

Act No. 53, 1902.

An Act to consolidate the enactments relating SAVINGS BANK OF
NEW SOUTH WALES.
to the Savings Bank of New South Wales.
[26th August, 1902.]

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 :—

PART I.

Repeal and interpretation.

1. This Act may be cited as the "Savings Bank of New South Wales Act, 1902," and is divided into Parts and Divisions, as follows :—

PART I.—*Repeal and interpretation*—ss. 1-4.

PART II.—*The President, the Trustees, and the district trustees*—ss. 5-17.

PART III.—*Officers*—ss. 18-22.

PART IV.—*Deposits*—

DIVISION 1.—*In Sydney*—ss. 23-31.

DIVISION 2.—*Country districts*—ss. 32-37.

PART V.—*Management of funds*—ss. 38-43.

PART VI.—*Regulations*—ss. 44, 45.

2. (1) The Acts mentioned in the Schedule to this Act are, to Repeal the extent therein expressed, hereby repealed.

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Officers under Acts
hereby repealed.

(2) All persons appointed under the Acts hereby repealed and holding office at the time of the passing of this Act shall be deemed to have been appointed hereunder.

Regulations or by-
laws under Acts
hereby repealed.

(3) All regulations or by-laws made under the authority of any Act hereby repealed and being in force at the time of the passing of this Act shall be deemed to have been made under the authority of this Act.

Establishment of
Savings Bank.
26 Vic. No. 11, s. 1.

3. The institution for the receipt and management of deposits originally established under the Act, second William the Fourth number thirteen, under the title of the Savings Bank of New South Wales, shall continue and be deemed to be established by that name under this Act, and this Act shall apply to it accordingly.

Interpretation.
Ibid.

4. In this Act, unless the context or subject-matter otherwise indicates or requires,—

“Savings Bank” means the Savings Bank of New South Wales;

“Trustees” means the Trustees of the Savings Bank of New South Wales, and “trustee” means one of such trustees.

PART II.

The President, the Trustees, and the district trustees.

President, Trustees,
and Vice-president.
Ibid. s. 4.

5. (1) The Governor shall continue to be President of the Savings Bank, and the whole affairs and business thereof shall continue to be managed by the Trustees, the number of whom shall not exceed eighteen, and of whom one shall be Vice-president.

Appointment of
Trustees.

(2) The Governor shall appoint all such Trustees, and shall name every such Vice-president, and such appointments and nomination shall be notified in the Gazette.

Incorporation of
Trustees.
17 Vic. No. 24, s. 2.
26 Vic. No. 11, s. 1.

6. The Trustees for the time being of the Savings Bank shall be a body corporate under the name of “The Trustees of the Savings Bank of New South Wales,” and by that name shall have perpetual succession and a common seal.

District trustees.
Ibid. s. 34.

7. (1) The Governor may appoint district trustees of the Savings Bank for such districts as seem meet, and such appointments shall be notified in the Gazette.

(2) Such district trustees shall not be members of the said body corporate.

Disqualifications.
Ibid. s. 5.

8. (1) No person shall be qualified to take and hold the office of a trustee or district trustee under this Act who becomes a bankrupt or insolvent within the provisions of any Act for the relief of insolvent debtors, or compounds with his creditors or makes any assignment of his property in trust or otherwise for their benefit.

(2)

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(2) Any trustee who absents himself from the meetings of Trustees for more than six months consecutively without leave of the Trustees shall thereby become disqualified from holding his office of trustee. Absence from meetings.

9. (1) Except as herein otherwise enacted, every act which the Trustees are authorised or required to do by or under this Act shall be done at a duly convened meeting of the Trustees and not otherwise. Meetings. 26 Vic. No. 11, s. 7.

(2) At any such meeting four trustees shall form a quorum. Quorum.

10. (1) At every meeting of the Trustees, the Vice-president or, in his absence, the trustee then present whose appointment is first in date or order, shall be chairman. Chairman. Ibid. s. 8.

(2) Such chairman shall, in addition to his vote as trustee, have a casting vote in case of an equality of votes. Casting vote.

11. (1) One clear day's notice at least of every meeting of the Trustees shall be given to all the trustees by circular letter. Notice of meetings. Ibid. s. 12.

