

WESTERN AUSTRALIA

ANNO QUINQUAGESIMO OCTAVO

VICTORIÆ REGINÆ

No. 6

An Act to amend the Law of Evidence with reference to  
Banker's Books. [*Assented to 10th October, 1894.*]

**W**HEREAS it is expedient to facilitate the proof of the transac-  
tions recorded in the Ledgers and other Account Books of or Preamble  
belonging to Banks: Be it therefore enacted by the Queen's Most  
Excellent Majesty, by and with the advice and consent of the Legis-

*Banker's Books Evidence*

lative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows :—

- Short title           1. This Act may be cited as 'The Banker's Books Evidence Act, 1894.'
- Repeal of 43 Vic., No. 12           2. 'The Banker's Books Evidence Act, 1879,' shall be repealed as from the passing of this Act, but such repeal shall not affect anything which has been done or happened before such repeal takes effect.
- Mode of proof of entries in banker's books  
Imp. Act, 42 Vic., c. 11, s. 3           3. Subject to the provisions of this Act, a copy of any entry in a 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.
- Proof that book is a banker's book  
Imp. Act, 42 Vic., c. 11, s. 4           4. A copy of an entry in a banker's book shall not be received in 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, and may be given orally or by affidavit sworn before any Commissioner or person authorised to take affidavits.
- Verification of copy  
Imp. Act, 42 Vic., c. 11, s. 5           5. 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.
- Case in which banker, &c., not compellable to produce book, &c.  
Imp. Act, 42 Vic., c. 11, s. 6           6. A banker, or officer of a bank, shall not in any legal proceeding to which the bank is not a party be compelled 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 made for special cause.
- Court or Judge may order inspection, &c.  
Imp. Act, 42 Vic., c. 11, s. 7           7. On the application of any party to a legal proceeding the Court or Judge 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 by delivering a copy of the order to an officer of such bank at the principal or branch office thereof having the custody of the book of which inspection is desired, three clear days before the same is to be obeyed, unless the Court or Judge otherwise directs.
- Costs  
Imp. Act, 42 Vic., c. 11, s. 8           8. The costs of any application to a Court or Judge under or for the purpose of this Act, and the costs of anything done or to be done under an order of a Court or Judge made under or for the purposes of this Act, shall be in the discretion of the Court or Judge, 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 on the part of the bank. Any such order against a bank may be enforced as if the bank were a party to the proceeding.

*Banker's Books Evidence*

9. The Magistrate of any Local Court or any Resident or Police Magistrate or the Chairman of any Court of General Sessions of the Peace may, with respect to any legal proceeding in the Court in which he presides, exercise the powers of a Judge under this Act.

Powers of Judge extended to Local Courts, Magistrates, &c.

10. In this Act—

The expressions 'bank' and 'banker' mean any person, persons, partnership or company carrying on the business of bankers by receiving deposits and issuing bills or notes payable to bearer or at sight or on demand, and also any Savings Bank established under any Act relating to Post Office Savings Banks.

Interpretation :  
'Bank,' 'banker'  
Imp. Act, 42 Vic.,  
c. 11, ss. 9, 10

Expressions relating to 'bankers' books' include ledgers, day books, cash books, account books, and all other books used in the ordinary business of the bank.

'Bankers' books

The expression 'legal proceeding' shall include all proceedings, whether preliminary or final, in Courts of Justice, both civil and criminal, legal and equitable, and shall include all proceedings, whether preliminary or final, by way of arbitration, examination of witnesses, assessment of damages, compensation or otherwise, in which there is power to administer an oath.

'Legal proceeding'

The expression 'the Court' means the Court, Judge, arbitrator, person or persons before whom a legal proceeding is held or taken.

'The Court'

The expression 'a Judge' means a Judge of the Supreme Court of the Colony of Western Australia.

'A Judge'

11. Sunday, Christmas Day, Good Friday, and any Bank Holiday shall be excluded from the computation of time under this Act.

Computation of time  
Imp. Act, 42 Vic.,  
c. 11, s. 11

W. C. F. ROBINSON,  
GOVERNOR.