

THE BANKS AND BANKERS ACT, 1880.

THIS Bill consolidates the Acts—1856, No. 4; 1858, No. 34; 1858, No. 62; 1860, No. 10; 1873, No. 6; 1877, No. 16; 1878, No. 25.

The italic matter in the interpretation clause and in clauses 15 to 20 of this Bill is taken from 42 and 43 Vict., c. 11, a recent Imperial Act relating to Bankers' books evidence repealing and substituting amended provisions in lieu of 39 and 40 Vict., c. 48, from which clauses 15 to 20 of this Bill are taken.

The italic matter after clause 28 of this Bill in reference to particular bank holidays is suggested in the stead of the machinery of the existing Acts, which require an Order in Council as well as a Proclamation to appear in the *Gazette* at Wellington seven days before an intended holiday.

The machinery is complex, and does not affect the object contemplated—namely, early notice at the place itself of such intended holiday.

ALEXANDER J. JOHNSTON,
W. S. REID,
Commissioners.

Wellington, 27th May, 1880.

BANKS AND BANKERS.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p style="text-align: center;">ISSUE OF PAPER MONEY.</p> <p>3. Governor in Council may authorize banks incorporated by Royal Charter to issue paper money.</p> <p>4. Royal Charters to have effect of Acts of the Assembly.</p> <p>5. Power of Union Bank to issue notes not affected.</p> <p style="text-align: center;">BANKERS' RETURNS.</p> <p>6. Statements of assets and liabilities to be made out weekly. Quarterly abstracts to be made out and published.</p> <p>7. Statement exhibiting capital, &c., to be sub-joined.</p> <p>8. Abstracts, &c., to be verified and delivered to Colonial Treasurer.</p> <p>9. Abstracts to be published.</p> <p>10. Penalty for neglecting to keep accounts and make returns. Penalty for making false statement or return.</p> <p>11. Onus of proof.</p> <p>12. Recovery of penalties.</p> <p>13. Oaths to be taken before Justice of the Peace; penalty for false oath.</p> <p>14. Governor to appoint times for preparation of returns.</p> <p style="text-align: center;">EVIDENCE.</p> <p>15. Entries in books by affidavit admissible in evidence.</p>	<p>16. Originals need not be produced.</p> <p>17. Proviso as to notice to parties in a suit.</p> <p>18. Power under order of Court to inspect books and take copies.</p> <p>19. Judge may order that copies are not admissible.</p> <p>20. Bank not compellable to produce books except in certain cases.</p> <p style="text-align: center;">BANKERS' DRAFTS.</p> <p>21. Drafts crossed with name of a banker payable to him only. Drafts crossed with "Company," "Bank," &c., payable to some banker only. Drafts crossed with names of two or more bankers payable to either or any one of them only. Addition to draft deemed to be material part thereof.</p> <p style="text-align: center;">BANK HOLIDAYS.</p> <p>22. Bank holidays throughout colony.</p> <p>23. Bills due on bank holidays to be payable on the day following.</p> <p>24. Provision as to notice of dishonor and presentation for honor.</p> <p>25. As to payments on bank holidays.</p> <p>26. Day following bank holiday.</p> <p>27. Appointment of special bank holidays by Proclamation.</p> <p>28. Day appointed for bank holiday may be altered by Order in Council.</p> <p style="text-align: center;">REPEALS.</p> <p>29. Repeal of Acts. Schedules.</p>
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AN ACT to consolidate certain laws relating to Banks and Bankers.

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."

Short Title.

2. In this Act, if not inconsistent with the context,—

Interpretation.

"Banker" and "bank" includes any person, partnership, or corporation carrying on the business of banking:

"Officer of the Bank" includes the manager, accountant, and cashier of a bank:

"Bankers' books" includes ledgers, day-books, cash-books, account-books, and all other books used in the ordinary business of a bank: 42 and 43 Vict., c. 11.

"Legal proceeding" means any civil or criminal proceeding or inquiry in which evidence is or may be given, and includes an arbitration:

"The Court" means the Court, Judge, Magistrate, Arbitrator, or other person before whom a legal proceeding is held or taken:

"A Judge" means a Judge of the Supreme Court of the colony.

ISSUE OF PAPER MONEY.

Governor in Council may authorize banks incorporated by Royal Charter to issue paper money. 1856, No. 4, sec. 1.

Royal Charters to have effect of Acts of the Assembly. Ibid., sec. 3.

Power of Union Bank to issue notes not affected.

See Ibid., sec. 2.

