the plaintiff or appellant, petitioner or prosecutor, defendant or respondent in any such action, suit, petition, proceeding, prosecution or indictment or other proceeding.

XII. And it is hereby further enacted, that any individual Member or Members of the said Union Bank, or person or persons who shall have been a Member or Members of the said Union Bank, and have parted with his, her or their shares and interests therein, and who shall claim payment of any dividends of the funds or profits of the said Union Bank due and payable to him, or them, and not also disposed of and parted with along with such share or shares, or any other right or interest against the said Union Bank generally, shall and lawful may commence and carry on in any Court of Equity within the limits aforesaid any suit or other proceeding against the Secretary or Treasurer of the said Union Bank for the time being and in like manner such Secretary or Treasure for the time being may commence and carry on in his own name by and on behalf of the said Company any suit or other proceeding in any Court of Equity within the limits aforesaid against any individual Member or Members of the said Union Bank, or person or persons who shall have been a Member or Members of the said Union Bank, and have parted with his, her or their shares and interests therein against whom the said Union Bank generally may have any claim or demands, and all such suits and other proceedings shall be as valid and effectual as if all the Members of the said Union Bank had been made parties, and every decree and order made therein shall be binding for or against the said Union Bank, and no abatement shall arise from the death, resignation or removal, or any act or proceeding of any such Secretary or Treasurer pending the suit, nor shall such suit be deemed defective by reason thereof. Provided always that in case for the purpose of discovery or for any other purpose, any person or persons (whether Members of the said Union Bank or not) having claims or demands against the said Union Bank shall be desirous to include any other Member or Members of the said Union Bank, besides the Secretary or Treasurer for the time being as defendants in any Bill or other proceeding in any Court of Equity within the limits aforesaid, it shall be lawful for him, her or them so to do—any thing in this Act contained to the contrary notwithstanding.

XIII. And it is hereby further enacted, that no person or persons, body or bodies, politic or corporate, having or claiming to have any demand upon or against the said Union bank shall when the same has been so determined as to have been pleadable in bar against such person or persons, body or bodies, politic or corporate bring more than one action or suit in respect of such demand, and the proceedings in any action or actions, suit or suits which may have been brought against the Secretary or Treasurer for the time being of the said Union Bank under the authority of this Act if so determined, may be pleaded in bar of any action or action, suit or suits in any of the Courts aforesaid for the same cause against any other Secretary or Treasurer, or against any Member of the said Union Bank, and that in case of any demand which the said Union Bank now has or hereafter may have upon or against any person or persons, body or bodies, politic or corporate, whether a Member or Members of the said Union Bank or not, and which shall have been determined in any action or suit, commenced or prosecuted by the Secretary or Treasurer of the time being of the said Union Bank, the proceedings in such action or suit may be pleaded in bar of any other action, or suit, or actions, or suits in any of the Courts aforesaid for the same demand which may be commenced or prosecuted by the same, or any other Secretary or Treasurer of the said Union bank.

XIV. Provided always and it is hereby enacted further enacted, that nothing in this Act contained shall extend, or be construed to extend to incorporate the said Union Bank, or to relieve or discharge the said Union Bank from any responsibility, contract, duty, or obligation whatever to which by law they now are or at any time hereafter may be subject or liable, either as between the said Union Bank and other parties, or as between the said Union Bank and any of the individual Members of the said Union Bank, or any of them and others, or amongst themselves, or in any manner whatsoever.

XV. And it is hereby further enacted, that this Act and the provisions herein contained shall extend and be construed to extend to the said Company called the Union Bank at all times during the continuance thereof, whether the said Union Bank hath been or be now or shall hereafter be composed of all, or of some of the persons who were the original Members thereof, or of all or some of those persons, together with some other person or persons, or whether the said Union Bank be at the time of the passing of this Act, composed altogether of persons who were not original Members of the said Union Bank, or whether the said Union Bank shall hereafter be composed of persons who were not original Members thereof, or of persons all of whom shall become Members subsequently to the passing of the Act.

#### **The SCHEDULE REFERRED TO IN THIS ACT.**

Memorial made the

Original Memorial of Directors to Secretary and Members. day of \_\_\_\_\_ of the names of the

Present Directors, Secretary,  
Treasurer and Members of the "Union Bank of Calcutta," pursuant to an Act of the Legislative Council of India passed in the year of Christ 1845, intituled "Act to enable the Union Bank of

Calcutta to sue and to be sued in the names of the Secretary or of the Treasurer of the said Company.”

C. D. of	}	Directors.	
And			
E. F. of			Secretary.
G. H.			} Proprietors.
I. J.			
K. L., &c			

I, C. D., one of the Directors or Secretary of the Union Bank, do solemnly and sincerely declare that the above written Memorial doth contain the names of the present Directors, Secretary, Treasurer and of all the present Proprietors of the said Union Bank as the same appear in the books of the said Union Bank, and make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Act substituting declarations in lieu of Oaths and Affirmations.

