



ANNO QUADRAGESIMO SECUNDO ET QUADRAGESIMO
TERTIO

VICTORIÆ REGINÆ.

A.D. 1879.

No. 162.

An Act to amend the Law of Evidence with respect to
Bankers' Books.

[Assented to, 25th October, 1879.]

WHEREAS serious inconvenience has been occasioned to bankers, Preamble.
and also to the public, by reason of the ledgers and other
account books having been removed from the banks for the purpose
of being produced in legal proceedings: And whereas it is expedient
to facilitate the proof of the transactions recorded in such
ledgers and account books—Be it therefore Enacted by the Governor
of the Province of South Australia, with the advice and consent of
the Legislative Council and House of Assembly of the said province,
in this present Parliament assembled, as follows :

1. This Act may be cited for all purposes as “The Bankers’ Short title.
Books Evidence Act, 1879.”

2. Subject to the provisions of this Act, a copy of any entry in a Copy of entry prima
facie evidence.
banker’s book, shall in all legal proceedings be received as *prima facie*
evidence of such entry, and of the matters, transactions, and accounts
therein recorded.

3. A copy of an entry in a banker’s book shall not be received in Original entry need
not be produced.
evidence under this Act unless it be first proved that the book was,
at the time of the making of the entry, one of the ordinary books
of the bank, and that the entry was made in the usual and ordinary
course of business, and that the book is in the custody or control of
the bank. Such proof may be given by a partner or officer of the
bank

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bank, and may be given orally or by an affidavit sworn before any commissioner or person authorised to take affidavits.

Copy of entry to be examined.

4. A copy of an entry in a banker's book shall not be received in evidence under this Act unless it be further proved that the copy has been examined with the original entry and is correct. Such proof shall be given by some person who has examined the copy with the original entry, and may be given either orally or by an affidavit sworn before any commissioner or person authorised to take affidavits.

Order of Judge for production of books.

5. A banker or officer of a bank shall not, in any legal proceeding to which the bank is not a party, be compellable to produce any banker's book the contents of which can be proved under this Act, or to appear as a witness to prove the matters, transactions, and accounts therein recorded, unless by order of a Judge or a Special Magistrate, as the case may be, made for special cause.

Power under order of Judge to inspect books and take copies.

6. On the application of any party to a legal proceeding a Court or Judge or a Special Magistrate, as the case may be, may order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceedings. An order under this section may be made either with or without summoning the bank or any other party, and shall be served on the bank three clear days before the same is to be obeyed, unless the Court, Judge, or Special Magistrate, as the case may be, otherwise directs.

Costs in discretion of Court.

7. The costs of any application to a Court, Judge, or Special Magistrate, as the case may be, under or for the purposes of this Act, and the costs of anything done or to be done under an order of a Court, Judge, or Special Magistrate, as the case may be, made under or for the purposes of this Act, shall be in the discretion of the Court, Judge, or Special Magistrate, as the case may be, who may order the same or any part thereof to be paid to any party by the bank, where the same have been occasioned by any default or delay on the part of the bank. Any such order against a bank may be enforced, as if the bank was a party to the proceedings.

Interpretation clause.

8. In this Act the expressions "bank" and "banker" shall mean and include any person, persons, partnership, or company, carrying on the ordinary business of banking; and also any Savings Bank which now is, or hereafter may be established, under any Acts relating to Savings Banks in South Australia.

The expression "legal proceedings" shall mean any civil or criminal proceeding or enquiry in which evidence is or may be given, and shall include an arbitration:

The expression "the Court" shall mean the Court, Judge, Commissioner of Insolvency, Special Magistrate, arbitrator, assessor, referee, or commissioner to whom any jurisdiction has been assigned

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assigned under the Supreme Court Act, 1878, or other person or persons authorised to preside over or exercise judicial control over the said legal proceedings :

The expression " a Judge " shall mean a Judge of the Supreme Court of the Province of South Australia :

The expression " bankers' books " shall mean and include all ledgers, day books, cash books, diaries, account books, and all other books used in the ordinary business of the bank.

9. Sunday, Christmas Day, Good Friday, and any bank holiday Holidays. shall be excluded from the computation of times under this Act.

10. This Act shall come into operation on the first day of Operation. January, 1880.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.