(2) Such letters shall be addressed by the managing trustee or the accountant to all the other trustees respectively at their usual offices or places of abode, and may be transmitted by post. How addressed.

(3) Whenever it is intended to appoint or nominate any person to any office or to fix the amount of any salary or to advance or invest money on any security such intention shall be expressed in the notice. Certain business to be expressed.

12. (1) The Trustees shall within one month after the close of every year cause an account and balance sheet to be prepared containing a true statement of— Annual account and balance sheet. Ibid. s. 21.

(a) the deposits in the Savings Bank at the end of the past year; and

(b) the money at that period remaining in any bank to the credit of the Savings Bank; and

(c) all sums of money due to the Trustees.

(2) They shall certify to the best of their belief the correctness of the said account and balance sheet under their hands, and shall within three days thereafter lay the same before the Governor, and shall cause the same after being approved by him to be published in the Gazette. To be certified and laid before the Governor.

13. (1) No trustee or district trustee, or other person in any way concerned in the management of the Savings Bank, shall deposit therein or borrow therefrom any money, or derive any benefit from any deposit made therein. Trustees not to deposit or borrow. Ibid. ss. 9, 38.

(2) No trustee or district trustee, except the managing trustee, as such, shall receive, directly or indirectly, any salary or emolument whatever from the funds of the Savings Bank. Or to receive emolument.

14. No trustee or district trustee shall be answerable or accountable— Responsibility of trustees. Ibid. s. 33.

(a) for any other trustee or district trustee, but each for himself only; or,

(b)

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- (b) for any banker, broker, or other person with whom, or in whose hands or custody any part of the trust moneys of the Savings Bank is deposited or lodged for safe custody or otherwise in the execution of the trusts hereby reposed in the trustees; or
- (c) for the insufficiency or deficiency of any security in or upon which any moneys are placed out or invested, or for the defect of title or value of any land, or for any other misfortune, loss, or damage which may happen in the execution of the trusts hereby reposed in them or in relation thereto, unless the same happens by or through his own wilful default respectively.

Land vested in
Trustees.
26 Vic. No. 11, s. 2.

15. (1) All land now or hereafter belonging to the Savings Bank for any estate as or in the nature of a security or otherwise, or in or to which the said Bank is or shall be in any way interested or entitled, by virtue of any mortgage, release, grant, or otherwise howsoever, and in the name of whomsoever the same may stand or be held in trust for or on behalf of the Savings Bank, shall be held to be vested in law in the Trustees as such body corporate.

Conveyance of land
to Trustees.

(2) All land intended to be conveyed, assigned, or assured to the Savings Bank shall be conveyed, assigned, and assured to the trustees and their successors as a body corporate for such estate as in any deed or indenture expressed or thereby intended to be conveyed.

Uses.

(3) All such land shall be to the use of the Trustees and their successors, but for the benefit of the depositors in the Savings Bank.

Powers of alienation.
Ibid.

16. The Trustees may take and hold, sell, exchange, let, convey, assign, surrender, and otherwise dispose of as and in the nature of a body corporate, unrestrained in point of alienation all such land and also all other land belonging to the Savings Bank.

Provided that—

- (a) all such conveyances, assignments, and surrenders of land shall be executed by the Trustees under their common seal in the presence of one of the Trustees; and
- (b) the same shall not operate by virtue of such execution until one of the trustees has attested such execution, and, if any consideration money is expressed therein, the managing trustee or accountant has certified upon the said instrument under his hand that such consideration money has been duly paid.

Receipts.

(2) Notwithstanding the provisions of the preceding subsection the receipt in writing of any one of the trustees, together with the managing trustee or the accountant for any sum of money receivable by the Savings Bank or the Trustees for the redemption of any mortgage shall to all intents and purposes, and as against all parties, be an effectual discharge at law and in equity for the money expressed to have been so received.

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17. All bonds, mortgages, and other securities taken by the Trustees on account of the Savings Bank or the depositors therein, and all moneys, goods, chattels, and effects whatsoever belonging to or vested in or held by the Savings Bank, or the Trustees, or any other person whomsoever on behalf of the Savings Bank, or by the depositors therein, shall be vested in and held and possessed by the Trustees as such corporate body as aforesaid. Securities and personal property. 26 Vic. No. 11, s. 3.

