

ACT No. VIII OF 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 2nd March 1864.)

An Act to enable the "Comptoir D'Escompte of Paris" to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company.

WHEREAS certain persons have formed themselves into a Company at Paris for the transaction of Banking business under the name of the "Comptoir D'Escompte of Paris:" and whereas the said Company is constituted and established under and by virtue of various Imperial decrees of the French Government, Notarial Acts, and Articles of Agreement, whereby it is provided (amongst other things) that the said Company may continue to exist and carry on business for a term of thirty years from the eighteenth day of March 1857, that the shareholders of the Company shall be responsible only to the amount of their shares respectively, that the rights and liabilities attached to each share shall follow its transmission into whatever hands it may pass, and that the Company may establish, on its own responsibility, and with the authority of the Minister of Finance, Agencies in France and in French or Foreign Colonies, such Agencies to be organized and conducted in the same manner as the Comptoir D'Escompte itself: and whereas Agencies of the said Company have been recently established in Calcutta and in Bombay: and whereas on the thirtieth day of April 1862, a Convention was concluded and signed at Paris between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French, comprising the following Articles, that is to say, "First—The High contracting parties declare that they mutually grant to all Companies and other Associations, commercial, industrial, or financial, constituted and authorized in conformity with the laws in force in either of the two countries, the power of exercising all their rights, and of appearing before the Tribunals, whether for the purpose of bringing an action or for defending the same, throughout the dominions and possessions of the other Power, subject to the sole condition of conforming to the laws of such dominions and possessions. Second—It is agreed that the stipulations of the preceding Article shall apply as well to Companies and Associations constituted

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constituted and authorized previously to the signature of the present Convention as to those which may subsequently be so constituted and authorized. Third—The present Convention is concluded without limit as to duration. Either of the High Powers shall however be at liberty to terminate it by giving to the other a year's previous notice. The two High Powers moreover reserve to themselves the power to introduce into the Convention, by common consent, any modifications which experience may show to be desirable:” and whereas it is desirable that effect should be given to the said Convention so far as the Comptoir D'Escompte and its Agencies now or hereafter established are concerned: It is enacted as follows:—

I. Unless the contrary appears from the context, in construing this Act, the words “British India” denote the Territories which are or may become vested in Her Majesty the Queen by the Statute 21 and 22 Vic. Ch. 106, entitled “an Act for the better Government of India”, except the settlement of Prince of Wales' Island, Singapore, and Malacca:

Words importing the singular number include the plural number, and words importing the plural number include the singular number:

Number.

Gender.

Words importing the masculine gender include females:

The word “person” includes any Company or Association or body of persons whether incorporated or not.

“Person.”

II. From and after the passing of this Act, all suits and other proceedings whatsoever, for any injury or wrong done to any real or personal property of the said Comptoir D'Escompte, 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 to the said Comptoir D'Escompte, or upon any Bonds, Covenants, Contracts, or Agreements which already have been or hereafter shall be given to or entered into with the said Company, or to or with any person whomsoever in trust for the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested, and also all instruments and petitions to found any adjudication of Insolvency in any Court

All suits and proceedings by, or on behalf of, or against, the Comptoir D'Escompte shall be instituted in the name of, or against, the Chief Manager for the time being of the Agencies in British India, as the nominal plaintiff or defendant, and shall not abate, &c., on death or removal of such Manager.

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Court against any person indebted to the said Comptoir D'Escompte, and liable to have been made Insolvent by the laws now or at any time hereafter in force relating to Insolvents in British India, and generally all other proceedings whatsoever to be commenced or carried on, by or on behalf of the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested against any person; whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall and lawfully may be commenced and prosecuted in the name of the person who shall be the Chief Manager of the Agencies in British India of the said Comptoir D'Escompte at the time such suit or proceeding shall be commenced, as the nominal plaintiff or petitioner for or on behalf of the said Comptoir D'Escompte, and all suits and proceedings, as well for subsisting as future accruing claims, debts, or demands to be commenced against the said Comptoir D'Escompte by any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall be commenced and prosecuted against the said Chief Manager for the time being, as the nominal defendant or respondent for and on behalf of the said Comptoir D'Escompte, and the death, removal, resignation or any other act of such Chief Manager, or his bankruptcy or insolvency shall not abate or prejudice any suit or other proceeding commenced under this Act, but the same may be continued, prosecuted and carried on or defended in the name of any other the Chief Manager for the time being of the said Agencies.

