



1847.

No. 15.

ORDINANCE enacted by the Governor of South Australia, with the advice and consent of the Legislative Council thereof.

To Establish a Savings Bank in South Australia, to provide for the Management thereof, and for the Security of Deposits therein.

[22nd September, 1847.]

WHEREAS it is desirable, for the encouragement of frugality, Preamble.
that persons possessing small sums of money beyond what they require for the supply of their immediate wants, should be afforded an opportunity of depositing the same on good security, to accumulate at interest, and to form a provision for themselves and families :

BE IT THEREFORE ENACTED, by THE GOVERNOR of South Australia, with the advice and consent of THE LEGISLATIVE COUNCIL thereof—
THAT an Institution, to be called the Savings Bank of South Australia, shall be established in South Australia, for the receipt, management, and security of such deposits, and shall be regulated according to the provisions hereinafter to be established. Establishing a Savings Bank.

II. AND BE IT ENACTED, That the Governor of South Australia for the time being shall be President of the said Institution, and that the management of the affairs of the same shall be vested in twelve Trustees, to be appointed by the said Governor, of whom Appointment of President, Vice-President and Trustees.
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one shall be styled Vice-President; and that the said Governor shall and may from time to time remove from office, all or any of the Trustees of the said Institution, and re-appoint the same or any of them, or shall and may appoint others, or another in their or his place or stead; and in case of any vacancy occurring in the number of such Trustees, or of any appointment, removal, re-appointment, or fresh appointment, as aforesaid, of any such Trustees, the same shall be published in the *South Australian Government Gazette* by order of the said Governor.

Any five Trustees empowered to do all matters and things which the Trustees are required to do.

Proviso.

III. AND BE IT ENACTED, That all acts, matters, and things (save as hereinafter excepted), which the said Trustees are by any of the provisions of this Ordinance authorized or required to do and perform, shall and may be done and performed by any five of such Trustees: PROVIDED ALWAYS, that such five Trustees be for such purpose assembled at a meeting, whereof due notice shall have been given to all the said Trustees.

Senior Trustee to be Chairman at any Meeting.

IV. AND BE IT ENACTED, That at all meetings of the said Trustees, the senior Trustee in the order of appointment present shall preside as Chairman, and shall not only have a vote as a Trustee, but shall also, in addition thereto, in case of the equality of votes, have a casting or decisive vote.

No Trustee to derive benefit from, nor to deposit in, the Bank.

V. AND BE IT ENACTED, That no person being a Trustee or Treasurer of such Savings Bank, or being in any way concerned in the management thereof, shall be allowed to deposit any sum or sums of money therein, nor to borrow any money therefrom, nor to derive any benefit from any deposit made in such Savings Bank, nor shall act in the capacity of Accountant or Clerk of such Savings Bank, nor receive directly or indirectly any salary, allowance, profit, or benefit, whatsoever, from the funds of the said Savings Bank; and that any person being a Trustee or Treasurer of the said Savings Bank, who shall offend in any one of the said particulars, shall forfeit and pay, for each offence, the sum of One Hundred Pounds, and that such penalty may be sued for in the Supreme Court of the Province, by any person having money deposited in the said Bank to the amount of Thirty Pounds, the penalty to be paid, one half to the Queen for the uses of the Province, and one half to the informer.

Trustees may appoint Accountant, subject to the approval of the Governor.

VI. AND BE IT ENACTED, That it shall and may be lawful for the said Vice-President, and any four of the said other Trustees, subject to the approval of the said Governor, to appoint a fit and proper person to be the Accountant in Adelaide of the said Savings Bank, and from time to time to remove from office any such Accountant, and to re-appoint him, or to appoint another in his place or stead, in case of any such removal or any vacancy happening, as the said Vice-President and Trustees shall from time to time think fit: and every such appointment, re-appointment, or fresh appointment of any such Accountant as aforesaid, shall be signified by the publication

tion of a notice to that effect in the *South Australian Government Gazette*; and it shall and may be lawful for the said Vice-President and other Trustees to appoint, subject to the approval of the said Governor, such salary as they shall deem fit to be paid to such Accountant, regard being had to the nature and extent of the duties to be performed, and to the responsibility which may attach to him.

VII. AND BE IT ENACTED, That every person who may be appointed as aforesaid to the office of Accountant of the said Savings Bank, shall grant security for the due and faithful discharge of the duties of his office, by a bond with two or more sufficient sureties to be approved by the said Vice-President and other Trustees, which sureties shall join with the said Accountant in such bond, and they and he shall bind themselves jointly and severally to "The Vice-President and Trustees of the said Savings Bank of South Australia" in such penal sum as shall be named by the said Trustees, and be approved by the said Governor.