PART III.

Officers.

18. The Trustees at a meeting convened solely for the purpose may nominate to the Governor, and the Governor may appoint some fit person to be managing trustee, who, unless already a trustee, shall become an additional trustee and a member of the corporate body, but shall not vote on any question affecting his personal interests. Managing trustee. Ibid. s. 6.

19. The Trustees may appoint an accountant of the Savings Bank in Sydney, and such tellers, clerks, and other subordinate officers as the Trustees deem necessary for the due conduct of the affairs and business of the Savings Bank. Accountant and other officers. Ibid. s. 10.

20. The managing trustee, accountant, and such other officers of the Savings Bank as the Trustees may require shall, before acting in their respective offices, give security for the due and faithful discharge of the duties thereof in a bond to the Trustees, with such sureties and in such penal sum as the Trustees fix. Officers to give security. Ibid. s. 11.

21. (1) The Trustees shall fix such yearly salaries to be paid to the managing trustee, accountant, clerks, and other officers respectively as they think fit, regard being had to their respective duties and responsibilities. Salaries. Ibid. s. 13.

(2) All such salaries and also all charges and expenses in the conduct and management of the affairs and business of the Savings Bank incurred under the sanction of the Trustees, or approved of by them, shall be defrayed and paid by the Trustees out of the interest or dividends received by them on moneys invested in any manner herein provided. Payment of salaries.

22. (1) If any person holding any office in the Savings Bank or any branch thereof, and having in his possession or power any money or effects belonging thereto, or any deed or security relating to the same— Bankruptcy, &c., of officer in possession of property of the bank. Ibid. s. 20.

- (a) becomes insolvent under any Act for the relief of insolvent debtors; or
- (b) or makes any assignment of his property for the benefit of his creditors; or
- (c)

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(c) has any execution, attachment, or other process issued against his land, goods, chattels, or effects; or

(d) dies,

any two of the trustees may apply to such officer, or his assignee, or to the Sheriff or other person executing such process, or to his executors or administrators, or to any other person having legal right as the case may require, and may demand that all such moneys or effect, deeds, securities, or papers belonging to the Savings Bank shall be paid over or delivered up to the Trustees or such person as they shall appoint.

Such property to be delivered on demand.

(2) The party so applied to and having the same shall on such demand deliver over to the Trustees, or to any person whom they may appoint to receive the same, all effects or other things belonging to the Savings Bank, and all deeds, securities, or papers relating to the same or belonging to the said bank; and shall pay out of the estate, assets, or effects of such officer all money due by such officer to the said bank before any other of the debts of the said officer are paid or satisfied, and before the money directed to be levied by such process as aforesaid is paid over to the party issuing the same, and all assets, land, goods, chattels, estate, and effects of such officer shall be bound to the payment and discharge thereof accordingly.

PART IV.

*Deposits.*DIVISION 1.—*In Sydney.*

Deposits.

20 Vic. No. 11, s. 16.

23. The managing trustee or any other officer of the Savings Bank whom the Trustees appoint for that purpose may receive from any person by way of deposit any sum of money, not being less than one shilling nor more, whether by one or by successive payments, than two hundred pounds, to the credit of any one account, except as herein otherwise provided.

Time and place for receipt of deposits.

(2) The time and place at which such deposits may be received shall be fixed by a regulation made under this Act, and they shall be received at no other time or place.

Entry in books.

(3) Every sum of money so received shall be immediately entered in the books to be kept for that purpose and placed to the credit of the depositor or of such other person as he may appoint.

Trustees' bank account.

(4) Every such deposit and all other money received into the Savings Bank shall at the end of each day be paid into such bank or one of such several banks in Sydney as the Trustees shall appoint and shall be there placed to the credit of the Savings Bank to an account intituled "Account of the Trustees of the Savings Bank of New

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New South Wales;" and no money paid into such Bank shall be withdrawn without the written order of two or more Trustees countersigned by the managing trustee or in his absence by the accountant.

