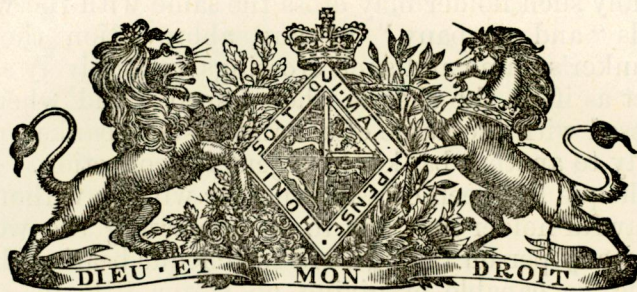


This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Legislative Council Chamber,
Sydney, 3rd May, 1877. }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUADRAGESIMO

VICTORIÆ REGINÆ.

No. .

An Act to amend the Law respecting Crossed Cheques and the reception in evidence of Bankers Books.

WHEREAS it is expedient to amend the law respecting Crossed Cheques and the reception in evidence of Bankers Books Be it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

1. In the construction of this Act the word "banker" and the word "bank" shall respectively include every person partnership corporation or joint stock company carrying on the business of banking and the word "cheque" shall include every draft or order on a banker for money payable on demand whether to order or to bearer.

2. Where a cheque has been crossed with the name of a banker or with two transverse lines simply with or without the word "bank" or the words "and company" or any abbreviation thereof respectively every such crossing whether made when the cheque was issued or afterwards

Bankers' Books and Cheques.

- afterwards by the holder shall be deemed a material part of the cheque
And the banker upon whom such cheque is drawn shall not pay it to
any other than the banker if any with whose name it is crossed or his
agent for collection being a banker or if crossed without a banker's
5 name to any other than a banker If any cheque be crossed specially
to different bankers (except where crossed to an agent for collection)
the banker on whom such cheque is drawn shall refuse to pay it.
3. Where a banker in good faith and without negligence pays
10 a cheque which does not when presented appear to have been crossed
or on which the crossing does not appear to have been obliterated or
altered he shall incur no liability by reason of such cheque having been
in fact crossed or of the crossing having in fact been obliterated or altered
and of his having paid the cheque to a person other than a banker or
other than the banker with whose name it was so crossed.
- 15 4. Where a cheque has been crossed with transverse lines only
or with the word "bank" or the words "and company" or any abbrevi-
ation thereof but without a banker's name any lawful holder of such
cheque may cross the same with the name of a banker and where a
cheque is uncrossed any such holder may cross the same with the word
20 "bank" or the words "and company" or any abbreviation thereof
with or without a banker's name and such crossings respectively shall
be of the same effect as if on the cheque when issued And where a
cheque has been crossed with the name of a banker such banker may
again cross it specially to another banker his agent for collection.
- 25 5. Where a cheque has been crossed whether with or without a
banker's name any lawful holder may add to such crossing the words
"not negociable" and any person taking a crossed cheque bearing those
words shall have and be capable of giving no better title to such
30 cheque than the person from whom he took it had Provided that a
banker who has in good faith and without negligence received payment
for a customer of a cheque crossed specially to himself or crossed
generally without a banker's name shall not by reason only of having
received such payment incur any liability to the true owner if the title
to the cheque proves defective.
- 35 6. Any banker paying a crossed cheque to any person other
than a banker or where crossed specially otherwise than to the
banker with whose name it is crossed or his agent for collection being
also a banker shall be liable to the true owner of such cheque for any
loss which he may sustain by reason of the same having been so paid.
- 40 7. Where the banker on whom a crossed cheque is drawn has
in good faith and without negligence paid the same to a banker or if
crossed specially to the banker with whose name it was crossed or his
agent for collection being also a banker the banker so paying such
cheque and (in case it has come to the hands of the payee) the drawer
45 thereof shall respectively be entitled to the same rights and be placed
in the same position in all respects as they would respectively have
been entitled to and been placed in if such cheque had been paid to its
true owner.
- 50 8. Where any cheque on a banker has been crossed as in this
Act mentioned whosoever with intent to defraud shall erase obliterate
add to or alter any such crossing or erase or obliterate the words "not
negociable" thereon or either of them wholly or in part or offer utter
dispose of or put off a cheque whereon any such erasure obliteration
addition or alteration has been made knowing the same to have been so
55 made shall be guilty of felony and be liable to imprisonment for any
term not exceeding three years with or without hard labour.
9. Where upon any cheque crossed with the name of a banker
there shall be in addition to such crossing a direction to such banker
to place the amount to the credit of a named firm or person whosoever
with

Paying a cheque
which does not
appear crossed &c.

The lawful holder of
a cheque may cross
the same.

