

Refd 557-192, 1st Sched



ANNO VICESIMO SECUNDO ET VICESIMO TERTIO

# VICTORIÆ REGINÆ.

A.D. 1859.

## No. 24:

*An Act to facilitate proceedings by and against Incorporated Companies.*

[Assented to, 1st September, 1859.]

**W**HEREAS divers Corporations and Companies, incorporated Preamble. respectively by Royal Charter or Special Act of the Imperial Parliament, using necessarily a corporate seal, have their principal offices of business and corporate seal in British Possessions out of the Province of South Australia, but have branch offices for business, officers, and managers in the said Province, and inconvenience has been or may be experienced in procuring the annexation of their corporate seals to deeds, papers, and documents in the said Province: And whereas there are difficulties in proceedings in law and equity against Corporations and Incorporated Companies in the said Province: And whereas it is expedient that such inconveniences and difficulties should be removed: 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—

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-2908 215

1. Any Corporation or Company, incorporated respectively by Royal Charter or Special Act of the Imperial Parliament, having its principal office of business and corporate seal in Great Britain or Ireland, or any British Possession, may, by power of attorney under its corporate seal, authorize an agent, or two or more agents, resident in the said Province, jointly or severally, according to the discretion of its governing body, to execute any deeds or documents requiring to be executed by or on behalf of the said Corporation or Incorporated Company, and to affix the seal of such Corporation or Incorporated Company to any such deed or document, and also to demand and

Corporation may appoint agents by power of attorney under seal.

recover, let, sell, and manage the property of such Corporation or Incorporated Company in the said Province, and execute leases or agreements for leases, contracts for sale, conveyances, with covenants therein, of such property, and to receive the purchase moneys or other consideration of such property, and give receipts for the same, and to call for, settle, and adjust all accounts in which such Corporation or Incorporated Company may be concerned, and to demand and recover all sums of money due to such Corporation or Incorporated Company in the said Province, and give releases and receipts for the same, and to commence and prosecute any actions, suits, petitions, or proofs against insolvents, or other proceedings at law or in equity in the Courts of the said Province, in respect of any matter, and to appear to and defend any actions, suits, or other proceedings to be commenced or prosecuted, and to put in answers to bills in equity in such Courts against such Corporation or Incorporated Company, and to compromise such actions, suits, or proceedings, and to compound debts due to such Corporation or Incorporated Company in the said Province, and to submit to arbitration any disputes in which such Corporation or Incorporated Company may be involved in the said Province, and execute binding deeds of, or submissions to, arbitration, in relation thereto, with such restrictions and qualifications as to such governing body shall seem fit.

Agent to produce power to Master of the Supreme Court, and a copy verified.

2. If any agent, appointed by such power of attorney, shall produce to the Master of the Supreme Court such power of attorney and a copy thereof at full length, and at the same time produce, as aforesaid, an affidavit or affirmation, as the case may be, of some credible person by him subscribed, made before and certified by any Mayor or chief officer of any Corporate Town, to the effect that he saw the seal of such Corporation or Incorporated Company duly affixed to such power of attorney, and is an attesting subscribing witness thereto, and also an affidavit or affirmation, as the case may be, of two credible persons by them subscribed, made before such Master, to the effect that they have compared such copy (upon which they shall endorse their names) with the original power of attorney, and that the same is a true copy, and shall deposit such copy and such two affidavits or affirmations in the office of the said Master, such Master shall thereupon endorse upon the said power of attorney and copy, a certificate that such power of attorney has been duly produced under this Act, specifying the time when it shall be so produced, which shall be in the form of the Schedule hereto, marked A, or to the same effect, and from the time that such certificate is so endorsed, the agent or agents named in such power of attorney may, according to the powers thereby expressed to be conferred, act for and on behalf of such Corporation or Incorporated Company, and bind it by his or their acts and deeds, as fully and effectually as if such acts or deeds were confirmed by the affixing of the corporate seal, and the acts of such agent or agents in or in relation to any suit, action, or other proceeding, and particularly in putting in answers to bills in equity, shall be accepted, received, and taken in lieu and stead of a similar act of such Corporation or Incorporated Company, authenticated by its common seal.

Master to endorse certificate.

Agent may act from thenceforth.

3. All

3. All conveyances and other instruments which have been executed by any person or persons as the Attorney or Attorneys of any Corporation or Incorporated Company, in accordance with the terms or true intent and meaning of any general or special power of Attorney or authority given under the common seal of the said Company, shall be deemed to have been as valid and effectual in law as if the same conveyances or instruments had been duly executed and passed under the common seal of the said Company.

Instruments executed under power of attorney from Corporation or Incorporated Company to be valid.

4. It shall be lawful for any Corporation or Incorporated Company to use, within the said Province, a duplicate of the common seal of such Corporation or Incorporated Company, and all deeds and documents, matters and things already made or executed, or hereafter to be made or executed by means of such duplicate seal, shall be valid and effectual.

Duplicate seal may be used.

