

1855.

VICTORIA.

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**Report**

FROM THE

SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL,

ON THE

BANK OF NEW SOUTH WALES

**ACT AMENDMENT BILL,**

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE

AND

MINUTES OF EVIDENCE.

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Melbourne :

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1855.

EXTRACTED FROM THE MINUTES.

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TUESDAY, 17th APRIL, 1855.

BANK OF NEW SOUTH WALES ACT AMENDMENT BILL.

Mr. Chapman moved, pursuant to notice, That the Bill intituled, "*A Bill to amend an Act intituled 'An Act to amend an Act intituled An Act to incorporate a certain Banking Company called the Bank of New South Wales, and for other purposes therein mentioned,'*" be referred to a Select Committee, consisting of the Honorable the Collector of Customs, Mr. Miller, Mr. Horne, Mr. A'Beckett, and the Mover.

Question—put and passed.

## REPORT.

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THE SELECT COMMITTEE of the Legislative Council, to which was referred the Bill intituled "A Bill to Amend an Act intituled 'An Act to Amend an Act intituled An Act to Incorporate the Proprietors of a certain Banking Company, called the Bank of New South Wales, and for other purposes therein mentioned,'" have the honor to report to your Honorable Council as follows:—

1. Your Committee having examined the Manager of the Bank of New South Wales, in Melbourne, in support of the Preamble of the Bill, have agreed that the Preamble do stand part of the Bill.
2. Your Committee have proceeded through the several clauses of the Bill, and have agreed to the same without amendment.

(Signed,)

H. S. CHAPMAN,

Chairman.

Committee Room, 24th April, 1855.



## PROCEEDINGS OF THE COMMITTEE.

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THURSDAY, 19<sup>TH</sup> NOVEMBER, 1855.

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MEMBERS PRESENT:

MR. CHAPMAN

THE COLLECTOR OF CUSTOMS

MR. HORNE

MR. MILLER

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Mr. CHAPMAN was called to the Chair.

The Counsel and parties were called in.

*Mr. Bunny* appeared as Counsel for the Petitioners for the Bill, and was heard to open the case in support of the Preamble.

JOHN BADCOCK, Esq., Manager of the Bank of New South Wales, Melbourne, was called in, and examined by Mr. Bunny.

*Adjourned to to-morrow at 12 o'clock.*

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FRIDAY, 20<sup>TH</sup> APRIL, 1855.

No Quorum.

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TUESDAY, 24<sup>TH</sup> APRIL, 1855.

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MEMBERS PRESENT:

MR. CHAPMAN, in the Chair

MR. A'BECKETT

THE COLLECTOR OF CUSTOMS

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The Counsel and parties were called in.

*Mr. Bunny* was heard to sum up the Evidence in support of the Preamble.

*The Committee-Room was cleared.*

Motion made—That the Preamble do stand part of the Bill.—(MR. A'BECKETT.)

The Committee deliberated.

Question put and passed.

Counsel and parties called in, and informed that the Committee have agreed to pass the Preamble of the Bill.

Clause 1 was read and passed.

Clause 2 was read as follows :—

“ II. The said Corporation shall have power to issue and have in circulation Promissory Notes, payable on demand to the extent of the amount of its actual paid-up *capital*, and to any such further amount in excess of the said Capital as the said Corporation shall hold Coin, or Gold Bullion, assayed by some person duly authorised by the Lieutenant-Governor for the time being of the said Colony, or partly Coin, or partly Gold Bullion, assayed as aforesaid, separate and apart from the Coin and Gold Bullion used in the ordinary operations of the said Corporation : Provided however, that the power to issue such Notes in excess of the said capital, as aforesaid, shall continue to be in force until some general provision be made by the Legislature in respect of the issue of Promissory Notes payable on demand by the Banking Institutions of the said Colony, and no longer ; but nothing herein contained shall be construed to abridge in any way the privileges enjoyed by the said Corporation in respect of the issue of such Promissory Notes under the original Act of Incorporation, passed in the fourteenth year of her present Majesty's reign ”

*The Committee-Room was cleared.*

Motion made—That all the words after the word “ *Capital*,” in the second line of the above Clause, be struck out.—(*The Collector of Customs.*)

Question—That the words proposed to be struck out stand part of the Clause put.

Committee divided—

Aye 1.

Noe 1.

MR. A'BECKETT.