III. From and after the passing of this Act, in all criminal proceedings instituted or carried on by or on behalf of the said Comptoir D'Escompte, for fraud or injury upon or against the said Comptoir D'Escompte, or for any offence whatever relating to any money, notes, bills, effects, securities, or any real or personal property of the said Comptoir D'Escompte, or for any other offence against the said Comptoir D'Escompte, it 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 Comptoir D'Escompte, or in some person or persons in trust for the said Comptoir D'Escompte, to be the money, notes, bills, effects and securities, or property of the said Comptoir D'Escompte, or of the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte; and any offence committed with intent to injure or defraud the said Comptoir D'Escompte, shall and lawfully may in such proceedings be said to have been committed with intent to injure or defraud the said Comptoir D'Escompte, or such Chief Manager for the time being as aforesaid, and any offender may thereupon be lawfully convicted of any such offence; and

In criminal proceedings, property whether vested in Comptoir D'Escompte or Trustees, may be described as property of Comptoir or of Chief Manager.

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and in all 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 Comptoir D'Escompte, it shall be lawful and sufficient to state the name of such Chief Manager; and the death, resignation, or removal of such Chief Manager shall not abate or render defective, or in anywise affect or prejudice such criminal proceedings.

IV. No suit which may be commenced in any Court in British India against the said Comptoir D'Escompte, or the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte, upon or arising out of any contract entered into by or on behalf of the said Comptoir D'Escompte, shall be in any wise affected or defeated by reason of the plaintiff therein, or of any other person who may be in any wise interested in such action, being a shareholder or partner of or in the said Comptoir D'Escompte; but any shareholder or partner of or in the said Comptoir D'Escompte, shall have the same right of action and remedy to be proceeded in and enforced in the same manner against the said Comptoir D'Escompte, or such Chief Manager for the time being as aforesaid, upon any contract, and for any debt, damage, or demand whatsoever, which he might have had if he had been a stranger, and not a shareholder or partner of or in the said Comptoir D'Escompte.

V. No suit commenced by or on behalf of the said Comptoir D'Escompte in the name of the Chief Manager for the time being as aforesaid by virtue of this Act, upon or arising out of any contract whatsoever, entered into by or on behalf of the said Comptoir D'Escompte, or for the recovery of any debt, damage, or demand whatsoever due or owing to the said Comptoir D'Escompte, or for any other cause or any other account, shall be in any wise affected or defeated by or by reason of the defendant therein, or any person or persons who may be in any wise interested in such suit, being a shareholder or partner of or in the said Comptoir D'Escompte, but the said Comptoir D'Escompte shall and may have the same right of suit and remedy to be proceeded in and enforced in the same manner against any shareholder or partner of or in the said Comptoir D'Escompte, either alone or jointly with any other person, upon any contract, and upon and for any debt, damage, or demand whatsoever, which the said Comptoir D'Escompte might have had if such cause of action had arisen with a stranger, and not with a shareholder or partner of or in the said Comptoir D'Escompte.

VI. The

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VI. The Chief Manager of the Agencies in British India of the said Comptoir D'Escompte shall have an Office for the transaction of the business of the Comptoir D'Escompte.

Chief Manager to cause a memorial to be enrolled containing certain particulars.

He shall cause a memorial, in the form and to the effect set forth in the Schedule (A) to this Act annexed, or as near thereto as the circumstances of the case will admit of, verified by a declaration in writing made by him before a Judge of the High Court of Judicature within the jurisdiction of which his Office is situated, to be enrolled amongst the records of the said High Court. Such memorial shall, prior to being enrolled, be signed by the said Chief Manager, and shall be accompanied by or have annexed thereto, or endorsed thereon, copies of the decrees, notarial acts, articles, and other instruments under which the Company is established, and copies of the various rules under which the business of the Company is conducted. The memorial shall set forth the situation of the Office of the Chief Manager and of every other Office and place in British India in or at which the business of the Comptoir D'Escompte is carried on: and it shall contain a statement of the amount both of the nominal and of the paid-up capital, the number of shares into which the capital is divided, the amount of each share, and the amount of capital (if any) which the Comptoir D'Escompte shall have set aside for their working capital in British India, and if the last mentioned capital be other than money, then a statement of how it stands invested, and in whose name.

VII. No memorial shall be enrolled unless the authority of the Chief Manager by whom it is signed, and the copies of the decrees, acts, deeds, and other documents accompanying the memorial shall be authenticated by the signature and seal of the French Financial Minister, and countersigned by Her Britannic Majesty's Consul General in Paris for the time being.

Authority of Chief Manager to be authenticated.