Accountant to grant security for the faithful discharge of his duties.

VIII. AND BE IT ENACTED, That it shall and may be lawful for the said Vice-President, and any four of the said other Trustees, subject to the approval of the said Governor, to appoint Clerks and such other subordinate officers of the said Savings Bank as they, in their discretion, shall think necessary for the execution of the several duties and trusts hereby reposed in them; and they may and shall, out of the interest received by them on moneys lent out as hereinafter directed, pay such salary as shall be appointed to be paid to the said Accountant of the said Savings Bank, and also such other salaries to the said Clerks and other subordinate officers, as the said Vice-President, and any four of the said other Trustees, by and with the approbation and consent of the said Governor, shall from time to time think fit and allow; and the said Vice-President and other four Trustees shall also out of the said interest, defray all such incidental charges and expenses as shall be necessarily incurred in conducting the business, and keeping the accounts of the said Savings Bank, which shall be allowed and approved by the said Governor.

Trustees may appoint clerks and other subordinate officers, subject to approval of the Governor.

IX. AND BE IT ENACTED, That the said Vice-President, and any four of the said other Trustees, attending any such meeting as aforesaid, shall and may make such rules and regulations for the conduct and management of the said Savings Bank as to them shall seem meet, and may from time to time revoke, alter, and modify, any such rules and regulations respectively: PROVIDED ALWAYS, that no such rules, regulations, or revocations, alterations, or modifications of rules, shall be deemed valid, or be acted upon until the same shall have been submitted to the Governor for his approval, and shall have been allowed, and confirmed, by him under his hand.

Vice-President and Trustees may frame rules and regulations, with approval of the Governor.

Proviso.

X. AND BE IT ENACTED, That all such rules and regulations as may from time to time be made as aforesaid by the Trustees for the

Rules and Regulations to be fairly transcribed on parchment, and deposited in the Registry Office;

the management of the said Savings Bank, after the same shall have been allowed and confirmed by the said Governor as hereinbefore is directed, shall be fairly transcribed on parchment, and deposited with the Registrar-General of the Province, which transcript shall be filed by such Registrar-General, and preserved amongst the Records and Muniments of the said Registry Office, without any fee or reward in respect thereof; and such rules or regulations so deposited shall be binding upon the several members and officers of the said Savings Bank, and upon all depositors therein, and their representatives, all of whom shall be taken and deemed to have full notice thereof; and the transcript of the said rules and regulations deposited with the Registrar-General as aforesaid, or a true copy thereof examined with the original and proved to be a true copy, shall be received as evidence of such rules and regulations respectively as aforesaid; and every copy of any such transcript deposited with the said Registrar-General as aforesaid shall be made without fee or reward, except the actual expense of such copy.

And to be received as evidence of the same.

One Trustee with Accountant, or two Trustees in his absence, may receive deposits not less than 1s. nor exceeding £200.

XI. AND BE IT ENACTED, That it shall and may be lawful for any one or more of such Trustees, together with the Accountant, or, in the event of his absence, for any two or more of such Trustees, at such time and place as shall be fixed by such rules and regulations, confirmed and allowed as aforesaid, and at no other time or place whatsoever, to receive from any person or persons in the way of deposit, any sum or sums of money, not being of value less than One Shilling, nor exceeding Thirty Pounds in the whole, exclusive of interest, in any one year from any one person, nor by one or by successive deposits exceeding, except in the cases aftermentioned, the sum of Two Hundred Pounds in the whole, to the credit of any one account, excepting as hereinafter provided; and shall then and there cause the money so received to be entered in a book (to be provided for that purpose) to the credit of the party making such deposit, or to the credit of such other person as he or she may appoint; and the amount of such deposits, and all other sum and sums of money received into the said Savings Bank, shall with all convenient speed be paid into such of the Colonial Banks in Adelaide as shall be approved of by the Vice-President, and any four of the said other Trustees, at any meeting for such purpose to be convened, and the same shall be there placed to the credit of the said Savings Bank, in an account to be intituled "The Account of the Vice-President and Trustees of the Savings Bank of South Australia," which said account shall be opened and kept in such Bank for that purpose; and no money so paid into such account in such Bank shall be withdrawn therefrom, without the written order of two or more Trustees, countersigned by the Accountant for the time being, first had and obtained.

Withdrawal of monays.

General meeting of trustees for investing deposits.