THE COLLECTOR OF CUSTOMS.

The votes being equal, the Chairman gave his casting vote with the Aye, and declared the question to be carried in the affirmative.

Motion made, and question put—That the Clause stand part of the Bill.—Carried.

Clauses 3 and 4 were read and passed.

The Chairman was directed to report the Bill, without amendment, to the Council.

# MINUTES OF EVIDENCE.

THURSDAY, 19TH APRIL, 1855.

## MEMBERS PRESENT :

MR. CHAPMAN, in the Chair  
THE COLLECTOR OF CUSTOMS  
MR. HORNE  
MR. MILLER

*Mr. Bunny* appeared as Counsel for the Petitioners for the Bill, and was heard to open the case in support of the Preamble.

JOHN BADCOCK, Esq., called in, and examined by *Mr. Bunny*.

Are you the Manager of the Bank of New South Wales here?—I am.

*By the Collector of Customs.*—For the whole Colony?—For the whole Colony.

*By Mr. Bunny.*—Do you produce the Act of the 16th Victoria, intituled “An Act to amend an Act, intituled ‘An Act to incorporate the Proprietors of a certain Banking Company, called the Bank of New South Wales, and for other purposes therein mentioned?’”—I do.

[*The Witness delivered in the same.*]

What is the limit there imposed upon the amount of Promissory Notes payable on demand to be issued, and in circulation?—The second Clause provides that, “The total amount of the Promissory Notes payable on demand issued, and in circulation within the said Colony of Victoria, 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 Corporation within the said Colony, nor shall the proportion of coin be less than one-fourth part of the amount of the coin, bullion, and public securities so held by the said Corporation, within the said Colony.”

Is there also in that Act, a limit to the amount of debts and liabilities to be incurred?—Yes; in the third Clause: “The total amount of the debts, engagements and liabilities of the said Corporation within the Colony of Victoria, whether upon Bonds, Bills, Promissory Notes, or otherwise, contracted within the Colony of Victoria (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 Corporation upon any Banker or Banking Company in the United Kingdom of Great Britain and Ireland, within the amount or value of remittances made to such Banker or Banking 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 Corporation within the said Colony.”

Is it found expedient to make any alteration in that limit?—I do not believe we have objected to this third Clause at all, limiting our liabilities; it is only with respect to the limitation of the circulation that we wish for an alteration.

The Clause which you propose to meet that object is, “The said Corporation shall have power to issue, and have in circulation, Promissory Notes, payable on demand, to the extent of the amount of its actual paid-up Capital, and to any such further amount in excess of the said Capital as the said Corporation shall hold coin, or gold bullion assayed by some person duly authorised by the Lieutenant-Governor for the time being of the said Colony, or partly coin, or partly gold bullion, assayed as aforesaid, separate and apart from the coin and gold bullion used in the ordinary operations of the said Corporation?”—Yes; it was the Clause relative to that in the present Act that was objected to by the Duke of Newcastle, and to meet that we propose this Clause.

*By the Chairman.*—That is by introducing the word “assayed?”—Yes; and also fixing it upon our paid-up Capital as well.

What is your paid-up Capital?—£500,000 irrespective, of course, of the reserve fund.

That is the paid-up Capital of the whole establishment?—Of the whole establishment.

*By Mr. Bunny.*—The Bill now before this Committee, as I understand, is a transcript, or copy, or reprint of the Act as passed in New South Wales?—It is.

It seems from that that you have power to issue Notes there to the full extent of your paid-up Capital?—Yes, we have.

And that is what you are asking for here?—That is what we are asking for here.

Do you assign any portion of the £500,000 to one Colony, and any other portion to the other Colony?—No.

*By the Collector of Customs.*—Are you asking power to issue Notes to the extent of double your Capital?—No, to the extent of half a million, and beyond that, to the extent to which we hold coin and assayed bullion.

*By the Chairman.*—What has been the average amount of coin and bullion in your hands in both branches in the two Colonies?—In coin alone about £700,000.

And what in bullion?—At present we do not hold more than £100,000 in bullion.

In all the branches?—In all the branches.

That would make a total of £1,300,000, and, having power to issue to that extent of Notes in New South Wales, that is what you ask here?—Yes; that the whole circulation of the Bank shall not exceed that.

The whole circulation throughout the Colonies?—Yes.

