



1845.

No. 6.

By His Excellency GEORGE GREY, Esquire, Governor and Commander-in-Chief of Her Majesty's Province of South Australia and its Dependencies, and Vice-Admiral of the same, by and with the advice and consent of the Legislative Council.

An Ordinance to regulate the Profession of the Law in South Australia.

WHEREAS it is desirable to restrain unqualified persons from practising the profession of the Law:

Be it therefore Enacted by His Excellency the Governor of South Australia, with the advice and consent of the Legislative Council thereof, That after the passing of this Ordinance no person shall be qualified to practise the profession of the law in this Province unless he shall have been duly admitted and enrolled as a Barrister, Attorney, Solicitor, or Proctor in the Supreme Court, and whosoever shall in his own name or in the name of any other person sue out any writ or process, or commence, prosecute, or defend any action or suit, or any proceeding in the Supreme Court or any Court in this Province, for, or in expectation of any gain, fee, or reward, without being admitted and enrolled as aforesaid, and whosoever shall, for or in expectation of any gain, fee, or reward, directly or indirectly draw or prepare any conveyance, lease, or other deed relating to any real or personal estate, or any proceedings in law or equity, without being so admitted and enrolled, shall for every such offence forfeit and pay the sum of Fifty Pounds, to be sued for and recovered by action of debt in the Supreme Court, one moiety of which penalty, when recovered shall go to the person who will sue for such penalty for his own use, and the other moiety thereof shall be paid to the Colonial Treasurer, to be applied to the use of Her Majesty, Her heirs and successors, for the public uses of the Province and support of the Government thereof.

Preamble.

No person qualified to practise the law unless he shall have been admitted in the Supreme Court.

Penalty £50.

II. Provided

Not to apply to
Clerks, Law-
Stationers, &c.

II. Provided always That nothing hereinbefore contained shall be deemed to extend or apply to persons acting only as Law-Stationers or as Clerks, nor to persons employed solely to copy or engross any deed, nor to prevent any Notary Public from practising as such and doing all acts which to the office of Notary Public properly belong, nor to prevent any person from drawing or preparing any will or other testamentary papers.

Practitioners allowing
unqualified persons
to practise in their
names to be struck off
the rolls.

III. And be it Enacted, That if any admitted Practitioner shall knowingly and wilfully permit or allow any person not being such an admitted Practitioner in his name to sue out any writ or process, or commence, prosecute, or defend any action or other proceeding in any Court in this Province, or if any such admitted Practitioner shall act as agent for any person not being an admitted Practitioner, or permit his name to be in any manner made use of upon the account or for the profit of any unqualified person thereby to enable him indirectly to act as a Barrister, Attorney, Solicitor, or Proctor, knowing him not to be duly qualified as aforesaid, and complaint shall be made thereof in a summary way to the Supreme Court, then proof being made of such offence upon oath to the satisfaction of the said Court, every such Practitioner shall be struck off the rolls, and be for ever after disabled from practising as a Barrister, Attorney, Solicitor, or Proctor: Provided that the Court shall have power to re-admit such Practitioner at any time thereafter on such terms as to the Court shall seem fit.

Declaring power of
the Supreme Court to
tax costs in convey-
ancing as well as
other law business.

IV. And whereas it is desirable that no doubt should exist as to the power of the Supreme Court to tax the costs of any admitted Practitioner thereof for business done by him in his professional character, although no part of such business may arise out of or relate to any action, suit, or proceeding at law or in equity, be it therefore Enacted, That in every case where an admitted Practitioner shall have been employed to draw or prepare any deed of conveyance, or to do or advise in any matter of business for fee or reward, by virtue or by reason of his being such admitted Practitioner, it shall be lawful for the Supreme Court, or for any Judge thereof, to cause the bill of costs for such matter of business to be taxed in the usual manner of taxing costs in the said Court, and to exercise the like jurisdiction in relation thereto in all respects as the said Court may now lawfully exercise in regard to the bills of costs of Practitioners in matters relating to or arising out of any action, suit, or proceeding at Law or in Equity.

No action to be brought
by a Practitioner
until the expiration of
one month after the
delivery of a bill
signed, &c.

V. And be it Enacted, That no admitted Practitioner, or any Executor, Administrator, or Assignee of any Practitioner, shall commence or maintain any action or suit for the recovery of any fees, charges, or disbursements, either for business done at Law or in Equity, or otherwise, until the expiration of one month or more after such Practitioner, Executor, Administrator, or Assignee, shall have delivered unto the party to be charged therewith, or sent by the Post to, or left for him at his place of business or dwelling-
house

house, or last place of abode, a bill of such fees, charges, and disbursements, signed with the proper hand of such Practitioner, or of such Executor, Administrator, or Assignee: Provided that it shall be lawful for a Judge of the Supreme Court to authorize a Practitioner to commence an action or suit for the recovery of his fees, charges, or disbursements against the party chargeable therewith, although one month shall not have expired from the delivery of a bill as aforesaid, on proof to the satisfaction of the said Judge that there is probable cause for believing that such party is about to leave the Province: Provided also, that in case of a partnership, such bill may be signed by any of the partners, either with his own name or with the name or style of such partnership.

