



ANNO VICESIMO SECUNDO ET VICESIMO TERTIO

VICTORIÆ REGINÆ.

A.D. 1859.

No. 14.

An Act to provide for the appointment of Public Notaries in South Australia, and to confirm appointments heretofore made of such Notaries.

[Assented to, 1st September, 1859.]

WHEREAS doubts have arisen whether Public Notaries, acting in the Province of South Australia, have been duly appointed, and it is expedient that the appointment of such Notaries, and all acts done by them, should be confirmed, and that provision should be made for the future appointment of Public Notaries in the said Province, to authenticate and verify the execution of deeds and instruments, and to exercise the functions attaching to the office and authority of a Public Notary, as generally recognized by the Laws and Customs of the United Kingdom of Great Britain and Ireland and of other countries, and that other provisions should be made in respect to the duties, functions, and authorities of Public Notaries practising in the said Province—Be it therefore Enacted, by the Governor-in-Chief 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:—

Preamble.

1. Every person heretofore appointed by the Governor or otherwise to act as a Public Notary in the said Province, and whose appointment shall have been notified by publication in the *South Australian Government Gazette*, and every person duly authorized to act as a Public Notary in the said United Kingdom, or any part of the same, shall be and continue to be authorized to act as a Public Notary within the said Province, and all acts heretofore

Legalizes former appointments.

And acts heretofore done by Notaries.

Proviso. Persons heretofore acting as notaries may be re-appointed under this Act.

heretofore done by every such person, shall have the same force and effect to all intents and purposes, as if such person had been in all respects duly appointed to act as a Public Notary within the said Province, under the provisions of this Act: Provided always, that every such person so appointed or authorized as aforesaid, shall be at liberty to apply for and obtain a certificate of appointment as a Public Notary under the provisions of this Act without petitioning in manner hereinafter provided, and shall, upon taking the oath hereinafter mentioned, be entitled to have his name entered upon the Roll of Notaries by this Act provided to be kept, and to have such certificate thereof, as is hereinafter-mentioned, granted to him upon payment of the fees by this Act authorized to be demanded and received, in respect to such proceedings under this Act as such applicant shall have taken.

Appointment of Notaries.

2. After this Act shall come into operation no person (save as aforesaid) shall be sworn or admitted, or shall practise as a Public Notary within the said Province, who shall not have been previously admitted to practise as such under the provisions of this Act.

Petition for admission as Notary to be presented to the Supreme Court.

3. Every person who shall be desirous of obtaining an appointment to act as a Public Notary in the said Province shall apply, by petition, to the Supreme Court of the said Province for that purpose, setting forth such facts therein as he may deem expedient for the purpose of satisfying the said Court as to his fitness and qualification to discharge the duties and exercise the functions of a Public Notary, and such other facts as he may deem necessary for the information of the said Court, and every such petition shall be filed in the said Court, and shall be verified by the affidavit of the petitioner, which shall also be filed, as aforesaid; and the said Court, or any Judge thereof, shall, on the hearing of the said petition, have full power to make an order therein, and either to comply with the prayer of the petition, or to dismiss the said petition, or to make such other order therein as to the said Court, or Judge, shall seem expedient.

Petition to be filed and verified by oath of petitioner. Court or any Judge may appoint.

Oath to be taken before appointment.

4. Every person who shall so petition, as aforesaid, and who shall be appointed a Public Notary in pursuance of the prayer of such petition, shall, before his name shall be entered on the roll of notaries, as hereinafter provided, make oath before the Master of the said Court, or some commissioner duly authorized to take affidavits therein, to the effect following: "I do swear that I will not make or attest any act, contract, or instrument in which I shall know there is violence or fraud; and in all things I will act uprightly and justly in the business of a Public Notary, according to the best of my skill and ability, So help me God."

Roll of Notaries to be kept.

5. A roll shall be kept in the said Court containing the names of all persons admitted to practise as Public Notaries, and the Master of the said Court, or the Chief Clerk thereof, shall, at the request of any person so admitted as aforesaid, on the production of the order for admission, and at the request of any other person appointed a Public

Public Notary before this Act shall come into operation, on production of a copy of the *Government Gazette* notifying his appointment, and after such person shall have taken the oath before mentioned and set forth, enter the name of such person on the said roll; and shall, on the application of any person whose name shall appear on such roll, from time to time, and at any time, grant a certificate in the form or to the effect contained in Schedule A to this Act, that such applicant is a Public Notary, duly authorized and admitted to practise as such in the said Province; and shall affix to such certificate the seal of the said Court; and every person to whom any such certificate shall be granted, shall, from the day mentioned in such certificate as the day of the entry of his name on the said roll, have and may exercise all such powers and authorities within the said Province as are usually exercised by Public Notaries in the United Kingdom of Great Britain and Ireland.

Certificate to be granted.

6. The said Court shall, on application by any person or persons, and upon due cause to the satisfaction of such Court being shown, strike off the said roll the name of any Public Notary; and such person whose name shall be so struck off as aforesaid, shall thereafter be disabled from practising as a Public Notary within the said Province: Provided always that the said Court may at any time thereafter, if it shall think fit, order the name of such person to be reinstated on the said roll.

Power to Court to strike off roll name of any Notary.

Proviso. Name may be restored.

7. After this Act shall come into operation, in case any person shall in his own name, or in the name of any other person, make, do, act, exercise, or execute, or perform any act, matter, or thing whatsoever in anywise appertaining, or belonging, to the office, function, and practice of a Public Notary, as the same have been heretofore exercised in the said Province for, or in expectation of any gain, fee, or reward, without being admitted in manner hereinbefore provided, and entered on the roll hereinbefore mentioned; every such person shall for every such offence forfeit and pay the sum of Ten Pounds, to be recovered in a summary way before any two Justices of the Peace of the said Province, on an information by any person or persons whomsoever; but no person heretofore admitted to practise as a Public Notary shall be affected by this provision.

Persons acting as Notaries contrary to Act, fraud.

8. The fees mentioned in the Schedule B to this Act shall be payable in respect of the matters therein referred to.

Fees.

9. All fees, fines, and penalties payable under any of the provisions of this Act, shall, when received, be paid to the Treasurer for the public uses of the said Province.

Appropriation of fees, fines, and penalties.

10. This Act may be cited as "The Public Notaries Act."

Short title of Act.

11. This Act shall take effect from the first day of September, 1859.

Commencement of Act.

SCHEDULE

SCHEDULES REFERRED TO.

A

I, [Master or Chief Clerk, as the case may be], of the Supreme Court of South Australia, do hereby certify that , of [residence or place of business and profession or occupation], has been duly sworn to act uprightly and justly in the business of a Public Notary according to the best of his skill and ability, and that he has been duly authorized and admitted to act as such Notary within the Province of South Australia, and that his name was entered upon the roll of Public Notaries on the day of 18 , and still remains on such roll.

Dated at Adelaide, this day of 18 .
(L.S.) Master or Clerk of the Supreme Court.

B

	£	s.	d.
Filing every petition and affidavit (each)	0	1	6
For administering every oath	0	1	0
For every search	0	2	6
For every order	0	5	0
For entering on the roll	2	0	0
For every certificate of entry on the roll and seal	0	5	0
For every office-copy of any document, per folio of } seventy-two words	0	0	6