

Act No. 19, 1903.

COMMERCIAL  
CAUSES.

An Act to provide a more expeditious method for the trial of commercial causes; and for purposes consequent on or incidental to that object. [5th December, 1903.]

BE it enacted by the King'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:—

*Preliminary.*

Short title.

1. This Act may be cited as the "Commercial Causes Act, 1903."

Definitions.

2. In this Act, unless the context otherwise requires,—

"Judge" means a Judge of the Supreme Court.

"Prescribed" means prescribed by rules of court.

"Prothonotary" means the Prothonotary of the Supreme Court.

"Rules of court" includes forms.

Commercial causes.

3. Commercial causes include causes arising out of the ordinary transactions of merchants and traders; amongst others those relating to the construction of mercantile documents, export or import of merchandise, affreightment, insurance, banking and mercantile agency and mercantile usages.

*List of causes to be kept by Prothonotary.*

A list of commercial causes to be kept.

4. A list of commercial causes shall be kept by the Prothonotary. All proceedings in the causes on such list shall be in accordance with the provisions of this Act.

No

*Commercial Causes.*

No cause shall be entered on such list except upon the order of a Judge as hereinafter provided.

*When cause entered on list, Judge to give direction as to mode of trial, &c.*

5. Either party to a Supreme Court common-law action may, by summons in the form prescribed, at any time after the commencement of such action, call upon the other party to show cause before a Judge in chambers why such action should not be entered in the said list. Either party may apply to have action placed on such list.

The Judge may order the action to be so entered, and from such order there shall be no appeal. Such Judge or any other Judge shall, by such or a subsequent order, give such directions as in his opinion are expedient for the speedy determination of the questions in the action really at issue between the parties.

6. To effect this purpose the Judge may inter alia do any or all Directions. of the following things—

- (a) dispense with pleadings;
- (b) dispense with the technical rules of evidence for proving any matter which is not bona fide in dispute, also with such rules as might cause expense and delay arising from commissions to take evidence and otherwise; and, without limiting the generality of this power, dispense with the proof of hand-writing, documents, the identity of parties or parcels, or of authority;
- (c) require particulars of the cause of action, of the grounds of defence, or of any other circumstance connected with the cause to be served within a specified time by either party;
- (d) order mutual discoveries and inspection;
- (e) require either party to make admissions with respect to any question of fact involved in the cause;
- (f) settle the issues for trial;
- (g) order every cause to be tried without a jury unless a jury shall be demanded by either party;
- (h) state a case on matters of law for the Full Court.

7. The parties may, if they so desire, agree that the verdict of the jury or the decision of the Judge in a commercial cause shall be final. Jury's verdict or Judge's decision may be final.

*Supplemental.*

8. The Judges or any three of them, of whom the Chief Justice, Rules of court. or, in his absence from the State, the senior puisne Judge, shall be one, may make rules of court for carrying this Act into effect, and in particular for all or any of the following matters—

- (a) for regulating the sittings of the court to try commercial causes;

(b)

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*Government Savings Bank (Amendment).*


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(b) for regulating the pleading, practice, and procedure in such causes and the costs of proceedings therein.

Rules of court now in force.

**9.** Subject to this Act and the rules made thereunder, all enactments and rules of court in force at the time of the commencement of this Act relating to actions at law shall apply to commercial causes :

Additional power as to regulation of practice and procedure by rules of court.

Provided that where any provisions in respect of the practice or procedure of the Supreme Court are contained in any Act, rules of court may be made for modifying such provisions in respect to commercial causes to any extent that may be deemed necessary.

Saving.

**10.** Nothing in this Act shall extend to or affect any action pending at the commencement of this Act, unless both parties to the action consent thereto.

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