5. If such Corporation or Incorporated Company shall, by any instrument under its common seal, altogether or in part revoke the powers theretofore conferred by such power of attorney on any agent or agents, such instrument, and a copy thereof, shall in like manner be produced, verified, and deposited in the office of the said Master, and the said Master shall make a memorandum of such revocation upon the deposited copy of the revoked power, which shall be in the form in the Schedules hereto marked B, or to the same effect, and no such revocation shall, as between such Corporation or Incorporated Company and persons dealing with its agent or agents, be effectual until such revocation is produced, and copy deposited at such office as aforesaid.

Revocation of agents' power, and copy to be similarly produced.

6. A copy of any charter from the Crown to any such Corporation or Incorporated Company may be deposited in the office of the said Master, accompanied by an affidavit or affirmation, as the case may be, of two credible persons, by them subscribed; made before and certified by any such Mayor, or Chief Officer of any Corporate Town, to the effect that they have compared such copy with the original charter, and that the same is a true copy.

Copy of any charter from the Crown to such Corporation may be similarly deposited.

7. The said Master shall cause indexes to be made of such powers of attorney, revocations, and copies of charters, which shall be in the form in the Schedule hereto annexed, marked C, or to the same effect, and shall receive the fees specified in the Schedule hereto annexed, marked D, for the several acts to be done under this Act; and the said Master shall make and deliver to every person making application for the same, a copy, or copies of every or any copy power of Attorney, and charter deposited with him, affixing thereto the seal of the said Supreme Court, and charging therefor the fees specified in the said Schedule D; and the above several copies deposited as aforesaid, shall be deemed in all Courts of Justice in the said Province, *prima facie* evidence of the existence, execution, and contents of the documents of which they respectively purport to be copies.

Master to cause indexes to be made.

Deposited copies to be *prima facie* evidence of the original documents.

8. Any

False affidavit forgery, and uttering punishable.

8. Any person making a false affidavit or affirmation, under the several provisions herein contained, shall be deemed guilty of, and liable to be prosecuted for perjury; and any person forging any document used under this Act, or wilfully uttering any forged document as genuine, under the same provisions, shall be deemed guilty of felony, and liable to be prosecuted for forgery, or uttering a forged document respectively.

When proceedings against Corporation in Supreme Court, such Court or Judge may order service on officer, manager, or agent, to be good.

9. In any proceeding in the Supreme Court, at law or in equity, against any Corporation or Incorporated Company, it shall, and may be lawful for the said Court, or for any Judge thereof in chambers, upon motion of course, grounded upon affidavit, to order that service of any declaration, bill, rule, summons, process, or notice, and of all subsequent notices in such proceeding upon any officer, manager, or agent of such Corporation or Incorporated Company, shall be deemed good and effectual service upon such Corporation or Incorporated Company, a copy of such order being served, with such declaration, bill, rule, summons, process, or notice, under such terms and conditions as to such Court or Judge respectively shall seem fit, and such further proceedings may be had, upon a service made conformable to such order as might be taken against an individual resident in the said Province, liable to such proceeding, duly served with such declaration, bill, rule, summons, process, or notice: Provided, that it shall be lawful for the said Court, upon application made by such Corporation or Incorporated Company, or such officer, manager, or agent, to revoke, vary, or alter such order as to it shall seem fit, and to order by whom the costs arising from such application shall be paid.

*Jacobs v L & W Co*  
*5 CB 2-5 7 30*  
*28 ff CP 217.*  
*White v L & W Co*  
*WN 183 p 174.*  
*S 33 C & 446*

Court may revoke such order.

This Act not to prevent effect of power of attorney nor to prevent effect of service under existing law.

10. Nothing in this Act contained shall be deemed or taken to prevent the effect which any power of attorney has or would have under any existing law, nor to prevent any power which the Supreme Court now has, of directing effective service of any process or notice upon any Corporation, Incorporated Company, or members of public company, or any power which any person now has of proceeding against them respectively.

Short title.

11. This Act may be cited as "The Incorporated Companies Proceedings Act, 1859."

Commencement of Act.

12. This Act shall take effect from the passing thereof.

SCHEDULES REFERRED TO.

A

This power of attorney [or the power of attorney, of which this is a copy] was duly produced under "The Incorporated Companies Proceedings Act, 1859." before me, as Master of the Supreme Court of South Australia, on the \_\_\_\_\_ day of \_\_\_\_\_

B

The power of attorney, of which this is a copy, was revoked altogether [or as to \_\_\_\_\_] by the Corporation [or Incorporated Company] which executed the same by an instrument under its common seal, dated the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, which was duly produced, verified, and deposited in the office of the Master of the Supreme Court of South Australia on the \_\_\_\_\_ day of \_\_\_\_\_

C

Name of Corporation or Incorporated Company.	Name and description of agent or agents.	Nature of instrument (power of attorney; revocation, total or partial; or charter).	Date of Instrument.	Date of deposit.

D

	£	s.	d.
For receiving every copy of power of attorney, revocation, copy of charter, including verifying the same .....	0	10	0
For each certificate endorsed on every power of attorney and revocation, and on every copy thereof .....	0	2	6
For every search for a power of attorney, revocation, or copy of charter..	0	2	6
For every copy of the above instruments required from the office of Master, per folio of seventy-two words .....	0	0	6