(Signed) C. D.

Declared, &c. before me, Master of the Supreme Court of Judicature,

In the case of change of \_\_\_\_\_ Memorial made the \_\_\_\_\_ day of \_\_\_\_\_ of the names of the new Directors or Secretary of “That Union Bank,” and of the persons in whose places they have (or he has) been appointed pursuant to an Act passed in the year of Christ 1845, intituled, &c.

E. F. of \_\_\_\_\_ Director in the place of A. B.

G. H. of \_\_\_\_\_ Secretary in the place of C. D.

I, E. F., one of the Directors, Treasurer or Secretary of the said Union Bank, do solemnly and sincerely declare that the above written Memorial contains the names of the new Secretary of Treasurer or Directors of the said Union Bank, and of the persons in whose place they have (or he has) been appointed as the same appear in the books of the Union Bank, and I make this solemn declaration, &c. (as before.)

(Signed) E. F.

Declared, &c. &c.

N. B. The last Memorial as to new Directors or Secretary or Treasurer, was enrolled on the day of \_\_\_\_\_ 18\_\_\_\_\_

\_\_\_\_\_ Memorial made the day \_\_\_\_\_ of \_\_\_\_\_ In the case of retirement of members. the names of the person who have ceased or discontinued to be Members of the Union Bank of Calcutta, since being

day of \_\_\_\_\_ the date of the Memorial last registered respecting the  
Members of the said intituled, &c. Union Bank enrolled pursuant to an Act passed, &c.

A. B. of \_\_\_\_\_

I, E. F. of \_\_\_\_\_ one of the Directors or Secretary of the said Union Bank, do  
solemnly and sincerely declare that the above Memorial doth contain the name or names of  
the persons who have ceased or discontinued to be Members of the Union Bank since the  
day of \_\_\_\_\_ and I make this solemn declaration (as before.)

(Signed) E. F.

Declared, &c. &c.

N. B. The last Memorial as to retirement of Members was enrolled on the  
day of \_\_\_\_\_ One Thousand Eight Hundred  
and \_\_\_\_\_

\_\_\_\_\_ Memorial made the \_\_\_\_\_ day of \_\_\_\_\_  
in case of new Members. \_\_\_\_\_ of the names of the persons who have become new  
Members of "Union Bank of Calcutta" since the \_\_\_\_\_ day  
of \_\_\_\_\_ One Thousands Eight Hundred and \_\_\_\_\_

(being the date of the Memorial last registered respecting new Members of the said Union  
Bank,) enrolled pursuant to an Act, &c.

J. K. of \_\_\_\_\_

L. M. of \_\_\_\_\_

I, A. B. of \_\_\_\_\_, one of the  
Directors or Secretary of the said Union Bank, do solemnly and sincerely declare that the  
above Memorial doth contain the names of the persons who have become new Members of  
the said Union Bank since the \_\_\_\_\_ day of \_\_\_\_\_

One Thousands Eight Hundred and \_\_\_\_\_

, and I make this solemn declaration, &c. (as before)

(Signed) A. B.

Declared, &c. &c. &c.

N. B. The Last Memorial as to new Members was enrolled on the  
day of \_\_\_\_\_ One Thousands Eight Hundred and \_\_\_\_\_ Memorial  
Memorial of several changes. \_\_\_\_\_ day of \_\_\_\_\_ of the names  
\_\_\_\_\_

Of the new Directors and Secretary of the  
Union Bank of Calcutta, and of the persons in whose place they have respectively been

appointed, and of the names of the persons who have ceased or discontinued to be Members of the said Union Bank, and of the new Members of the said Union Bank enrolled pursuant to an Act passed, &c.

Names of the new Directors and of the persons in whose places they have been appointed.

E. F. of in the place of A. B. of

G. H. of in the place of C. D. of

Names of the persons who have ceased to be Members.

A. B. of

C. D. of Names

Names of New Members.

J. K. of

L. M. of

I. E. F., of One of the Directors or Secretary of the said Union Bank, do solemnly and sincerely declare that the above written Memorial doth contain the names of the new Directors and Secretary of the said Union Bank, and of the persons in whose places they have been appointed, and of the persons who have ceased to be Members of the said Union Bank, and of the new Members of the said Union Bank, as the same respectively appear in the books of the said Union Bank, and I make this Solemn Declaration, &c. (as before.)

(Signed) E. F.

Declared, &c.

N. B. The last Memorial as to new Secretary was enrolled on the

day of One Thousands Eight Hundred and

The last Memorial as to new directors was enrolled on the

day of One Thousands Eight Hundred and

The last Memorial as to the retirement of Members was enrolled on the

day of One Thousands Eight Hundred and

The last Memorial as to new Members was enrolled on the

day of One Thousands Eight Hundred and

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