XII. AND BE IT ENACTED, That on any day or days at any meeting or meetings to be for that purpose appointed by the said Trustees,

Trustees, it shall be lawful for the Trustees then attending, not being less than four, to lend any sum or sums of money upon security, by mortgage of any lands and hereditaments, for an estate of inheritance in fee simple in the said Province of South Australia, provided such lands and hereditaments be free from all incumbrances: AND PROVIDED ALSO, that no such loan shall exceed the amount of Five Hundred Pounds to any one person; and it shall and may be lawful for such Trustees as aforesaid, to direct a valuation to be made of the said hereditaments, the expense of which valuation shall be borne and paid by the person or persons applying for such loan; and all such lands and hereditaments so mortgaged as aforesaid, shall be conveyed to the Vice-President for the time being of the said Savings Bank in fee simple, subject to a proviso for redemption of the same, on payment of all principal money and interest, and there shall be inserted in such mortgage a power of sale in default of payment of principal money and interest, on the days and at the times appointed for payment of the same; but such power of sale shall not prejudice or affect the right of the said Savings Bank to foreclose the equity of redemption of the said hereditaments; and all bonds, mortgages, warrants of attorney, and other securities, which shall or may at any time hereafter be taken in the name of any person as Vice-President of the said Savings Bank for and on account of the same, shall and may be put in suit, and be sued and prosecuted at law or in equity, in the name of the Vice-President for the time being, in whose name the same may have been taken, or in the name of any person who shall or may have succeeded to that office at the time such proceedings shall be instituted, notwithstanding that the name of any such succeeding Vice-President be not inserted in such bond, mortgage, warrant of attorney, or other such security, as an obligee, mortgagee, assignee, or payee, of the sum or sums of money therein mentioned; and the death, resignation, removal, or other act of any such Vice-President of the said Savings Bank for the time being, in whose name any such bond, mortgage, warrant of attorney, or other security, as aforesaid, shall be so put in suit, shall not abate any action, suit, or other proceeding had thereon, but the same may be continued where it left off, and be prosecuted and carried on in the name of any person who may have succeeded to that office, or may be or become the Vice-President of the said Savings Bank for the time being, and the legal estate in all lands and tenements belonging or mortgaged to the said Savings Bank, and all legal rights and capacities in respect of the said Savings Bank, shall become vested in such new Vice-President, as aforesaid, to all intents and purposes immediately upon the recording of the memorial of the name of such new Vice-President in the Supreme Court as hereinafter directed, and so on *toties quoties* whensoever any new appointment of Vice-President for the time being of the said Savings Bank shall take place, and such new memorial shall be enrolled and recorded in the Supreme Court as hereafter directed: PROVIDED ALWAYS, that whenever any such lands and hereditaments are or shall become liable to the dower of the wife of the mortgagor thereof, she shall

Mortgage in fee simple.

Not to exceed £500 to one person.

Lands to be conveyed to Vice-President in fee simple.

Proviso.

Proviso.

join in such mortgage for the purpose of releasing the same: PROVIDED ALWAYS, that the whole amount to be invested on mortgage shall not exceed two-thirds of the entire funds of the Bank, and that no new mortgage shall be taken by the Trustees so long as two-thirds or more than two-thirds of the entire funds of the Bank shall be vested on mortgage.

As to affording further means for investing funds.

XIII. AND, in order to afford further means of investing or employing the funds of the Savings Bank, BE IT ENACTED, That any portion of these funds, not exceeding one-third of the whole, may be deposited in any bank or banks in the Province, at such rate of interest as may be agreed on between the Directors of such bank or banks, and the Trustees of the Savings Bank.

Governor may guarantee loan to be raised by the Trustees. Guarantee not to exceed £5,000.

XIV. AND WHEREAS, in consequence of the employment of the funds of the Savings Bank as hereinbefore authorized or directed, the Trustees of the said Bank may, without the assistance of the Government, be unable to meet the demands made upon them from time to time, by depositors desirous of withdrawing their deposits, and it is expedient that, in case of need, such assistance shall be afforded to them: BE IT THEREFORE ENACTED, That it shall and may be lawful for the Governor of the Province to guarantee the repayment, from the revenues of the Province, of any loan which it may be necessary for the Trustees to negotiate, in order to meet the demands of such depositors: PROVIDED, that no loan or loans outstanding at any time, and so guaranteed, shall exceed the sum of Five Thousand Pounds, without the previous advice and consent of the Legislative Council.

Proviso.

Matter in dispute shall be referred to arbitration.

XV. AND BE IT ENACTED, That if any dispute shall arise between the said Savings Bank, or any person or persons acting on behalf thereof, and any individual depositor therein, or any executor or administrator, next of kin, or creditor, of any deceased depositor, or any person claiming to be such executor, administrator, next of kin, or creditor, then and in every such case, the matter so in dispute shall be referred to the arbitration of two indifferent persons, one to be chosen and appointed by the Trustees of the said Savings Bank, and the other by the party with whom the dispute arose; and in case the arbitrators so appointed shall not agree, then such matter in dispute shall be referred in writing to an umpire having no interest in such matter, or in the said institution, to be chosen by the said arbitrators; and whatever award, order, or determination shall be made by the said arbitrators, or by the said umpire, shall be binding and conclusive on all parties, and shall be final to all intents and purposes, without any appeal.