*By Mr. Bunny.*—But you do not ask power to circulate Notes to the whole amount in New South Wales, and also to circulate Notes to the whole amount here?—No.

*Mr. Bunny* submitted that the words “the said Corporation,” as used in the second Clause of the Bill, must be held to mean, not the branch of the Corporation in Victoria only, but the whole Corporation in both Colonies.

*By the Chairman (to the Witness).*—What amount of Notes have you been able to put forward at any one time in the whole Corporation?—Our circulation, I should say, is about £500,000; that is the fullest amount: it is about £300,000 in this Colony, and £200,000 in New South Wales.

Have you any branches in South Australia?—None, we have only establishments in these two Colonies. Should say £600,000 is the maximum we have issued in Notes in both these Colonies. I think it is below that at present. I think it was £317,000 here on the 31st of March, and I am certain the circulation is lower in New South Wales than it is in this Colony.

*By the Collector of Customs.*—Would not the Bank save themselves trouble if, instead of amending this Act of 1852, you were to get a new Act of Incorporation?—That was suggested, but it was after the Bill had been passed in Sydney, and it was thought advisable to follow the same course here.

By the Bill before this Committee, as it stands at present, you are amending an Act, which itself amended an Act of New South Wales: would it not be better that you should alter the form of this Bill and make it repeal the Act of 1852 instead of amend it, and then consolidate the provisions of that Act, which you do not wish to alter, with the new provisions of the present Bill?—The effect would be the same.

The difference would be this: the old Act only consisted of five Clauses; and I would ask you whether you might not just as well repeal all those five Clauses, and pass a new Bill altogether, as pass the present Bill of four Clauses, patching up that old Act of five Clauses, and actually repealing three Clauses and a half of that old Act?—The effect would be the same.

Would you consent to do that?—I think that would be consented to.

May the Committee take that for granted?—The only thing would be, whether we could bring in a new Act in time.

That could be done at once. It would only be to amend the Preamble?—Then we would consent to that.

Then, supposing that Act of 1852 to be repealed, there will then remain only your original New South Wales Act of Incorporation, and the question will be—What Amendments will it be necessary to make in that Act to enable you to carry on your operations satisfactorily here.

The two Clauses of the original New South Wales Act which, it appears, your Bank wish altered, are the 6th and 14th Clauses?—Yes; those are the two that are repealed by the Act of 1852.

The first of those Clauses is, “That all Notes shall bear date at the City, Town, or place at and from which the same respectively shall be made and issued, and that the same respectively shall in all cases be payable in specie on demand at the place of date, and also at the principal Banking establishment of the Corporation at Sydney; and the total amount of the Promissory Notes payable on demand, issued and in circulation, shall not, at any time, exceed the amount of the Capital Stock of the said Corporation actually paid up?”—Yes.

What objection have you to that being still the law of this Colony; why do you want more circulation?—Because at present we have already issued in excess of that; we are at this moment in excess of that limit.

Therefore you have at present issued about £50,000 or £100,000 beyond what you are allowed to go to by that Act?—Yes.

How much does the Act of New South Wales enable you to go beyond your circulation?—To a fluctuating amount, dependent upon the amount of coin and bullion we hold.

At the present time how much does that new Act of the New South Wales Legislature enable you to extend your circulation?—About £700,000.

Then at present you could issue to the extent of £1,200,000?—Yes.



Then why do you want to extend the present limit of your circulation in this Colony, considering that your Capital is not here?—The greater part of our Capital is in reality here.

What is your paid-up Capital?—£500,000,

How much of that is paid-up here?—It is not actually paid-up in this Colony, but the Capital is used here.

Have you any limit to the liability of your Shareholders?—Yes, twice the amount of our Capital.

Therefore we must look to the persons who are Shareholders in your Bank. What proportion of these are Shareholders in Victoria?—But a very small proportion. I cannot state positively what proportion are resident here.

As there as many as one-thirtieth of the whole?—More than that; about a twentieth part.

Then about £25,000 is subscribed here?—Yes, at least that; but all the Capital is fused in one account, and the whole account is kept in Sydney: the account of Bank Stock does not appear in my books here.

But looking at the security of the Company, and the persons upon whom the creditors would have to come if you have only here £25,000 worth of Capital, and you have under your Sydney Act power to double your present circulation, why should you come to this Council to ask for any additional power? In the event of anything happening to the Bank, all the Shareholders would have to suffer alike.

