No. 1220.

An Act to make further provision for regulating the Legal Profession in South Australia, and for purposes incidental thereto and consequent thereon.

[Assented to, December 23rd, 1915.]

Be it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the “Law Society Act, 1915.”

2. In this Act, except where the context otherwise requires, or some other meaning is clearly intended,—

"Practitioner" means a person duly admitted and enrolled as a barrister, solicitor, attorney, or proctor of the Supreme Court:

"Regulations of the Society" means the rules and by-laws of the Society:

"Supreme Court" means the Supreme Court of South Australia:

"The Chairman" means the person for the time being presiding at a meeting of the Statutory Committee:

"The Council" means the Council of the Society:

"The Society" means the Law Society of South Australia, Incorporated:

"The Statutory Committee" means the Statutory Committee of the Council.

The
The Law Society of South Australia, Incorporated, and the Council.

3. (1) There shall be a body corporate by the name of the Law Society of South Australia, Incorporated.

(2) The Society shall consist of—

(a) all persons who at the time of the passing of this Act are members of the Society at that time known as the South Australian Law Society, and

(b) all persons who after that time become members of the Society in accordance with its regulations,

so long as such persons respectively continue to be members of the Society.

4. The Society shall have and may use a common seal, and may, from time to time, break, or alter the same, or make a new seal, as to the Society seems expedient.

5. (1) The Society shall have perpetual succession, and may sue and be sued, and shall be capable of acquiring, receiving, and holding real and personal estate of any nature and kind whatsoever.

(2) The Society may also from time to time sell, convey, demise, exchange, and otherwise dispose of or mortgage its property.

(3) Subject to any restrictions by this Act expressed or implied, the Society shall also be capable in law of doing all such other things as it may deem expedient for effectuating its objects.

6. (1) All property at the time of the passing of this Act belonging to the South Australian Law Society, or held by any person on its behalf, is hereby transferred to and vested in the Society.

(2) The burden of all obligations and liabilities heretofore incurred by the South Australian Law Society and subsisting at the time of such passing is hereby transferred to the Society, and the same shall henceforth be deemed to have been incurred by the Society.

7. There shall be a president and vice-president of the Society, who shall be elected by the Society in general meeting; provided that, until their successors are so elected, the president and vice-president of the South Australian Law Society holding office at the time of the passing of this Act shall continue to hold those offices.

8. Subject to the provisions of sections 9 and 10, and to compliance in all respects with the regulations of the Society, every person who is for the time being entitled to practise as a practitioner in the Supreme Court shall be entitled to membership of the Society.

9. If
9. If any member of the Society, in consequence of the order of any Court of competent jurisdiction, is rendered incapable by reason of malpractice, professional misconduct, or any other matter, of practising in the Supreme Court, or in any of the Supreme Courts of Justice in any part of His Majesty's dominions, he shall forthwith cease to be a member of the Society.

10. The rules of the Society may provide—

(a) for the expulsion of any member who refuses or neglects to comply with the regulations of the Society:

(b) for the imposition of terms or conditions in respect of the re-entry of any person who has ceased to be a member owing to non-compliance with the regulations of the Society.

11. (1) For the good government of the Society there shall be a Council of the Society.

(2) His Majesty's Attorney-General for the State of South Australia, and the president and vice-president of the Society shall be members of the Council by virtue of their respective offices.

(3) The other members of the Council shall be elected by the Society in general meeting.

(4) Notwithstanding the foregoing provisions of this section, the president, vice-president, and members of the Council of the South Australian Law Society holding office at the time of the passing of this Act shall, with the members provided for by subsection (2) hereof, be the first Council of the Society, and shall hold their respective offices until their successors are appointed or elected.

12. Notwithstanding anything hereinbefore contained, the Society may provide that casual vacancies in the offices of president, vice-president, and other members of the Council may be filled by the Council.

13. The continuing members of the Council may act notwithstanding any vacancy in their body; and no act done by or by the authority of the Council shall be invalid in consequence of any defect that may afterwards be discovered in the elections or appointments of the members, or any of them.

14. (1) Subject to the provisions of this Act and to the rules of the Society, the Council shall have the sole management of the Society, and of the affairs and concerns and the income and property thereof, for the purposes and benefit of the Society, and may exercise all powers vested in the Society, and do all such acts and things as are hereby directed or authorised to be done by the Society, excepting only such powers and acts as are expressly required by this Act or the said rules to be exercised or done by the Society in general meeting.

(2) Notwithstanding
6TH GEORGIUS V, No. 1220.

Law Society Act.—1915.

(2) Notwithstanding anything herein contained, the regulations of the Society may authorise the Council to delegate any of its powers to committees, which may consist of one or more members of the Council.

15. Until rules of the Society for the purpose are made, and so far as such rules do not for the time being extend, the Council may convene general meetings of the Society at such times and places and in such manner as the Council from time to time think fit.

