

T A S M A N I A .



1874.

ANNO TRICESIMO-OCTAVO

VICTORIÆ REGINÆ,

No. 9.



AN ACT to amend the Law relating to Bankers. A. D. 1874.  
[18 September, 1874.]

**W**HEREAS doubts have arisen whether by the custom of Merchants a Bill of Exchange or Promissory Note purporting to be payable at sight or on presentation is payable until the expiration of a certain number of "Days of Grace:" PREAMBLE.

And whereas it is desirable to amend and consolidate the Law with respect to Bankers in certain particulars :

Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :

**1** Every Bill of Exchange or Promissory Note drawn after this Act comes into operation, and purporting to be payable at sight or on presentation, shall for all purposes whatsoever be deemed to be a Bill of Exchange or Promissory Note payable on demand, any law or custom to the contrary notwithstanding. Bills payable at sight or on presentation to be payable on demand.

**2** Any Bill of Exchange wherein the drawer thereof shall have expressed that such Bill of Exchange is to be payable in any place other than the place by him therein mentioned to be the residence of the drawee thereof, and which shall not on the presentment for acceptance thereof be accepted, may, without further presentment to the drawee, be protested for non-payment in the place in which such Bill of Exchange shall have been by the drawer expressed to be payable, unless the amount owing upon such Bill of Exchange shall be paid to the holder thereof on the day on which such Bill of Exchange would have become payable had it been duly accepted. Bills of Exchange expressed to be paid in any place other than the residence of the drawee, if not accepted on presentment, may be protested in that place unless paid.

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Draft crossed with name of bank to be payable only to or through some bank.

**3** Whenever a cheque or draft on any bank payable to bearer or to order on demand bears across its face an addition, in written or stamped letters, of the name of any bank, or with two transverse lines with the word "Bank" in full or abbreviated, either of such additions shall have the force of a direction to the bank upon which such draft is made that the same is to be paid only to or through some bank, and the same shall be payable only to or through some bank.

The crossing to be deemed a material part of a cheque or draft, &c.

**4** Whenever a cheque or draft on any bank payable to bearer or to order on demand is issued crossed, as in the last Section mentioned, such crossing shall be deemed a material part of the cheque or draft, and except as hereinafter mentioned shall not be obliterated or added to or altered by any person whomsoever after the issuing thereof; and the bank upon which such cheque or draft is drawn shall not pay such cheque or draft to any other than the bank with whose name such cheque or draft is so crossed, or if the same is crossed as aforesaid without a name to any other than a bank.

The lawful holder of a cheque uncrossed, or crossed "Bank," may cross the same with the name of a bank.

**5** Whenever any such cheque or draft has been issued uncrossed or crossed with the word "Bank," or any abbreviation thereof, and without the name of any bank, any lawful holder of such cheque or draft, while the same remains so uncrossed or crossed with the word "Bank," or any abbreviation thereof, without the name of any bank, may cross the same with the name of any bank; and whenever any such cheque or draft is uncrossed, any such lawful holder may cross the same with the word "Bank," or any abbreviation thereof, and any such crossing as in this Section mentioned shall be deemed a material part of the cheque or draft, and shall not be obliterated or added to or altered by any person whomsoever after the making thereof; and the bank upon which such cheque or draft is drawn shall not pay such cheque or draft to any other than the bank with whose name such cheque or draft is so crossed as last aforesaid.

Bank not to be responsible for paying a cheque which does not plainly appear to have been crossed or altered.

**6** Any bank paying a cheque or draft which does not at the time when it is presented for payment plainly appear to be or to have been crossed as aforesaid, or to have been obliterated, added to, or altered as aforesaid, shall not be in any way responsible or incur any liability; nor shall such payment be questioned by reason of such cheque having been so crossed as aforesaid, or having been so obliterated, added to, or altered as aforesaid, and of such bank having paid the same to a person other than the bank with whose name such cheque or draft has been so crossed, unless such bank has acted *malá fide*, or been guilty of negligence in so paying such cheque.

Drafts on a bank payable to order on demand sufficient authority for payment without proof of endorsement.

**7** Any draft or order drawn upon a bank for a sum of money payable to order on demand which, when presented for payment, purports to be endorsed by the person to whom the same is drawn payable, shall be a sufficient authority to such bank to pay the amount of such draft or order to the bearer thereof; and it shall not be incumbent on such bank to prove that such endorsement, or any subsequent endorsement, was made by or under the direction or authority of the person to whom the said draft or order was or is made payable either by the drawer or any endorser thereof.

Meaning of "Bank holiday."

**8** The term "Bank holiday" hereinafter mentioned means any day set apart by the Governor to be kept as a public holiday, of which

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notification is made in the *Gazette* and in One newspaper published in *Hobart Town* and in One newspaper published in *Launceston*, Twenty-four hours at least before the said day. A.D. 1874.

**9** 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; and 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 or Promissory Note may be lawfully noted or protested. Bills due on bank holidays to be payable on the following day.

**10** When the day on which any notice of dishonour 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 should be presented or received for acceptance, or accepted or forwarded to any referee or referees, is a bank holiday, such notice of dishonour shall be given, and such Bill of Exchange or Promissory Note shall be presented or forwarded, on the day next following such bank holiday. Provision as to notice of dishonour and presentation for honour.

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

**12** Section Twenty of the Act of the Parliament of *Tasmania* of the 27th *Victoria*, No. 9, is hereby repealed; and whenever any cheque or draft on any bank shall be crossed with the name of a bank, or with two transverse lines with the word "Bank" or any abbreviation thereof, whosoever shall obliterate, add to, or alter any such crossing, or shall offer, utter, dispose of, or put off any cheque or draft whereon any such obliteration, addition, or alteration has been made, knowing the same to have been made with intent in any of the cases aforesaid to defraud, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Fourteen years. Obliterating crossings on cheques.

**13** In this Act the word "bank" shall include any person or persons, or corporation, or joint stock or other company carrying on the business of bankers in this Colony. What word "bank" shall include.

**14** The Acts in the Schedule are hereby repealed except as to all things duly done thereunder before the commencement of this Act. Repeal.

**15** This Act may be cited as "The Bankers Law Amendment Act, Short title. 1874."

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**SCHEDULE.**

<i>Date and Number of Act.</i>	<i>Title.</i>
20 Vict. No. 17.	An Act to amend the Law relating to Drafts on Bankers.
32 Vict. No. 23.	An Act to further amend the Law relating to Drafts on Bankers.