Trustees to prepare a balance-sheet, and to lay the same before the Governor.

XVI. AND BE IT ENACTED, That the said Trustees, or any five of them, shall, within one calendar month after the close of every year, cause a balance-sheet to be prepared, containing a true statement of the receipts and payments on account of the said Savings Bank during the past year, and of the balance of money remaining in such

8-157-5

such Colonial Bank as aforesaid to the credit of the said Savings Bank, and of all sums of money which may in any manner be due to the said Trustees of such Savings Bank, as such Trustees as aforesaid; and they shall certify to the best of their belief the correctness of the said account or balance-sheet, by subscribing the same with their names, and shall, within three days after such subscription, lay the same before the Governor for the time being, for his approval, and shall cause the same, after being by him approved, to be published in the *South Australian Government Gazette*.

XVII. AND BE IT ENACTED, That all securities for money, or other obligatory instruments, and evidences or muniments, which may be taken and received for the repayment of any sum or sums of money lent by the Trustees from the deposits in the Savings Bank, shall be and are hereby directed to be registered in the General Registry Office, according to law, and to be preserved in the Colonial Treasury, in an iron chest, having two locks, the key of one of which shall be kept by the Accountant, and the other by the Colonial Treasurer; and it shall not be lawful for the said parties in whose custody such keys are placed, or either of them, to deliver out of such chest to any person whatsoever, any security for money, or any obligatory instrument which may have been deposited therein, unless the party applying for and claiming the same shall produce an order for its delivery, signed by three or more of the Trustees: PROVIDED ALWAYS, that as often as occasion shall arise for the production of any such security, for inspection or otherwise, it shall be lawful for the Colonial Treasurer, and he is hereby required to deliver the same into the hands of the Accountant for such purpose, under the authority of an order signed by any two or more Trustees, stating the purpose for which the same shall be required to be delivered out, the Accountant giving a receipt for the same; and the said Accountant is hereby required to restore the same to the custody of the said Colonial Treasurer immediately after the purpose for which the same is delivered out shall have been satisfied.

How securities shall be preserved.

Proviso.

XVIII. AND BE IT ENACTED, That every person depositing with the said Trustees, by one or more payments, any sum not less than Twenty Shillings, or the person on whose account the said deposits may have been paid, and to whose credit they are placed in the books of the said Savings Bank, shall be entitled to receive interest upon the same, at such rate as shall be declared from time to time by the said Trustees, under the conditions hereinafter established, except as hereinafter excepted: PROVIDED that no interest shall be allowed on any sums less than one pound, or on odd shillings or pence, and that the interest shall be calculated by months, omitting odd days, but that any sums deposited within the first seven days of a month shall be entitled to bear interest for the whole of that month; and the said Trustees may and shall pay such interest as is herein directed upon all deposits of not less than Twenty Shillings, out of the interest received by them on sums lent out as hereinbefore appointed.

Rate of interest on deposits

Proviso.

XIX. AND

Rate of interest may be reduced.

XIX. AND BE IT ENACTED, That it shall and may be lawful for the said Trustees, or a major part of them, at a General Meeting, to be held in the month of January in every year, by and with the consent and approbation of the Governor of the said Province, to reduce the rate or rates of interest on any sum or sums of money which may be lent at interest by the said Savings Bank as aforesaid.

Trustees to establish a security fund.

XX. AND WHEREAS it is expedient to establish a Rest or Security Fund, to meet any deficiency or loss which may unexpectedly occur, BE IT THEREFORE ENACTED, That out of the net profits made by the Bank, during the first year of its formation, the Trustees of the said Bank shall, at the end of such year, set apart a sum, not being less than one-twentieth, nor more than one-tenth part of the whole of such profits, towards the establishment of a Rest or Security Fund, for the purpose of meeting any loss or deficiency which may unexpectedly occur; and the remainder of such profits, after the deduction aforesaid, shall be the amount to be divided among the depositors, by way of interest, according to the provisions of this Ordinance.

Conditions to be made.

XXI. AND BE IT ENACTED, That the conditions under which interest shall be paid on deposits, and additions made to the Rest or Security Fund, shall be the following:—

FIRSTLY. That so long as the Rest or Security Fund shall be less than the one-tenth part of the whole amount of moneys deposited in the Bank, the sum divided among the depositors in any year shall not exceed three-fourths of the net profits made by the Bank during the same year.