16. (1) The Society in general meeting may from time to time make, alter, and repeal rules for all or any of the following purposes:—

(a) To define the objects of the Society:

(b) For the regulation and good government of the Society, and of the members and affairs thereof:

(c) To provide for the manner of election of the president and vice-president, of the Society, and their tenure of office:

(d) To provide for the constitution of the Council, and for the manner of election of the president, vice-president, and other members of the Council, and their tenure of office:

(e) To provide for the custody and use of the common seal of the Society:

(f) To provide for the convening of ordinary and special meetings of the Society:

(g) To govern the admission, resignation, and expulsion of members of the Society, and impose fees and subscriptions in respect of membership:

(h) To provide for additions to and alterations of the rules of the Society:

(i) To empower the Council to make by-laws of the Society for any purpose with respect to which the society is authorised to make rules:

(j) Generally to carry the objects of the Society into full and complete effect.

(2) The Council may from time to time make, alter, and repeal by-laws in pursuance of any power in that behalf conferred by the rules of the Society for the time being.

17. The
17. The Council may appoint any practitioner to appear before any Court in any matter affecting the interests of the Society or the members thereof, or in which the Society is directly or indirectly concerned or interested, and any practitioner so appointed shall have audience in any Court in any such matter, including *inter alia* the conducting of any prosecution instituted by the Society, and also the opposing of or objecting to any application for admission as a practitioner, or moving that any practitioner be suspended from practice, or struck off the roll, or called upon to answer any matters alleged or contained in any affidavit, or otherwise dealt with on the ground of professional misconduct.

18. The president or vice-president of the Society or any other officer duly authorised by the Council in that behalf, may institute prosecutions and other proceedings in his own name for the breach of any statute or rules relating to the practice of the law, or to the preparation of deeds or instruments relating to real or personal estate; and, unless it be proved to the contrary, every such prosecution or other proceeding shall be deemed to be instituted by and on behalf of the Society.

**The Statutory Committee.**

19. (1) There shall be a committee of the Council of the Society (to be called the Statutory Committee of the Law Society of South Australia, Incorporated), for the purpose of hearing charges of illegal or unprofessional conduct upon the part of practitioners.

(2) Any member of the Society who is, or since the time of the passing of this Act has been, a member of the Council, shall be eligible for membership of the Statutory Committee.

(3) The Statutory Committee shall consist of five members, who shall be appointed by the Governor on the nomination of the Chief Justice of the Supreme Court.

(4) A member of the Statutory Committee shall be appointed for a term of three years: Provided that—

1. of the first members a number, not being more than three, may be appointed for a shorter term; and

2. any member shall be eligible for reappointment from time to time.

20. No charge or question as to the conduct of a practitioner shall be heard before less than three members of the Statutory Committee.

21. (1) Any person feeling aggrieved by reason of the alleged illegal or unprofessional conduct of any practitioner may, whether the matter charged was committed or suffered before or after the passing of this Act by himself or agent, make a charge thereof in writing to the Council.

(2) The
(2) The Council may require—

(a) further particulars of any charge:

(b) any charge to be verified by statutory declaration.

(3) Subject to compliance with any requirements under subsection (2) hereof, the Council shall forthwith refer every charge under this section to the Statutory Committee.

(4) The Council may of its own motion refer to the Statutory Committee any question as to the conduct of any practitioner which may appear to the Council to require investigation, and may act as complainant with respect thereto.

22. The Council may, either at the request of the Statutory Committee or of its own motion, appoint a practitioner to investigate any matter referred to the Statutory Committee and to present the same to the Statutory Committee, either upon behalf of the complainant or otherwise.

23. (1) The Statutory Committee may summon before it any practitioner in respect of whose conduct any matter has been referred to it, and may inquire into such matter.

(2) The Statutory Committee may summon to appear before it the complainant and any person who may in its opinion be able to give evidence or produce documents touching the matter in question, or whom the complainant or the practitioner may desire to call as a witness.

24. For the purposes of every inquiry, the Chairman—

(a) may administer oaths and affirmations:

(b) shall have the same power and authority, with respect to the discovery and production of documents and in the conduct of the inquiry, as a Judge of the Supreme Court has for the purpose of the trial of issues in a civil action: Provided that nothing herein contained shall authorise the Chairman to commit any person to prison, or to enforce any order by attachment or otherwise.

25. Every summons to appear before the Statutory Committee shall be in writing, signed by the secretary of the Society, or by some other officer authorised for the time being by the Statutory Committee in that behalf.

26. Every summons or notice by the Statutory Committee to a practitioner in respect of whose conduct any matter has been referred to such Committee, or to the complainant or any other person, may be served in such manner as such Committee from time time directs or deems sufficient.
27. If any practitioner, having been summoned, as mentioned in section 26, fails to attend at the meeting for which he has been summoned, or at any adjournment thereof, the Statutory Committee may proceed to inquire into the matter referred to it in his absence.

28. If any person summoned as mentioned in section 26, refuses or fails to attend at the meeting for which he had been summoned, or if having attended he refuses to be sworn or to affirm or to answer any lawful question, a certificate of such refusal or failure signed by the Chairman, shall be filed in the office of the Supreme Court; and thereupon any person requiring the attendance of such person may apply to the said Court or a Judge thereof, either ex parte or on notice, for an order directing such person to attend, or to be sworn or to affirm, or to answer any question (as the case may be), and on such application the Court or Judge shall have power to make such order as to it or him seems proper, including an order that such person shall pay any costs occasioned by his refusal or failure as aforesaid.