3. The Governor, by Proclamation in the *Gazette*, may declare that any bank incorporated by Her Majesty's Letters Patent, and empowered to carry on the business of banking in New Zealand, and to issue and circulate therein the promissory notes of the company payable to bearer on demand, may lawfully issue and circulate such notes within New Zealand, but subject to the provisions and restrictions in such Letters Patent contained.

4. All Letters Patent and charters of incorporation granted or to be granted by Her Majesty to any bank shall, to all intents and purposes, be as effectual within New Zealand as Acts of the General Assembly thereof.

5. The authority heretofore granted to the copartnership now carrying on the business of banking in New Zealand under the style of "The Union Bank of Australia," to issue and circulate within the colony the promissory notes of the Company, payable to bearer on demand, shall remain unaffected by this Act:

Provided that all such notes bear date at the place of issue, and be there payable in coin of the realm or other coin lawfully current in New Zealand.

BANKERS' RETURNS.

Statements of assets and liabilities to be made out weekly. 1858, No. 34, sec. 1.

6. Every banker in the colony shall prepare and make up returns in the form in the *First* Schedule to this Act, and at the dates and times hereinafter mentioned, that is to say,—

(1.) At the close of business on Monday in every week a full and correct account and statement, in writing, of the assets and liabilities of such bank, at each place where such banker carries on the business of banking in the colony.

(2.) On the last Monday of each quarter ending on the last days of March, June, September, and December respectively, a general abstract in writing, from such weekly accounts and statements, of the average amount during such quarter of the assets and liabilities of every such bank.

Quarterly abstracts to be made out and published. Ibid., sec. 2.

A separate abstract shall be prepared for each place at which any banker shall issue notes payable thereat in coin on demand.

Statement exhibiting capital, &c., to be subjoined. Ibid., sec. 3.

7. To each of such quarterly abstracts there shall be subjoined a statement exhibiting the amount of capital of such bank paid up at the close of the quarter for which such abstract shall be made up, the rate and amount of the last dividend that may have been declared to the shareholders or proprietors, and the amount of the reserved profit at the time of declaring such dividend.

As regards bankers in the colony who shall also carry on business elsewhere, it shall be sufficient to state the same several particulars according to the latest advices received in the colony.

Abstracts, &c., to be verified and delivered to Colonial Treasurer. Ibid., sec. 4.

8. Such quarterly abstracts and statements shall be verified on the oath of the manager, or, in his absence, on the oath of the chief cashier or chief clerk of the bank at the place in respect of which the same shall be made, and shall be forthwith delivered or transmitted to the Colonial Treasurer, or to such other public officer as the Governor may appoint.

Abstracts to be published. Ibid., sec. 5.

9. Every such quarterly abstract and statement, or an abstract or statement compiled therefrom, including all the places of business in the colony of any one bank in one abstract, shall be published, as soon as conveniently may be, in the *Gazette*.

Penalty for neglecting to keep accounts and make returns. Ibid., sec. 6.

10. If any banker shall neglect to keep such weekly accounts and statements, or to make out and deliver or transmit, within ten days after the termina-

tion of the quarter, such quarterly abstracts and statements, as herein provided, he shall be liable to a penalty of five hundred pounds.

If any manager, chief cashier, or clerk, verifying any such abstract or statement, shall deliver or transmit as aforesaid any statement, or account, or abstract knowing the same to be false in any particular, he shall be liable to a penalty of one hundred pounds.

Penalty for making false statement or return.
1858, No. 34, sec. 7.

11. In any action for any penalty under this Act, the onus of proving that such weekly accounts and statements have been kept, and such quarterly abstracts and statements have been made out and delivered or transmitted, shall be on the banker.

Ibid., sec. 6.

12. Every penalty imposed by this Act shall be recovered only by action in the Supreme Court by and in the name of Her Majesty's Attorney-General for the colony, and no action shall lie against any person for any such penalty unless the same shall be commenced within two years from the time the offence shall be alleged to have been committed.

Recovery of penalties.
Ibid., sec. 9.

13. Every oath required to be taken under the provisions of this Act may be taken before any Justice of the Peace, who is hereby authorized to administer the same, and any person who shall wilfully take a false oath shall be deemed guilty of perjury and punishable accordingly.

Oaths to be taken before Justice of the Peace; penalty for false oath.
Ibid., sec. 8.

14. The Governor, by warrant gazetted, may vary for every or any banker at every or any place within the colony the several days and times provided for the making and preparation of the above-mentioned accounts and statements and abstracts respectively:

Governor to appoint times for preparation of returns.
1860, No. 10, sec. 2.

Provided that such accounts and statements and abstracts made and prepared in any one year shall not be less in number than provided by this Act, and shall be made and prepared at regular intervals of time.

EVIDENCE.