SECONDLY. That whenever the Security Fund shall be less than the one-seventh part of the whole amount of moneys deposited in the Bank, the sum distributed as interest among the depositors shall not in any year exceed four-fifths of the net profits made by the Bank during the same year.

THIRDLY. That whenever the Security Fund be less than the one-fourth part of the whole amount of moneys deposited in the Bank, the sum divided among the depositors in any year shall not exceed five-sixths of the net profits made by the Bank during the same year.

Proviso.

PROVIDED ALWAYS, that whenever the Rest or Security Fund shall amount to one-fourth part of the whole amount of moneys deposited in the said Bank, no addition shall be made to the said Fund unless from loss or any other cause it should at any time fall short of that amount: PROVIDED ALSO, that in case any depositor shall withdraw the whole of his deposits before the thirty-first day of December in any year, he shall not be allowed interest on the same for the period forming part of the current year during which the amount remained deposited in the Bank.

Proviso.

XXII. AND

XXII. AND BE IT ENACTED, That the interest for any sum or sums of money deposited, to which any depositor may become entitled under the provisions of this Ordinance, shall be added to and incorporated with the sum which may be then standing in the books of the said Savings Bank, to the credit of such party, and shall bear interest subject to the provisions of this Ordinance, from the first day of the said month of January, and interest shall be allowed to him or her upon the total sum, so long as the same shall remain deposited in the said Savings Bank: PROVIDED ALWAYS, that nothing in this Ordinance contained shall entitle any person, except as hereinafter mentioned by successive deposits, to place in charge of such Trustees any sum exceeding Two Hundred Pounds in the whole: PROVIDED FURTHER, that whenever the sum or sums standing in the name of any depositor shall amount in the whole to Two Hundred Pounds, principal and interest included, that thenceforth no interest shall be payable on any such deposit, so long as it shall continue to amount to the said sum of Two Hundred Pounds: PROVIDED ALWAYS, that nothing herein contained shall be deemed to limit the amount of moneys belonging to the estates of intestate persons, or otherwise paid into the said Savings Bank under any order of the Supreme Court of the Province.

Payment of interest and disposal of such as is not applied for.

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XXIII. AND BE IT ENACTED, That it shall and may be lawful for any person, being the owner of any sum or sums of money deposited in the said Savings Bank, or the interest thereof or for any person duly authorized by such depositor, or for his or her executors or other lawful representative, to claim and receive back such sum or sums of money, or any part thereof, in the manner and upon the conditions following: that is to say—if the sum or sums so required to be repaid shall not exceed Fifty Pounds, the claimant thereof shall deliver or cause to be delivered to the Trustees, or to their Accountant, a notice signed with his or her name, declaring his or her intention to withdraw such sum from the Bank at the expiration of one calendar month from the date of the said notice; and if the sum to be withdrawn shall exceed Fifty Pounds, then three months' notice shall in like manner be given: PROVIDED that nothing herein contained shall be construed to prevent the Trustees from dispensing with such notice in cases when it may to them appear expedient.

Conditions on which deposits may be withdrawn.

Proviso.

XXIV. AND BE IT ENACTED, That in case the Trustees of the said Savings Bank of South Australia shall receive any deposit of money from or for the use or benefit of any person under the age of twenty-one years, it shall be lawful for the said Trustees to pay such person his or her share and interest in the funds of the said Savings Bank, in the manner and upon the conditions hereinbefore appointed in the case of other depositors; and the receipt of such person shall be a sufficient discharge for any money paid to him or her, as aforesaid, notwithstanding his or her incapacity or inability in law to act for himself or herself.

Infants may make deposits.

Moneys under control of Supreme Court may be invested in the Savings Bank by order of Court.

As to interest upon sums invested.

Such moneys to be withdrawn by order of Court only.

Proviso as to interest to be paid on moneys belonging to intestates or paid in by order of the Supreme Court.

Never to exceed half the rate allowed to other depositors.

As to deposits of persons deceased being under £20.