29. Subject to the provisions of this Act and to any Rules of Court made under this Act, the Chairman and the Statutory Committee shall, in the exercise of their functions under this Act, be officers of the Supreme Court, and for the purposes of enforcing any lawful order of the Chairman, and of punishing any obstruction of the Statutory Committee in its duties or of any inquiry before it, the proceedings of the Statutory Committee shall be deemed to be an inquiry directed by the Supreme Court.

30. (1) Any person in any examination before the Statutory Committee may object to any question upon the ground that the answer may tend to incriminate him, but shall be compellable to answer such question notwithstanding such objection.

(2) No answer given subject to such objection shall be permitted in evidence upon any other proceedings for any offence, except that of perjury in connection with the inquiry.

31. (1) If, after inquiry into any matter referred to it the Statutory Committee is of opinion that the practitioner has been guilty of any illegal or unprofessional conduct, it shall make and transmit a report thereon to the Supreme Court, together with a copy of the evidence taken on the inquiry.

(2) If any member of the Statutory Committee dissents therefrom, the report shall state the fact of dissent, and specify the findings dissented from.

32. The Supreme Court may refer any report of the Statutory Committee back for further inquiry or for amendment, and may, if it thinks fit, review any finding of fact therein. Subject to any such reference back or review every report of such Committee shall be conclusive evidence of all statements and findings of fact therein contained.
33. The Supreme Court may upon motion, and upon reading the report of the Statutory Committee, upon any matter referred to it, and without any further evidence, make such order as to the said Court seems fit.

34. (1) The Statutory Committee may, if it dismisses any charge referred to it, order the person making the same to pay to any practitioner against whom it was made the whole or any part of the costs of and incidental thereto.

(2) Such costs shall be taxed by the Master of the Supreme Court, who shall give his allocatur in respect thereof.

(3) Every such order may be enforced, and such costs may be recovered, by execution or otherwise, in the same manner as if the Master's allocatur were a judgment of the Supreme Court for the payment of a liquidated sum of the amount at which such costs are so taxed or allowed.

35. Notwithstanding anything contained in this Act, any person who but for this Act would have been entitled to apply to the Supreme Court to strike a practitioner off the roll, or to apply to require a practitioner to answer allegations contained in an affidavit, shall be entitled so to apply, whether the matter complained of has been made the subject matter of an inquiry before the Statutory Committee or not: Provided, however, that upon any such application it shall be lawful for the Supreme Court, if it thinks fit,—

(a) to transmit to the Society any charges against the practitioner for reference to the Statutory Committee in the manner provided by this Act:

(b) to require the Statutory Committee to transmit a report upon any inquiry held by it into the same subject matter, and to take such report into consideration upon the hearing of the application, and to give such weight as it thinks fit to any facts and findings therein stated or contained.

36. (1) Any two Judges of the Supreme Court may from time to time make Rules of Court for all or any of the following purposes:—

(a) For regulating the practice and proceedings of the Statutory Committee:

(b) For conferring upon the Statutory Committee any further powers necessary or convenient for the due fulfilment of its functions:

(c) For carrying into effect the provisions of this Act as to the Statutory Committee and its functions.

(2) Such rules shall come into force when approved by the Governor.
Law Society Act.—1915.

Miscellaneous Provisions.

37. Every member of the Society and every practitioner shall be entitled, upon payment of the sum of Two Shillings and Sixpence, to receive a printed copy of all regulations of the Society in force for the time being.

38. The Society shall cause minutes of all proceedings and resolutions of all general meetings of the Society, and of all meetings of the Council, to be entered in a book or books kept for the purpose, and may cause minutes of any proceedings and resolutions of any committee of the Council to be so entered.

39. All regulations and minutes of the Society, or of the Council, or of any committee of the Council (including the Statutory Committee), and any document purporting to be a copy thereof or extract therefrom and purporting to be signed by the president or vice-president of the Society, or, in the case of minutes, by the chairman of a general meeting of the Society or of any meeting of the Council or of the committee (as the case may be) shall be received in any proceeding before any Court or person as evidence, in the case of regulations that the same have been duly made, and in the case of minutes that all business has been transacted and all proceedings have taken place as therein referred to, and also, in the case of any document purporting to be a copy as aforesaid, that such copy is a correct copy of the regulation or minute of which it purports to be a copy.

40. Until the contrary is proved—

(a) every general meeting of the Society, and every meeting of the Council or of any committee of the Council, in respect of which minutes have been entered in the manner directed or authorised by section 38, shall be deemed to have been duly held and convened, and all resolutions passed thereat and proceedings thereof shall be deemed to have been duly passed and transacted:

(b) all elections and appointments of officers and members and other persons under this Act, shall be deemed to be valid.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

H. L. GALWAY, Governor.