24. (1) Every person having any sum of money not less than twenty shillings standing to his credit in the books of the Savings Bank shall be entitled to receive interest upon the same at the rate to be from time to time fixed by the Trustees :

Provided that—

- (a) the Trustees may limit the interest so as not to be payable on the surplus of any account exceeding one hundred pounds; and
- (b) interest shall not be allowed on any sum less than one pound nor on odd shillings or pence ; and
- (c) the interest shall be calculated by months omitting odd days.

(2) The Trustees shall pay such interest out of the interest received by them on sums which they have lent out, and such interest shall, subject to the regulations, be added to and incorporated with the sum which may be then standing in the books of the Savings Bank to the credit of the depositor.

25. Any person being the depositor or owner of any sum of money deposited in the Savings Bank, or the interest thereof, or any person duly authorised by any such depositor or owner, or his executors or other lawful representatives, may claim and receive back such sum of money or any part thereof in the manner and upon the conditions following, that is to say—

- (a) if the sum so required to be repaid does not exceed five pounds, the claimant shall on some day appointed for the meeting of the Trustees deliver or cause to be delivered to the managing trustee or accountant a notice signed with his name declaring his intention to withdraw such sum from the Bank at the expiration of seven days from the date of the said notice ;
- (b) if the sum to be withdrawn exceeds five pounds but does not exceed twenty pounds then fourteen days like notice shall in like manner be given ;
- (c) when the sum to be withdrawn exceeds twenty pounds a like notice of twenty days :

Provided that the Trustees may in their discretion dispense with any such notice.

26. The Trustees may pay to any infant the amount of any deposit received for the use and benefit of such infant and the interest thereon in the manner and upon the conditions hereinbefore specified in the case of other depositors, and the receipt of such infant shall be a sufficient discharge for any money so paid.

27. The Trustees may, by order of the Governor in writing under the hand of the Colonial Secretary, receive any deposit from or on behalf of any person serving under any sentence for a criminal offence,

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offence, and may allow interest thereon in like manner as on other deposits, and may pay over to any such person the principal sum and interest thereon at the expiration or upon the remission of his sentence.

Deposits of Savings
Banks and public
institutions.

26 Vic. No. 11, s. 29.

Receipt of same.

Interest on same.

Death of depositor
whose deposit does
not exceed one
hundred pounds.

Ibid. s. 30.

Payment of deposit
where no regulations.

Death of depositor
whose deposit exceeds
one hundred pounds.

Ibid. s. 31.

Disputes concerning
deposits to be settled
by arbitration.

Ibid. s. 32.

28. (1) The Trustees may receive in deposit money deposited in any other savings bank or money from any charitable institution or any legally established friendly or other society in New South Wales.

(2) Such money may be received from the treasurer or trustees of such savings bank, institution, or society, or other officer competent to pay such money, and the receipt of such treasurer, trustees, or other officer in respect of any repayment of such money shall be a sufficient discharge to the Trustees.

(3) The Trustees shall give credit in the books and accounts of the Savings Bank for the money so received to the institution to which the same belongs, and may pay interest for the same at such rate as they may determine.

29. (1) In case any depositor dies leaving any money in the funds of the Savings Bank which, with the interest thereon, does not exceed in the whole one hundred pounds, the Trustees, if satisfied that such depositor died intestate, and that no letters of administration have been or will be taken out of his goods and chattels, may pay the same at any time after the decease of such depositor according to the regulations of the Savings Bank.

(2) If there are no regulations in that behalf, the Trustees may pay out of such money any debts of such deceased depositor and defray the expenses of his funeral so far as such money extends, and may pay the surplus (if any) at their discretion to the persons who appear to the Trustees entitled to the effects of the deceased intestate, or according to the law of distribution on intestacy.

30. In case any depositor dies leaving any money in the funds of the Savings Bank exceeding, with the interest due at the time of his death, in the whole the sum of one hundred pounds, the same shall not be paid to any person other than a duly constituted executor or administrator of the deceased depositor :

Provided that if any payment is made from the funds of the Savings Bank by the Trustees as directed by this and the last preceding section, and the party claiming or receiving the same is afterwards proved not to have been lawfully entitled to the same, the Trustees shall be held indemnified as against the demand of any other person whomsoever :

Provided also that any lawful representative of such deceased depositor shall have remedy for the money so wrongfully paid against the person who received the same.