But those Shareholders who are in New South Wales, are outside the jurisdiction of the Courts of this Colony.—You having at the present power to issue £1,200,000, why should you come to this Council for additional power, you being practically speaking not a Victorian Bank? I do not consider that this Bill gives us additional power, because we cannot issue to the whole amount in each Colony.—Supposing that the Branches of the Bank in New South Wales had a circulation at the present moment to the extent of one million and a quarter, we could not issue one million and a quarter here, nor indeed anything at all.

Then what is the use of the Act, you have power to issue £500,000 in this Colony under the old Act?—We could not issue to that amount, provided they had acted upon it in New South Wales.—If we had issued upon the paid-up Capital in Sydney, we could not do it here.

You have power under your old Act to issue here up to 500,000?—Yes.

The Clause in the old Act giving you that power would not be repealed if this Act of 1852 were disallowed as far as Victoria is concerned, and you having power therefore to issue up to the amount of £500,000 in Victoria, and having power in New South Wales to issue to the extent of £1,200,000 including that, the question is why do you want a new Act at all.—With respect to the third Clause of the present Bill, which provides that “all such Promissory Notes as aforesaid, which the said Corporation shall make, issue, and circulate within the Colony of Victoria, shall be payable at the principal banking establishment of the said Corporation at Melbourne, as well as at the place of date.” Supposing that Clause were omitted from the Act, what would be the state of matters then with respect of your Bank Notes.—Supposing you fell back entirely upon the old Act and there were no provision with respect to Notes issued in the Colony of Victoria, how would you stand?—The position we should be in then, would be this, that our Notes would be at a discount if we did not make them payable in Melbourne.

Under your old Act, where can you issue Notes?—I believe we are compelled to retire all Victoria Notes at Sydney, free of charge.

Then the only object of that third Clause of the Bill is this, that at present by the Act of 1852, a Note issued at Ballarat, at present, you are compelled to retire in Melbourne; but if that Act were repealed or disallowed, and you fell back on the old New South Wales Act, you would have to retire that Note at Sydney?—Yes.

And it is an evident public advantage, that you should be able to retire it in Melbourne?—Yes, it is an advantage for the public generally.

The 14th Clause of the original Act, which Clause was repealed by the Act of 1852, and which Clause you still wish to be altered, is this, “The total amount of the debts, engagements, and liabilities of the said Corporation, whether upon Bonds, Bills, Promissory Notes or otherwise, contracted other than their liabilities on account of the ordinary cash deposits of Customers with the said Company’s establishments, shall not in any case exceed three times the amount of Capital stock subscribed, and actually paid up”?—Yes.

Why are you not satisfied to fall back upon that Clause in your original Act?—Because our issue is at present in excess of the limitations of that Act.

Your debts, engagements, and liabilities upon Bonds, Bills, Promissory Notes or otherwise, are not now three times the amount of your Capital, are they?—No.

Then you are quite safe there?—Yes.

The Clause upon this subject in your Act of 1852, in addition to the exception contained in the original Act, excepts also liabilities “on account of Bills of Exchange drawn by or on behalf of the said Corporation upon any Banker or Banking Company in the United Kingdom of Great Britain and Ireland, within the amount or value of remittances made to such Banker or Banking Company respectively, to provide for the payment of the said Bills of Exchange.” That I take it practically is your drafts against gold?—Yes, the drafts against gold.

Does not excluding that from your liabilities, come within the objections taken by the Duke of Newcastle in his despatch?—No, I think not.—It would be very difficult to arrive at our liabilities if our drafts against gold were included.

Are not these drafts in some cases in favor of yourself.—You draw fictitious drafts against your gold, do you not?—I never heard of such a course.

You remit gold on your own account?—Yes, and against that we issue drafts to our customers and the public.—I cannot see the advantage of issuing drafts to ourselves.

Do you not do it as a matter of account?—No, never.

How do you bring the gold remitted here into your quarterly statement?—It appears as a debt to the London Branch.

Is it not an ordinary custom for the Banks to draw against gold remitted on their own account, in favor of themselves?—Not payable to ourselves.

*By Mr. Horne*,—You only draw drafts which you issue to your customers?—For our customers only, and the public.

*The Witness withdrew.*

*Adjourned to to-morrow, at 12 o'clock.*