

57

This Public Bill originated in the LEGISLATIVE COUNCIL, and having this day passed as now printed is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

*Legislative Council.
22nd July, 1881.*

Hon. Mr. Whitaker.

BANKS AND BANKERS ACT 1880 AMENDMENT.

ANALYSIS.

<p>Title. 1. Short Title.</p> <p style="text-align: center;">CROSSED CHEQUES.</p> <p>2. Interpretation. 3. General and special crossings. 4. Crossing after issue. 5. Crossing material part of cheque. 6. Payment to banker only. 7. Cheque crossed specially more than once not to be paid. 8. Protection of banker and drawer where cheque crossed specially. 9. Banker paying cheque contrary to provisions of Act to be liable to lawful owner. 10. Relief of banker from responsibility in some cases.</p>	<p>11. Title of holder of cheque crossed specially. 12. Repeal.</p> <p style="text-align: center;">CHEQUES PAYABLE TO ORDER.</p> <p>13. Indorsement by payee of cheque payable to order to be sufficient warrant for payment.</p> <p style="text-align: center;">DEFACING BANK-NOTES.</p> <p>14. Penalty for passing bank-notes with names of traders or of private persons. Saving as to notes specially indorsed at request of bank. 15. Definition of "bank-note."</p> <p style="text-align: center;">SPECIAL BANK HOLIDAY.</p> <p>16. Special bank holidays may be appointed by banker. 17. Repeal. 18. Operation.</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

A BILL INTITULED

AN ACT to amend "The Banks and Bankers Act, 1880."

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. The Short Title of this Act is "The Banks and Bankers Act 1880 Amendment Act, 1881." Short Title.

CROSSED CHEQUES.

2. In this and the succeeding sections of this Act up to, and inclusive of, section *thirteen*— Interpretation.

10 "Cheque" means a draft or order on a banker payable to bearer or to order on demand :

"Banker" includes persons or a corporation or joint stock or other company acting as bankers.

15 3. Where a cheque bears across its face an addition of the words "and Company," or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, and either with or without the words "Not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally. General and special crossings.

20 Where a cheque bears across its face an addition of the name of a banker, either with or without the words "Not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

4. Where a cheque is uncrossed, a lawful holder may cross it generally or specially. Crossing after issue.

Where a cheque is crossed generally, a lawful holder may cross it specially.

Where a cheque is crossed generally or specially, a lawful holder may add the words "Not negotiable."

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent for collection. 5

Crossing material part of cheque.

5. A crossing authorized by this Act shall be deemed a material part of the cheque, and it shall not be lawful for any person to obliterate or, except as authorized by this Act, to add to or alter the crossing.

Payment to banker only.

6. Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker. 10

Cheque crossed specially more than once not to be paid.

Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or to his agent for collection.

7. Where a cheque is crossed specially to more than one banker, except when crossed to an agent for the purpose of collection, the banker on whom it is drawn shall refuse payment thereof. 15

Protection of banker and drawer where cheque crossed specially.

8. Where the banker on whom a crossed cheque is drawn has in good faith and without negligence paid such cheque if crossed generally to a banker, and if crossed specially to the banker to whom it is crossed, or his agent for collection being a banker, the banker paying the cheque and, in case such cheque has come to the hands of the payee, the drawer 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 have been placed in if the amount of the cheque had been paid to and received by the true owner thereof. 20

Banker paying cheque contrary to provisions of Act to be liable to lawful owner.

9. Any banker paying a cheque crossed generally otherwise than to a banker, or a cheque crossed specially otherwise than to the banker to whom the same shall be crossed, or his agent for collection being a banker, shall be liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid. 25

Relief of banker from responsibility in some cases.