15. The entries in *bankers' books* shall be admissible in all legal proceedings as *prima facie* evidence of the matters, transactions, and accounts recorded therein, on proof being given by the affidavit in writing of one of the partners, or officers of such bank, or by other evidence, that such *books* are or have been the ordinary books of such bank, and the said entries have been made in the usual and ordinary course of business, and that such books are in or come immediately from the custody or control of such bank.

Entries in books by affidavit admissible in evidence.
1877, No. 16, sec. 3.

Nothing in this section shall apply to any legal proceeding to which any bank shall be a party whose *books* may be required to be produced in evidence.

16. Copies of all entries in any *banker's books* may be proved in all legal proceedings as evidence of such entries, without production of the originals, by the affidavit of a person who has examined the same, stating the facts of such examination, and that the copies sought to be put in evidence are correct.

Originals need not be produced.
Ibid., sec. 4.

17. No *banker's book*, and no copies of entries therein contained, shall be adduced or received in evidence under this Act unless five days' notice in writing, or such other notice as may be ordered by the Court, containing a copy of the entries proposed to be adduced, and of the intention to adduce the same in evidence, shall have been given by the party proposing to adduce the same in evidence, to the other party or parties to the said legal proceeding; and such other party or parties is or are at liberty to inspect the original entries and the accounts of which such entries form a part.

Proviso as to notice to parties in a suit.
Ibid., sec. 5.

Power under order of Court to inspect books and take copies.
1877, No. 16, sec. 6.

Judge may order that copies are not admissible.
Ibid., sec. 7.

Bank not compellable to produce books except in certain cases.
Ibid., sec. 8.

Drafts crossed with name of a banker payable to him only.
1858, No. 62, sec. 1.

Drafts crossed with "Company," "Bank," &c., payable to some banker only.
Ibid., sec. 2.

Drafts crossed with names of two or more bankers payable to either or any one of them only.
Ibid., sec. 3.

Addition to draft deemed to be material part thereof.
Ibid., sec. 5.

Bank holidays throughout colony.
1873, No. 6, sec. 2.

Bills due on bank holidays to be payable on the day following.
Ibid., sec. 2.

Provision as to notice of dishonor and presentation for honor.
Ibid., sec. 3.

As to payments on bank holidays.
Ibid., sec. 4.

18. On the application of any party to any legal proceedings who has received such notice, a Judge may order that such party be at liberty to inspect and to take copies of any entry or entries in a *banker's book* relating to the matters in question in such legal proceedings, and such orders may be made by such Judge, at his discretion, either with or without summoning before him such bank or the other party to such legal proceedings, and shall be intimated to such bank at least three days before such copies are required.

19. On the application of any party to any legal proceedings who has received notice, a Judge may order that such entries and copies mentioned in the said notice shall not be admissible as evidence of the matters, transactions, and accounts recorded in a *banker's book*.

20. No bank shall be compellable to produce the *books* of such bank in any legal proceedings, unless a Judge specially orders that such *books* should be produced at such legal proceedings.

BANKERS' DRAFTS.

21. In every case where a draft on any banker, made payable to bearer or to order on demand, bears across its face an addition in writing or stamped letters of the name of a banker, such draft shall be payable only to or through such banker.

(1.) Where such draft bears across its face an addition in writing or stamped letters of the words "Company" or "Bank," in full or abbreviated, such draft shall be payable only to or through some banker.

(2.) Where such draft bears across its face an addition in writing or stamped letters of the names of two or more bankers, such draft shall be payable only to either or any one of such bankers.

Provided always that, whenever any such addition shall have been made to any such draft as aforesaid, such addition shall to all intents and purposes whatsoever be deemed and taken to be a material part of the draft across the face of which such addition shall have been written.

BANK HOLIDAYS.

22. The several days in the *Second* Schedule to this Act mentioned (and which days are in this Act hereinafter referred to as bank holidays) shall be kept as close holidays in all banks in New Zealand.

23. All bills of exchange and promissory notes which are due and payable on any such bank holiday shall be payable, and in case of non-payment may be noted and protested, on the next following day, and not on such bank holiday; and any such noting or protest shall be as valid as if made on the day on which the bill or note was made due and payable.

24. When the day on which any notice of dishonor of an unpaid bill of exchange or promissory note should be given, or when the day on which a bill of exchange or promissory note shall be presented or received for acceptance, or accepted or forwarded to any referee or referees, is a bank holiday, such notice of dishonor shall be given, and such bill of exchange or promissory note shall be presented or forwarded, on the day next following such bank holiday.

25. No person shall be compellable to make any payment or do any act upon such bank holidays which he would not be compellable to do or make on Christmas Day or Good Friday;

The obligation to make such payment and do such act shall apply to the day following such bank holiday; and the making of such payment and doing such

act on such following day shall be equivalent to payment of the money or performance of the act on the holiday.