XXV. AND BE IT ENACTED, That it shall and may be lawful for the Supreme Court, or any Judge of the said Court, from time to time, and at all times hereafter, by any order or orders, to direct that any sum or sums of money belonging to the estate or estates of any intestate person, or of any person declared insolvent under or by virtue of any Ordinance relating to insolvents, which may have been or shall be received by, or which may be in the custody or power of any person acting under the direction or control of or accountable to, the Supreme Court, shall be invested in the Savings Bank of South Australia at Adelaide, in such manner, and on such account or accounts, and for such purpose or purposes, as the said Court shall by its order or orders direct; and that all and each of such sums of money so to be invested as aforesaid shall, from the time of being so invested respectively, until the period when the same shall be withdrawn from the said Savings Bank, bear interest at and after the rate allowed by the rules and regulations of the said Bank: PROVIDED ALWAYS, that no such sum or sums of money, nor the interest from time to time due thereon, shall be paid out by, or withdrawn from, the said Savings Bank, otherwise than by order or orders of the said Court, or of a Judge thereof, for that purpose first had and obtained: PROVIDED ALSO, that no interest shall be demandable in respect of any moneys which may be so deposited in the said Savings Bank as aforesaid, unless when the interest payable to the other depositors at the close of any year shall exceed the yearly rate of Five Pounds for every One Hundred Pounds; and when the interest so payable shall exceed that rate, the balance (if any) shall be applied to the payment of interest on the sums so deposited on behalf of the estates of intestate and insolvent persons, or otherwise, by order of the Supreme Court: AND PROVIDED FURTHER, that the rate of interest payable in respect of such last-mentioned moneys shall never exceed one half of the rate of interest payable to the other depositors.

XXVI. AND BE IT ENACTED, That in case any depositor in the funds of the said Savings Bank shall die, leaving a sum of money in the said Savings Bank, which with the interest thereon, shall not exceed in the whole Twenty Pounds, it shall be lawful for the said Trustees, and they are hereby authorized and permitted (in case such trustees shall be satisfied that no will was made and left by such deceased depositor, and that no letters of administration will be taken out of the goods and chattels of such depositor), to pay the same at any time after the decease of such depositor, according to the rules and regulations of the said Savings Bank; and in the event of there being no rules and regulations made in that behalf, then the said Trustees are hereby authorized and permitted to pay out of such sum of money all just debts due or owing by such deceased depositor, and to defray the expense of his or her funeral, so far as the said sum of money shall extend, and to pay and divide the surplus, if any there be, after paying such debts and defraying such expenses as aforesaid, to and amongst the person or persons entitled to the effects of the deceased intestate, according to the Statute of Distributions.

XXVII. AND

Amended by No. 8-1/57

XXVII. AND BE IT ENACTED, That in case any depositor of money in the said Savings Bank shall die, leaving any sum or sums of money in the said Bank, or there shall be any dividends or interest due thereon belonging to him or her at the time of his or her death, which shall exceed in the whole the sum of Twenty Pounds, the same shall not be paid to any person or persons claiming to be the representative or representatives, or next of kin, or creditor or creditors of such depositor, unless such person or persons shall deliver or cause to be delivered to the said Trustees, or to the Accountant of the said Savings Bank, a notice in writing, signed with his, her, or their names, in the presence of two credible witnesses, setting forth the grounds upon which he, she, or they claim to be entitled to receive the said sum or sums of money belonging to the said depositor at the time of his or her death, or any part or parts thereof: PROVIDED ALWAYS, that the said notice shall have been previously published thrice or oftener in the *South Australian Government Gazette*, and in some one or more of the newspapers of the Colony, at the discretion of the Trustees, and three calendar months at least shall have elapsed subsequently to such last publication before payment be made in satisfaction of any such claim or demand: AND PROVIDED ALSO, that if any creditor of the deceased, whose debt shall not exceed the sum of Ten Pounds, shall put in his or her claim to be paid, it shall be lawful for the said Trustees to pay the same without such public notice as aforesaid: AND PROVIDED FURTHER, that the above regulation shall not be taken to interfere with the legal title and claim of any representative or representatives of such depositor deceased, who shall produce probate of the will of the same, or letters of administration of his or her effects: PROVIDED ALSO, that if any payment shall be made from the funds of the said Savings Bank by the Trustees thereof, as hereinbefore directed, and the party, or parties claiming and receiving the same shall afterwards be proved not to be the lawful representative or representatives of the depositor so deceased as aforesaid, or otherwise not entitled to the same, such payment shall be valid against any demand of any other person or persons as representative or representatives of such deceased depositor, or any other person or persons whomsoever; NEVERTHELESS, such lawful representative or representatives, or other person or persons, shall have remedy for such money so paid as aforesaid against the person or persons who shall have so wrongfully received the same.

As to deposits of persons deceased exceeding £20.

Proviso

Not to interfere with legal title.

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Proviso

XXVIII. AND BE IT ENACTED, That all moneys, goods, chattels, and effects whatsoever, and all securities for money and obligatory instruments and evidences or muniments, and all other effects whatever, and all rights and claims belonging to, or had by, the said Savings Bank of South Australia, shall be vested in the Vice-President thereof for the time being, for the use and benefit of the respective depositors therein, according to the provisions of this Ordinance, and after the death, resignation, or removal of any such Vice-President, shall vest in the succeeding Vice-President for the same estate and interest as the former Vice-President had therein, and

All moneys to be vested in Vice-President for the time being.