VIII. Whenever any new Chief Manager of the Agencies in British India of the said Company shall be appointed, or any change in or addition to any of the facts stated in any memorial which may have been enrolled shall take place, a like memorial in the form and to the effect set forth in the Schedule (B) to this Act annexed, verified as aforesaid, shall, within twelve calendar months after such appointment, change, or addition shall have been made, be enrolled as aforesaid, specifying the name and description of such new Chief Manager, and containing a statement of the change or addition which may have taken place in the facts aforesaid.

Memorial of change in Chief Manager or in facts set forth in former memorial to be enrolled.

IX. If

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IX. If any declaration made for the purpose of verifying a memorial under this Act shall be false or untrue in any material particular, the person wilfully making such declaration shall be guilty of an offence within the meaning of Section 199 of the Indian Penal Code.

False declaration an offence under the Penal Code.

X. Until such memorial as first hereinbefore mentioned shall have been duly verified and enrolled, no action or suit shall be brought by the said Comptoir D'Escompte under the authority of this Act: and until the memorial by this Act required to be verified and enrolled in the event of the appointment of a new Chief Manager of the Agencies in British India of the said Comptoir D'Escompte, shall have been duly verified and enrolled, the person whose name shall appear in the last memorial which shall have been duly verified and enrolled, shall be liable to all such suits and executions upon judgment or decree and other proceedings under this Act, and in the same manner, as if he had not ceased to be such Chief Manager, and as if no new Chief Manager had been appointed.

Comptoir not to sue under this Act till after enrollment of memorial, and person named in last memorial to remain liable till fresh memorial is enrolled.

XI. An examined copy of every memorial enrolled pursuant to this Act, certified to be a true copy by and under the hand and signature of a Registrar for the time being of the High Court of Judicature in which the same shall have been enrolled, 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 the time of such verification, Chief Manager as aforesaid of the said Agencies.

Examined copy to be a proof of contents of memorial.

XII. Execution on every judgment, decree, and order made or pronounced in any suit or proceeding in any Court in British India against the Chief Manager for the time being as aforesaid, shall and may be issued and enforced against any property in British India belonging to the Comptoir D'Escompte. All the provisions of the Code of Civil Procedure as to the attachment of property before judgment and after judgment, shall in all suits against the Chief Manager have full force and effect as regards property in British India belonging to the Comptoir D'Escompte. So long as the full amount recoverable by any person under any judgment, decree, or order shall not have been recovered, no execution issued from any Court in British India, nor any thing in this Act, shall in any way prejudice

Judgment or order against Chief Manager how to be executed.

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or injure the right of such person to proceed in France, under the privileges and powers reserved to British subjects by and under the said Convention of the thirtieth of April 1862, for the recovery of the amount unrecovered.

XIII. No person having or claiming to have any demand upon or against the said Comptoir D'Escompte shall, when the same has been so determined as to have been pleadable in bar against such person, bring more than one suit in respect of such demand; and the proceedings in any suit which may have been brought against the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte under the authority of this Act, if so determined, may be pleaded in bar of any suit in any Court in British India, for the same cause against any other such Chief Manager; and in case of any demand which the said Comptoir D'Escompte now has or hereafter may have upon or against any person, whether a shareholder of the said Comptoir D'Escompte or not, and which shall have been determined in any action or suit commenced or prosecuted by the Chief Manager for the time being, the proceedings in such suit may be pleaded in bar of any other suit, in any such Court as aforesaid, for the same demand, which may be commenced or prosecuted by the same or any other such Chief Manager as aforesaid.

No person to bring more than one suit for the same demand against any Chief Manager, nor the Comptoir against any other person.

SCHEDULE (A).

Referred to in Section VI of this Act.

Memorial made the _____ day of _____ by the Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris pursuant to Act VIII of 1864 of the Governor-General of India in Council, intituled "An Act to enable the Comptoir D'Escompte of Paris to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company," setting forth the particulars prescribed by Section VI of the said Act.

Situation of Office of Chief Manager
Situation of other Offices and places in British India
Entire Nominal Capital of the Company
Paid-up Capital
Number of Shares
Amount of each Share

Amount

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Amount of Capital set aside for operations in British India...
Mode in which the same is invested... ..
Name in which the same is invested

I, *A. B.*, Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Signed) *A. B.*

Declared &c., before me, a Judge of the High Court of Judicature at

SCHEDULE (B).

Referred to in Section VIII of this Act.

Memorial made the _____ day of _____ by the Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, pursuant to Act VIII of 1864 of the Governor-General of India in Council, intituled "An Act to enable the Comptoir D'Escompte, &c.," (*as in foregoing*), setting forth particulars of change or changes as prescribed by Section VIII of the said Act.

Name and description of new Chief Manager
or
New situation of Office of Chief Manager
or
Other change

I, *C. D.*, Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Signed) *C. D.*

Declared before me, &c., &c. (*as before*).