31. (1) If any dispute arises between the Trustees or any person acting on behalf of the Savings Bank and any individual depositor therein, or any executor, administrator, next of kin, or creditor of any deceased

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deceased depositor, or any person claiming in any such character, the matter in dispute shall be determined by the arbitration of two indifferent persons, one to be appointed by the Trustees and the other by the other party, and, in case such arbitrators do not agree, then by an umpire having no interest in such matter or in the Savings Bank, who shall be nominated by the arbitrators before they commence the inquiry.

(2) The award, order, or determination of the said arbitrators or the said umpire shall be binding and conclusive on all parties and final to all intents and purposes, any law or practice to the contrary notwithstanding.

DIVISION 2.—*District deposits.*

32. It shall be the duty of the district trustees to receive deposits in the Savings Bank and to transmit the same to the Trustees to be invested by them in the Savings Bank in Sydney for the benefit of the country depositors, in like manner and subject to the same regulations as herein provided concerning other depositors.

33. The Trustees may appoint an accountant or clerk for each district for which district trustees are appointed, and every such accountant or clerk shall give reasonable security to their satisfaction for duly accounting for such moneys of depositors as come to his hands.

34. Every such district accountant or clerk shall—

- (a) in the presence, and not otherwise, of one or more of the district trustees receive deposits from persons residing within his district, at such times and places as the district trustees appoint, and give proper vouchers to the depositors signed by him and by any one of the district trustees present at the receipt thereof; and
- (b) on the first post day in every month, or oftener if directed by the Trustees, and in such manner as they appoint, remit all sums of money so deposited to the managing trustee in Sydney together with an account verified by one or more of the district trustees of the names, residences, and descriptions of the depositors and of the sums received as aforesaid, in order that such depositors may be entitled to the benefit of this Act; and
- (c) if there is at the place of such deposit any branch of any bank duly chartered or incorporated or regulated under any Act or Imperial Act such accountant or clerk shall, within twenty-four hours of the receipt of every such deposit, pay the same into such bank to the credit of the trustees of his district.

35. Any free person being the owner of any sum of money deposited with any district accountant or clerk for transmission for his

Duties of district trustees.
26 Vic. No. 11, s. 34.

District accountants.
Ibid. s. 35.

Duties of district accountants.
Ibid.

Withdrawal of district deposits.
Ibid. s. 36.

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his benefit to the Savings Bank in Sydney, or any other person duly authorised by such depositor, or his executor, administrator, or other lawful representative, may claim and receive back such money or any part thereof in the manner following, that is to say—

- (a) if the money so required to be repaid does not exceed five pounds the claimant shall on some day to be appointed by the district trustees deliver or cause to be delivered to the district accountant or clerk a notice signed with his name declaring his intention to withdraw such money at the expiration of fourteen days from date of such notice, and if exceeding five pounds but not more than twenty pounds, then twenty-one days' notice, and when exceeding twenty pounds thirty days' notice ;
- (b) upon receipt of such notice the district accountant or clerk shall forthwith transmit the same, verified under the hand of one of the district trustees, to the managing trustee in Sydney, in order that proper steps may be taken for the payment of the amount under deposit to the party lawfully claiming the same :

Provided that the district trustees may in their discretion dispense with any such notice.

Death of
district depositor.

26 Vic. No. 11, s. 37.

36. Whenever any district depositor in the funds of the Savings Bank dies leaving any money in the said funds or any interest due thereon belonging to him at his death, the same shall be paid only on the conditions hereinbefore provided concerning like cases of deposits in Sydney.

Expenses of districts.

Ibid. s. 39.

37. The Trustees may out of the funds of the Savings Bank defray any necessary charges of management of the said districts and remunerate the district clerks or accountants.

PART V.

Management of funds.

Powers of deposit
and investment.

Ibid. s. 17.