Power to Judge to authorize action before the expiration of a month.

Signature of one of several partners sufficient.

VI. And be it further Enacted, That every such Practitioner practising as such within the Province, shall during the month of January next, and annually in the month of January thereafter, during such time as he shall continue to practise, deliver to the said Collector or other Officer a note in writing under the hand of the Master of the Supreme Court (which note the said Master is hereby required to give to each Practitioner applying for the same, on payment of the fee of One Shilling, and which note shall set forth the Christian and Surname and place of abode of the person applying for a Certificate and that he is a Practitioner of the Supreme Court), and shall at the same time pay to the said Collector or other Officer the sum of Five Pounds, and thereupon every such person shall be entitled to a Certificate under the hand of the said Collector or other Officer certifying the payment of such sum, and every such Certificate issued in the month of January in every year shall bear date on the fifth day of the same month, and every Certificate issued at any other time shall bear date on the date on which the same shall be issued, and every such Certificate shall cease and determine on the fifth day of January then next following, and every such Certificate shall be entered by the Master of the Supreme Court in a book or on a roll to be kept for that purpose.

Every Practitioner to pay annually £5, and to procure a Certificate from the Collector of Internal Revenue of his having so done.

VII. And be it Enacted, That if any person shall in his own name, or in the name of any other person, sue out any writ or process, or commence, prosecute, carry on, or defend any action, suit, or proceeding in the Supreme Court, or any Court of this Province, for or in expectation of any fee or reward, or shall do any act as a Practitioner in the said Court, or shall for or in expectation of any gain, fee, or reward, directly or indirectly draw or prepare any conveyance, lease, or other deed relating to any real or personal estate, or any proceedings in Law or Equity, without in either of such cases having obtained from the Collector of Internal Revenue or such other Officer as aforesaid a Certificate in manner hereinbefore directed, or without entering the same with the Master of the Supreme Court as aforesaid, every such person shall forfeit and pay the sum of Fifty Pounds, to be recovered and applied in manner aforesaid, and shall be made incapable to maintain or prosecute any action at Law or in Equity for the recovery of his fees in respect of any

Person practising without Certificate to forfeit £50.

any matter or business done by him as such Practitioner as aforesaid, whilst he shall have been without such Certificate as aforesaid.

If Practitioner neglect to procure his Certificate within the time appointed, Master not to grant him note to enable him to obtain Certificate without the order of Supreme Court or Judge. Order may be made upon terms.

VIII. And be it Enacted, That if any Practitioner shall neglect to procure such annual Certificate from the Collector or other Officer as aforesaid within the time hereby appointed for that purpose, then and in such case the said Master shall not afterwards grant to such Practitioner a note in writing for the purpose of enabling him to procure his Certificate as aforesaid, without the order of the Supreme Court or a Judge thereof authorizing the Master to issue such note in writing, and it shall be lawful for such Court or Judge to make such order upon such terms and conditions as they or he shall think fit.

If Master refuse to give such note in writing as aforesaid, party requiring the same may apply to the Court, &c.

IX. And be it Enacted, That in case the said Master shall refuse to give to any such Practitioner such note in writing, as he is hereinbefore directed and required to give, the party so requiring the same shall and may apply to the Supreme Court or to a Judge thereof, and the Court and Judge are hereby respectively authorized to make such order in the matter as shall be just, and to order payment of costs by and to either of the parties if it shall seem fit.

Definition of term "Practitioner."

X. And be it Enacted, That under the term "Practitioner" shall be included any person admitted and enrolled in the Supreme Court as a Barrister, Attorney, Solicitor, or Proctor: Provided always, and be it Enacted, That nothing herein contained shall be construed so as to prevent the separation of the Practitioners of the Supreme Court into the two distinct classes of Barristers or Advocates, and Attorneys, Solicitors, and Proctors, when it shall seem to the said Court convenient that such separation should be made: And provided also, that from and after such separation the term Practitioners in this Ordinance shall be deemed to include only persons acting as Attorneys, Solicitors, or Proctors.

G. GREY,
Governor and Commander-in-Chief.

*Passed the Legislative Council this Eighth
day of July, One Thousand Eight
Hundred and Forty-five.*

W. L. O'HALLORAN,
Clerk of Council.