Proviso.

and subject to the same trusts, without any assignment or conveyance whatever: PROVIDED ALWAYS, that all sum or sums of money paid on the redemption of any lands and hereditaments may be received by any one Trustee, together with the Accountant for the time being of the said Savings Bank, and all receipts and other acquittances for the same may be signed by one Trustee, together with the said Accountant, in the name of, and for and on behalf of the said Vice-President of the said Savings Bank, and such receipts and acquittances so signed as aforesaid, shall be deemed and taken to be as valid and effectual at law and in equity, as if the same had been signed by the Vice-President of the said Savings Bank; and the said Vice-President may institute any action, suit, prosecution, and other proceedings at law and in equity, by and on behalf of the said Savings Bank, or wherein the said Savings Bank is, or shall, or may be concerned against any person or persons, body or bodies politic or corporate, and whether such person or persons shall be a Trustee or officer of the said Savings Bank or otherwise; and such action, suit, prosecution, and proceedings shall be commenced or instituted, and carried on in the name of the Accountant of the said Savings Bank for the time being, as the nominal plaintiff, complainant, or petitioner, for and on behalf of the said Savings Bank; and all actions, suits, or proceedings as aforesaid, to be commenced, instituted, or prosecuted against the said Savings Bank, shall be defended by the Vice-President, but the same shall be commenced, instituted, and prosecuted against the said Accountant for the time being of the said Savings Bank, as the nominal defendant for and on behalf of the said Savings Bank; and all prosecutions for fraud upon or against the said Bank, or for embezzlement, robbery, or stealing the bills, notes, bonds, moneys, goods, chattels, effects, or property of the said Bank, or for any other offence against the said Bank, shall or may be so commenced or instituted, and carried on in the name of the said Accountant for the time being of the said Bank; and in all indictments and informations it shall be lawful to state the property of the said Bank to be the property of the said Accountant for the time being; and any offence committed with intent to injure or defraud the said Bank shall, and lawfully may, in any prosecution on account of the same, be stated or laid to have been committed with intent to injure and defraud such Accountant for the time being of the said Bank, and any offender or offenders may thereupon be lawfully convicted of any such offence; and in all other allegations and indictments, informations, and other proceedings, it shall and may be lawful and sufficient from and after the passing of this Ordinance, to state the name of such Accountant; and no such suit, action, or prosecution shall be discontinued or abated by the death of such Accountant, or by his resignation or removal from office which he held at the time when such action, suit, or prosecution was commenced, but the same shall and may be proceeded with in the name of any person who may be or become Accountant of the said Savings Bank for the time being, and such person shall pay or receive like costs as if such action or suit had been commenced in his name, for the benefit of, or to be reimbursed from, the funds of the said Savings Bank.

8-107-3

XXIX. AND BE IT ENACTED, That a memorial of the name of the Vice-President, and a memorial of the name of the Accountant for the time being of the said Savings Bank, in the form or to the effect for that purpose set forth in the Schedule hereunto annexed, signed by at least four of the said Trustees of the said Savings Bank, shall respectively be recorded upon oath in the Supreme Court of South Australia, within thirty days after the passing of this Ordinance; and when and as often as any Vice-President shall be appointed by the said Governor as hereinbefore directed, or any Accountant of the said Savings Bank shall be newly elected Accountant thereof, a memorial of the name of such newly appointed Vice-President, or such newly elected Accountant, in the same form or to the same effect as the above-mentioned memorial, signed by such newly appointed Vice-President, or such newly elected Accountant, as the case may be, and by four of the said Trustees of the said Savings Bank, shall in like manner be recorded upon oath in the said Supreme Court of South Australia, within thirty days next after such Vice-President shall be appointed, or such Accountant shall be so elected, as the case may be.

Memorials of names of Vice-President and Accountant to be recorded on oath in Supreme Court.

XXX. AND BE IT ENACTED, That until a memorial of the name of the Vice-President, or of the Accountant for the time being, be recorded in the manner herein directed, no action, suit, or other proceeding shall be brought by the said Bank in the name of the Vice-President, or of the Accountant of the said Bank as aforesaid, under the authority of this Ordinance.

Until such record made, no action to be brought.

XXXI. PROVIDED ALWAYS, AND BE IT ENACTED, That the said Vice-President or Accountant, being the plaintiff, complainant, petitioner, or defendant in any action, suit, petition, or other proceedings, as aforesaid, on behalf of the said Bank, shall not prevent or affect the competency of any such Vice-President or Accountant, so as to prevent him from being a witness in such action, suit, petition, or other proceeding, in the same manner as he might have been if his name had not been made use of as such plaintiff, complainant, petitioner, or defendant in any such action, suit, petition, or other proceeding.