26. For all the purposes of this Act the day next following a bank holiday shall mean the next following day on which a bill of exchange may be lawfully noted or protested. Day following bank holiday.
1873, No. 6, sec. 2.

27. The Governor, by Order in Council, from time to time, as to him may seem fit, may appoint a special day to be observed as a bank holiday, either throughout the colony or in any part thereof, or in any provincial district, county, city, town, or place therein. Appointment of special bank holidays by Proclamation.
Ib., sec. 5.

Any day so appointed shall be kept as a close holiday in all banks within the locality mentioned in the Proclamation hereinafter mentioned, and shall, as regards bills of exchange and promissory notes payable in such locality, be deemed to be a bank holiday for all the purposes of this Act :

Provided that the appointment of any such day to be observed as a bank holiday shall be made by Proclamation to be gazetted at least seven days before the day so appointed as aforesaid.

28. The Governor in like manner from time to time, by Order in Council, when it shall be made to appear to him that in any year it is inexpedient that a day by this Act appointed for a bank holiday should be a bank holiday, may declare that such day shall not in such year be a bank holiday, and may appoint such other day as to the Governor in Council may seem fit to be a bank holiday instead of such day ; and thereupon the day so appointed shall in such year be substituted for the day so appointed by this Act. Day appointed for bank holiday may be altered by Order in Council.
Ib., sec. 6.

Alternative Section proposed in lieu of the two last foregoing.

Any banker may appoint any day to be observed as a special bank holiday at the bank under his direction or control, by public advertisement of such day not less than three times in some newspaper circulating at the place where such bank is situate, within ten days immediately preceding such day. Special bank holidays may be appointed by banker.

Every such advertisement shall be signed by the manager or other principal officer in charge of the bank, and a copy of such notice shall be kept affixed in some conspicuous place on the outside of the bank premises for at least three days before such day.

Such day shall be a special bank holiday only at the bank giving the notice herein required.

Every special bank holiday shall be deemed to be a bank holiday within the meaning of this Act.

REPEALS.

29. The Acts enumerated in the *Third Schedule* hereto are hereby repealed. Repeal of Acts.

SCHEDULES.

FIRST SCHEDULE.

First Schedule.

STATEMENT of the Average Amount of LIABILITIES and ASSETS of the BANK
at , during ended

LIABILITIES.		ASSETS.
Notes in circulation ...	£	Coined gold and silver, and other coined metal ... £
Bills in circulation	Gold and silver in bullion or bars ...
Balances due to other banks	Notes and bills of other banks ...
Government deposits	Balances due from other banks ...
Other deposits {	Not bearing interest ...	Landed property ...
	Bearing interest ...	Amount of all other securities—
		1. Notes and bills discounted
		2. Colonial Government securities ...
		3. Other funded securities ...
		4. Debts due to bank (exclusive of debts abandoned as bad)
		5. Securities not included under the above heads ...
Total average liabilities	£	Total average assets
		£

Amount of the capital stock paid up at the close of the quarter ended
, 18 :

Rate of the last dividend declared to the shareholders :

Amount of the last dividend declared :

Amount of the reserved profits at the time of declaring such dividend :

Dated at , this day of , 18 .

I., A.B., swear that to the best of my knowledge and belief the foregoing abstract is a true and faithful account of the average amount of assets and liabilities at of the above-named bank, during the period specified, and that the same was made up from the weekly accounts and statements thereof kept in pursuance of "The Banks and Bankers Act, 1880."

A.B.

Sworn at , this day of , 18 , before me,
C.D., Justice of the Peace.

Second Schedule.
Sec. 22.

SECOND SCHEDULE.

New Year's Day,	The ninth day of November,
Good Friday,	Christmas Day,
The day after Good Friday,	The twenty-sixth day of December,
Easter Monday,	Saint Patrick's Day,
Whit-Monday,	Saint George's Day,
The twenty-fourth day of May, being the Queen's Birthday,	Saint Andrew's Day.

Third Schedule.

THIRD SCHEDULE.

- 1856, No. 4.—The Bank Paper Currency Act, 1856.
- 1858, No. 34.—The Bankers' Returns Act, 1858.
- 1858, No. 62.—The Bankers' Draft Act, 1858.
- 1860, No. 10.—The Bankers' Returns Act Amendment Act, 1860.
- 1873, No. 6.—The Bank Holidays Act, 1873.
- 1877, No. 16.—The Bankers' Books Evidence Act, 1877.
- 1878, No. 25.—The Bank Holidays Amendment Act, 1878.