10. Where a cheque is presented for payment which does not at the time of presentation appear to be crossed, or to have had a crossing which has been obliterated, or to have been added to or altered otherwise than as authorized by this Act, a banker paying the cheque in good faith, and without negligence, shall not be responsible or incur any liability, nor shall the payment be questioned, by reason of the cheque having been crossed, or of the crossing having been obliterated, or having been added to or altered, otherwise than as authorized by this Act, and of payment being made otherwise than to a banker or the banker to whom the cheque is or was crossed, or to his agent for collection being a banker, as the case may be. 30

Title of holder of cheque crossed specially.

11. A person taking a cheque crossed generally or specially, bearing in either case the words "Not negotiable," shall not have, and shall not be capable of giving, a better title to the cheque than that which the person from whom he took it had. 35

But a banker who has in good faith and without negligence received payment for a customer of a cheque crossed generally or specially to himself shall not, in case the title to the cheque proves defective, incur any liability to the true owner of the cheque by reason only of having received such payment. 45

Repeal.

12. Section twenty-one of "The Banks and Bankers Act, 1880," is hereby repealed.

CHEQUES PAYABLE TO ORDER.

50

Indorsement by payee of cheque payable to order to

13. Any cheque drawn by any person upon a banker in favour of a third person for a sum of money payable to order on demand, which shall, when pre-

59

5 sented for payment, purport to be indorsed by the person to whom the same shall be drawn payable, shall be a sufficient authority to such banker to pay the amount of such cheque to the bearer thereof; and it shall not be incumbent on such banker to prove that such indorsement, or any subsequent indorsement, was made by or under the direction or authority of the person to whom the said cheque was or is made payable either by the drawer or any indorser thereof.

be sufficient warrant for payment.

DEFACING BANK NOTES.

10 14. If after the issue of a bank-note any person pays away, puts in circulation, demands payment of, or deposits in any bank such bank-note on which is written, printed, stamped, or marked his name, or any number, device, printing, or writing of any kind relating to such person, or his trade, business, or affairs, he shall be liable to any penalty not exceeding *five* pounds, recoverable in a summary way :

Penalty for passing bank-notes with names of traders or of private persons.

15 Provided that it shall not be deemed to be an offence within the meaning of this provision where any person indorses any bank-note for purposes of identification, or any other lawful purpose.

Saving as to notes specially indorsed at request of bank.

20 15. For the purposes of the foregoing enactments the expression "bank-note" shall mean any promissory note issued by a bank which entitles or is intended to entitle the bearer or holder thereof, without indorsement, or without any further or other indorsement than may be thereon at the time of the issuing thereof, to the payment of money not exceeding any sum for which such bank or banker may lawfully issue any such note, and in whatever form and by whomsoever such note is drawn or made.

Definition of "bank-note."

SPECIAL BANK HOLIDAY.

25 16. The managing director, general manager, or other chief officer in the colony for the time being of any bank, may, by writing under his hand, appoint any day as a special bank holiday at the bank under his direction or control, and such holiday may be made to apply to any specified place or places in which the bank carries on business within the colony.

Special bank holidays may be appointed by banker.

30 It shall not be lawful at any time to appoint two consecutive days as holidays.

Any day so appointed shall be notified by public advertisement not less than three times within the ten days immediately preceding such day, in some newspaper circulating in every provincial district in which the holiday is to be observed.

35 A copy of such notice shall be kept visibly exposed in a front window, or on or near the main entrance door, of the building at the place or places at which the bank carries on its business where the holiday is to be kept for at least three days before such day.

40 The production of a newspaper containing such advertisement shall be *prima facie* proof that the holiday was duly appointed to be kept at the place or places specified in such advertisement.

Such day shall be a special bank holiday only at the particular bank or banks specified in the notice herein required.

45 Every special bank holiday shall be deemed to be a bank holiday within the meaning of "The Banks and Bankers Act, 1880."

17. The twenty-seventh section of "The Banks and Bankers Act, 1880," is hereby repealed.

Repeal.

50 18. This Act shall come into operation on the *first* day of January, one thousand eight hundred and eighty-two.

Operation.