Non-negotiable
cheques.

Banker wrongfully
paying a crossed
cheque.

Protection where
cheque paid accord-
ing to crossing.

Obliterating crossing
on cheques or
drafts.

Obliterating cheques
crossed with special
direction.

Bankers' Books and Cheques.

with intent to defraud shall erase obliterate add to or alter such direction shall be guilty of felony punishable as aforesaid But nothing in this section shall extend the liability of the banker on whom such cheque is drawn or compel him to see to the application of the money
5 in accordance with any such direction.

10. On the commencement of this Act the Act passed in the
twentieth year of Her Majesty to amend the law relating to drafts on
bankers (twentieth Victoria number seven) shall be repealed.

Repeal of 20 Vic.
No. 7.

11. After the commencement of this Act the entries in the
10 account books of any bank shall in all legal proceedings whether civil
or criminal be *prima facie* evidence of the matters recorded therein
on proof by the person having the custody of such books or some
officer of such bank that such books are or have been the ordinary
books of such bank and that such entries were made in the ordinary
15 course of business thereof and copies of all such entries shall be
admissible in evidence without production of the originals.

Entries in bankers'
books and copies ad-
missible in evidence.

12. Provided that no such entry or copy shall be admissible
under this Act unless eight days notice in writing containing a copy of
the entry and of the intention to offer the same in evidence shall have
20 been given to the party against whom it is proposed to adduce such
entry or copy.

Notice to be given.
Proviso where bank
is a party.

13. On the application of any party having received such notice
a Judge of the Supreme Court or any District Court Judge if the legal
proceeding be in his Court may order if he thinks fit that such
25 party shall be at liberty to inspect the original account book containing
or said to contain any such entry on such terms as the Judge shall think
proper or he may direct that any such book shall be produced at the
trial or other proceeding as the case may be And any such order may
if necessary be made *ex parte*.

A Judge may order
inspection of books
&c.

14. The service of the notice required by the twelfth section of
30 this Act may in every case be proved by affidavit or solemn declaration
before any Commissioner for Affidavits or Justice of the Peace and the
signature thereto purporting to be that of a Commissioner or Justice
shall be sufficient evidence of the making of such affidavit or declara-
35 tion.

Service of notice how
proved.

15. It shall in no case be necessary to produce the books of a
bank or any of them in order to prove that a person has not or that he
never had an account at such bank.

Non-production of
books of banks.

16. This Act shall commence on the tenth day after the passing
40 thereof and may be cited as the "Bankers' Books and Cheques Act."

Commencement and
title

Bankers' Books and Evidence

with the defendant shall cease to be admissible in evidence after such direction as the court may give. But nothing in this section shall extend the liability of the banker on whom such cheque is drawn or compel him to see to the application of the money in accordance with any such direction.

10. On the commencement of this Act the Act passed in the twelfth year of Her Majesty to amend the law relating to entries on bankers' (twenty-third Victoria number seven) shall be repealed.

11. After the commencement of this Act the entries in the account books of any bank shall in all legal proceedings, whether civil or criminal be admissible in evidence of the matters recorded therein on proof by the person having the custody of such books or some officer of such bank that such books are or have been the ordinary books of such bank and that such entries were made in the ordinary course of business thereof and copies of all such entries shall be admissible in evidence without production of the originals.

12. It is hereby declared that no such entry or copy shall be admissible under this Act unless the party producing the same shall have given notice in writing containing a copy of the entry and of the intention to offer the same in evidence at least thirty days before the trial or hearing at which it is proposed to adduce such entry or copy.

13. On the application of any party having received such notice a judge of the Supreme Court or any District Court Judge if the party applying for the order is the plaintiff or the defendant in the proceedings, or if the Court may order it he thinks fit that such party shall be at liberty to inspect the original account book containing or said to contain any such entry or such terms as the Judge shall think proper or to make a copy of such book or to produce at the trial or other proceedings as the case may be. And any such order may if necessary be made ex parte.

14. The service of the notice required by the twelfth section of this Act may in every case be proved by affidavit or solemn declaration before any Commissioner for Affidavits or Justice of the Peace and the signature thereof purporting to be that of a Commissioner or Justice shall be sufficient evidence of the making of such affidavit or declaration.

15. It shall in no case be necessary to produce the books of a bank or any of them in order to prove that a person has not or that he never had an account at such bank, and it shall be sufficient to prove that such person has not or that he never had an account at such bank as the "Bankers' Books and Evidence Act" shall be construed as if it contained a proviso that the books of a bank shall be produced only if the party producing them shall have given notice in writing containing a copy of the entry and of the intention to offer the same in evidence at least thirty days before the trial or hearing at which it is proposed to adduce such entry or copy.