

No. 1945 of 1873, S. 135



ANNO TRICESIMO SEPTIMO

VICTORIÆ REGINÆ.

A.D. 1873.

No. 20.

An Act to provide for the Examination of Witnesses upon Oath, before Commissions appointed by the Governor.

[Assented to, 18th December, 1873.]

WHEREAS it is expedient that Commissioners appointed by the Governor of the Province of South Australia should have the power in certain cases of administering Oaths to Witnesses examined upon any Commission—Be it therefore Enacted by the Governor 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. The Governor in Council, whenever he shall issue a commission under his hand and the public seal of the said Province, may direct that the witnesses to be examined before the Commissioners appointed by such commission shall be examined upon oath; and such witnesses when examined on oath shall be examined in public, as in open Court.

Governor may direct witnesses to be examined upon oath under Commission.

2. If any person appearing as a witness before any Commission shall, when thereunto required, refuse to be sworn or make the affirmation by this Act authorized, he shall be liable to a penalty of Ten Pounds.

Penalty for refusing to be sworn.

3. Any person examined as a witness before such Commissioners as aforesaid, who wilfully gives false evidence, shall be liable to the penalties of perjury.

Persons giving false evidence guilty of perjury.

The Witnesses on Commissions Oaths Act.—1873.

Affirmation may be made in lieu of oath.

4. Where any witness to be examined pursuant to this Act conscientiously objects to take an oath, he may make his solemn declaration and affirmation, in the following words:—

“I, A. B., do solemnly, sincerely, and truly declare and affirm that the taking of any oath is according to my religious belief unlawful, and I do also solemnly, sincerely, and truly declare and affirm that I will state the truth, the whole truth, and nothing but the truth, to all questions that may be asked me.”

And any solemn declaration and affirmation so made shall be of the same force and effect, and shall entail the same liabilities as an oath taken in the usual form.

By whom oath or affirmation to be administered.

5. Any oath or affirmation pursuant to this Act may be administered by any one of the said Commissioners, and the evidence given by the person making the oath or affirmation shall be taken down in writing, and signed by such person, and countersigned by the Commissioner who administered such oath or affirmation.

Witness and Commissioner to sign same.

Witnesses may be summoned.

6. It shall be lawful for any such Commissioners, by summons under the hand of the Chairman thereof, to require all such persons as the Commissioners may think fit to appear personally before such Commission at a time and place to be named in such summons, and then and there to produce all such books, documents, and papers as may be necessary; and any person being personally served with a copy of such summons and disobeying the same after payment or tender of his reasonable expenses, shall forfeit and pay such fine, not exceeding Ten Pounds, as the Commissioners shall impose.

Penalty may be recovered.

7. Proceedings for the breach of any of the provisions of this Act to which a penalty is attached shall be heard and determined in a summary way by and before any Special Magistrate or two Justices of the Peace for the said Province, under the provisions of the Ordinance No. 6 of 1850.

Short Title.

8. This Act shall be called “The Witnesses on Commissions Oaths Act.”

In the name and on behalf of Her Majesty I hereby assent to this Act.

A. MUSGRAVE, Governor.