Vice-President and Accountant to be competent witnesses.

XXXII. AND BE IT ENACTED, That in any action to be brought in the name of the said Vice-President or Accountant of the said Bank, by virtue of this Ordinance, the plaintiff therein shall not be non-suited, nor shall a verdict be given against him for want of proof of the record of such memorial or memorials as hereinbefore mentioned; but in case the defendant in any such action shall make it appear on such trial that no such memorial or memorials as hereinbefore mentioned has, or have been recorded, then a non-suit shall be entered in such action.

Want of proof of record of memorial shall not non-suit plaintiff.

XXXIII. AND BE IT ENACTED, That any one or more of the said Trustees shall not be answerable or accountable for the other or others of them, but each and every of them only for his and their own

Limiting responsibility of Trustees.

own acts, receipts, neglects or defaults respectively; and that they, or any of them, shall not be answerable or accountable for any banker, broker, or other person with whom or in whose hands or custody any part of the said trust moneys shall or may be deposited or lodged for safe custody, or otherwise, in the execution of the trust hereby in them reposed; and that they or any of them shall not be answerable or accountable for the insufficiency or deficiency of any security or securities in or upon which any moneys shall be placed out or invested, or for the defect of title or value of any lands, nor for any other misfortune, loss, or damage which may happen in the execution of the aforesaid trusts, or in relation thereunto, except the same shall happen by or through their own wilful neglect or default respectively.

Executors, &c., of
officers of Savings
Bank to pay money
due to Savings Bank
before any other
debts.

XXXIV. AND BE IT ENACTED, That if any person holding any office in the said Savings Bank, and having in his hands or possession any moneys or effects belonging to such Bank, or any deeds or securities relating to the same, shall become bankrupt or insolvent, or shall make any assignment of his lands, goods, chattels or effects, for the benefit of his creditors, or shall have his lands, goods, chattels or effects, taken in execution or by attachment or other process; or if any such officer shall die, then, and in any such case, it shall and may be lawful for any two or more of the Trustees of the said Savings Bank respectively, to apply to such officer or to his assignees, or to the Sheriff or other person executing such process, or to his executors or administrators, or to any other person or persons having legal right, as the case may require, and to demand that such moneys or effects belonging to such Savings Bank, and all deeds, securities, or papers relating to the same, shall be paid over or delivered up to the said Trustees, or to such person as they shall appoint; and the party or parties so applied to, and having the same, shall, within forty days after such demand as aforesaid, deliver over to such Trustees, or to any person or persons whom they may appoint to receive the same, all moneys, effects, or other things belonging to such Savings Bank, and all deeds, securities, or papers relating to the same, and shall pay out of the estates, assets, or effects of such person so being or having been an officer of the said Bank, all sums of money belonging or due by such officer to the said Bank before any other of the debts of the said officer are paid or satisfied, or before the money directed to be levied by such process as aforesaid is paid over to the party issuing such process, as the case may be, and all assets, lands, goods, chattels, estates, and effects, shall be bound to the payment and discharge thereof accordingly.

Ordinance to be a
Public Act.

XXXV. AND BE IT ENACTED, That this Ordinance shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by the Judge of the Supreme Court of South Australia, and by all other Judges, Justices, and others within the said Colony of South Australia and its dependencies, without being specially pleaded.

XXXVI. AND

XXXVI. AND BE IT ENACTED, That this Ordinance shall be in force and take effect from and after the first day of January, one thousand eight hundred and forty-eight. Commencement of this Ordinance.

FREDK. H. ROBE,
Lieutenant-Governor.

Passed the Legislative Council this twenty-second day of September, one thousand eight hundred and forty-seven.

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

passed by Act. 8-57/8

SCHEDULE REFERRED TO.

MEMORIAL of the name of the Vice-President (*or the Accountant, as the case may be*) of the Savings Bank of South Australia, pursuant to an Ordinance enacted by the Governor of South Australia, with the advice and consent of the Legislative Council thereof (No. 15, 1847), "To Establish a Savings Bank in South Australia, to provide for the Management thereof, and for the Security of Deposits therein:"

A. B., Vice-President (*or Accountant, as the case may be*).

C. D. }
E. F. } Trustees.
G. H. }
I. K. }

L. M., of Adelaide, gentleman, maketh oath and saith, that he was present and did see the foregoing Memorial signed by the above-named Vice-President (*or Accountant, as the case may be*) and Trustees respectively, whose names appear thereto.

Sworn this

day of)
A. D. }

L. M.

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84