ANNO PRIMO & SECUNDO

VICTORIÆ REGINÆ.

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C A P. XCVI.

An Act to amend, until the End of the next Session of Parliament, the Law relative to Legal Proceedings by certain Joint Stock Banking Companies against their own Members, and by such Members against the Companies. [14th *August* 1838.]

WHEREAS by an Act passed in the Seventh Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for the better regulating Copartnerships of certain Bankers in* England, *and for amending so much of an Act of the Thirty-ninth and Fortieth Years of the Reign of His late Majesty King* George *the Third, intituled 'An Act for establishing an 'Agreement with the Governor and Company of the Bank of* England *'for advancing the Sum of Three Millions towards the Supply of the 'Service of the Year Eighteen hundred,' as relates to the same,* it was amongst other things enacted, that it should be lawful for any Bodies Politic or Corporate erected for the Purposes of Banking, or for any Number of Persons united in Covenants or Copartnerships, although such Persons so united or carrying on Business together should consist of more than Six in Number, to carry on (subject to certain Provisions therein contained) the Trade or Business of Bankers in *England*, in like Manner as Copartnerships of Bankers consisting of not more than Six Persons in Number might lawfully do; and it was further

7 G. 4. c. 46.

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enacted,

enacted, that all Actions and Suits against any Persons who might be at any Time indebted to any such Copartnership carrying on Business under the Provisions of the said Act, and all other Proceedings at Law and in Equity to be instituted on behalf of any such Copartnership against any Persons, Bodies Politic or Corporate, or others, whether Members of such Copartnership or otherwise, for recovering any Debts or enforcing any Claims or Demands due to such Copartnership, or for any other Matter relating to the Concerns of such Copartnership, might be commenced and prosecuted in the Name of any One of the public Officers for the Time being of such Copartnership, to be nominated as therein is mentioned, as the nominal Party on behalf of such Copartnership, and that Actions or Suits, and Proceedings at Law or in Equity, to be instituted by any Persons, Bodies Politic or Corporate, or others, whether Members of such Copartnership or otherwise, against such Copartnership, should be commenced and prosecuted against any One or more of the public Officers for the Time being of such Copartnership as the nominal Defendant on behalf of such Copartnership, and that the Death, Resignation, Removal, or any Act of such public Officer should not abate or prejudice any such Action, Suit, or other Proceeding commenced against or on behalf of such Copartnership, but that the same might be continued in the Name of any other of the public Officers of such Copartnership for the Time being: And whereas an Act was passed in the Sixth Year of the Reign of His said late Majesty, intituled *An Act for the better Regulation of Copartnerships of certain Bankers in* Ireland: And whereas it is expedient that the said Acts should for a limited Time be amended so far as relates to the Powers enabling any such Copartnership, not being a Body Corporate, to sue any of its own Members, and the Powers enabling any Member of any such Copartnership, not being a Body Corporate, to sue the said Copartnership: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That any Person now being or having been or who may hereafter be or have been a Member of any Copartnership now carrying on or which may hereafter carry on the Business of Banking under the Provisions of the said recited Acts may, at any Time during the Continuance of this Act, in respect of any Demand which such Person may have, either solely or jointly with any other Person, against the said Copartnership, or the Funds or Property thereof, commence and 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 against any public Officer appointed or to be appointed under the Provisions of the said Acts to sue and be sued on the Behalf of the said Copartnership; and that any such public Officer may in his own Name commence and prosecute any Action, Suit, or other Proceeding at Law or in Equity against any Person being or having been a Member of the said Copartnership, either alone or jointly with any other Person, against whom any such Copartnership has or may have any Demand whatsoever; and that every Person being or having been a Member of any such Copartnership shall, either solely or jointly with any other Person (as the Case may require), be capable of proceeding against

6 G. 4. c. 42.

Banking Copartnerships may sue and be sued.

any such Copartnership by their public Officer, and be liable to be proceeded against, by or for the Benefit of the said Copartnership, by such public Officer as aforesaid, by such Proceedings and with the same legal Consequences as if such Person had not been a Member of the said Copartnership; 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 such Action, being or having been a Member of the said Copartnership; and that all such Actions, Suits, and Proceedings shall be conducted and have effect as if the same had been between Strangers.

Proceedings in an Action may be pleaded in Bar of any other Action.

II. And be it enacted, That in case the Merits of any Demand by or against any such Copartnership shall have been determined in any Action or Suit by or against any such public Officer, the Proceedings in such Action or Suit may be pleaded in Bar of any other Action or Suit by or against the public Officer of the same Copartnership for the same Demand.

Extending Provisions of recited Acts to present Act.

III. And be it enacted, That all the Provisions of the said recited Acts relative to Actions, Suits, and Proceedings commenced or prosecuted under the Authority thereof, shall be applicable to Actions, Suits, and Proceedings commenced or prosecuted under the Authority of this Act.

A Member's Share in Capital of Copartnership not to be set off against any Demand which such Copartnership may have against him.

IV. And be it enacted, That no Claim or Demand which any Member of any such Copartnership 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, against any Demand which such Copartnership may have against such Member 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, Interest, Profits, or Bonus payable or apportionable in respect thereof.

Continuance of Act.

V. And be it enacted, That this Act shall continue in force until the End of the next Session of Parliament; and that any such Action, Suit, or other Proceeding as aforesaid, which during the Continuance of this Act may have been commenced or instituted, shall (notwithstanding this Act may have expired) be carried on in all respects whatsoever as if this Act had continued in force.

Act may be amended this Session.

VI. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

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