38. The Trustees may deposit any portion of the funds of the Savings Bank—

- (a) in the Colonial Treasury, upon such terms and subject to such conditions as shall be agreed upon between the Governor and the Trustees ; or
- (b) in any bank in New South Wales at such rate of interest, if interest can be obtained for the same, as may be agreed upon between the directors of such bank and the Trustees,

and

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and they may invest any portion of the like funds in the purchase of or by way of loan upon the security of—

- (a) any debentures or other forms of security issued or granted by the Government and secured upon the Consolidated Revenue Fund or any public debt contracted under legislative authority by or on behalf of the Government; or
- (b) any shares or other securities bearing a fixed rate of interest guaranteed by the Government either permanently or until payment of an ascertained principal sum; or
- (c) debentures lawfully issued by the Municipal Council of Sydney or by any municipality legally established.

39. (1) The Trustees may lend any portion of the like funds upon mortgage of any land in New South Wales of an estate of inheritance in fee-simple free from all charges and encumbrances: Investment upon mortgage.
26 Vic. No. 11, s. 18.

Provided that no loan upon mortgage as aforesaid shall exceed the amount of eight thousand pounds to any one person, and that not more than one-half of the whole moneys deposited in the said bank shall be lent on such mortgages as aforesaid.

(2) All land so mortgaged shall be conveyed or assured to the Trustees as such corporate body as aforesaid in fee-simple subject to the usual proviso for redemption, reconveyance, or reassurance on payment of principal and interest, and with power to insure, and with the usual power of sale in default of payment of principal or interest.

40. The Trustees may purchase with any portion of the like funds not exceeding one-fourth part thereof bills of exchange drawn by any bank in New South Wales duly chartered or incorporated or regulated by any Act or Imperial Act upon any bank or agent in Great Britain, if such bills by reason of the discount thereon offer a profitable investment of such funds: Investment upon bank bills.
Ibid. s. 19.

Provided that the Trustees shall adopt proper measures for the return to New South Wales of the proceeds of every such bill as soon as the same have been realised.

41. If at any time it becomes necessary for the Trustees to negotiate a loan in order to meet the demands of depositors, the Trustees may borrow the amount required, and the Government may guarantee its repayment: Loans under Government guarantee.
Ibid. s. 25.

Provided that no such loans outstanding at any time so guaranteed shall exceed the sum of fifty thousand pounds, without the previous advice and consent of the Legislative Assembly.

42. In case of any sudden or unusual demand upon the funds of the Savings Bank the Trustees may, subject to any charge created under the next preceding section, borrow upon the security of the property and revenues of the said bank from any person any moneys for the purpose of meeting such demand, upon such terms as may be mutually agreed upon. Loans to meet great emergencies.
Ibid. s. 26.

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Rest or security fund.

26 Vic. No. 11, s. 23.

43. Out of the profits of the business of the Savings Bank, the Trustees shall annually set apart such sum, not being less than one-twentieth nor more than one-fifth of the whole amount of interest produced during the year, as they think proper towards the establishment of a rest or security fund for the purpose of equalising the rate of interest and meeting any loss or deficiency which may occur.

PART VI.

Regulations.

Power to make regulations.

Ibid. s. 14.

44. The Trustees may make regulations for the conduct and management of the affairs and business of the Savings Bank.

Every such regulation, when approved by the Governor and published in the Gazette, shall have the force of law.

Transcript to be filed.

Ibid. s. 15.

45. (1) All regulations when so approved shall be transcribed on parchment and deposited with the Prothonotary or chief clerk of the Supreme Court, who shall, without fee or reward, file and preserve the same among the records of the said court.

Effect of filing.

(2) Upon such filing all depositors in the Savings Bank and their representatives shall be deemed in law to have full notice of such regulations.

Evidence.

(3) Every transcript so deposited, or a certified copy thereof, shall be received in all courts as evidence of the rules and regulations therein contained.

SCHEDULE.

Reference to Act.	Title or short title.	Extent of repeal.
2 Wm. IV No. 13	An Act to establish a Savings Bank in New South Wales, and to provide for the management thereof and for the security of deposits therein.	The unrepealed portion.
5 Wm. IV No. 16	An Act to repeal in part and to amend and extend the provisions of an Act intituled "An Act to establish a Savings Bank in New South Wales, and to provide for the management thereof and for the security of deposits therein."	The unrepealed portion.
3 Vic. No. 12 ...	An Act to consolidate and amend the laws relating to the Savings Bank of New South Wales.	The unrepealed portion.
26 Vic. No. 11 ...	Savings Bank Consolidation Act of 1862 ...	The whole.