



*See No 6 of 1869-70*

ANNO VICESIMO SECUNDO ET VICESIMO TERTIO

# VICTORIÆ REGINÆ.

A.D. 1859.

## No. 23.

*An Act to provide for the Appointment of Commissioners to take Affidavits as well in South Australia as elsewhere, to be made use of in the Supreme Court of South Australia, and for the more easy Administration of Oaths to Persons appointed to act as Justices of the Peace in South Australia.*

[Assented to, 1st September, 1859.]

**W**HEREAS, by the General Rules of the Supreme Court of Preamble.  
South Australia, made in the year One Thousand Eight Hundred and Fifty, it is provided that all answers in Equity, and all affidavits in the Supreme Court, whether made in its civil, or criminal, or in its common law, or equitable jurisdiction, may be sworn, either in open Court, or before a Judge or a Master thereof, or before a Commissioner appointed by the Judge or Judges of the Supreme Court, for the purpose of taking affidavits therein: And whereas, by an Act "To amend the practice and proceedings in the Equitable Jurisdiction of the Supreme Court of South Australia," passed No. 14, s. 33, of 1853.  
in the year One Thousand Eight Hundred and Fifty-three, it is enacted, that all pleas, answers, disclaimers, and examinations upon oath, taken within the jurisdiction of the Court, may be taken in open Court, or before a Judge, or the Master, or some Commissioner of the Court authorized to take affidavits: And whereas, by the Act No. 9 of the year one thousand eight hundred and fifty-six, intituled "An Act to give further remedies against creditors removing from one Australian Colony to another," the Judge or Judges of the Supreme Court are authorized to appoint Commissioners, resident in any of the Australian Colonies, for taking affidavits in the several matters therein mentioned: And whereas it is expedient to make a more general provision for the appointment of Commissioners for taking affidavits as well in the Province of No. 9 of 1856.  
South

South Australia as in the United Kingdom of Great Britain and Ireland, and elsewhere out of the said Province, to be used in the Supreme Court of the said Province; and to provide for the more easy taking of the oaths of office and of allegiance to Her Majesty the Queen, by persons appointed to be Justices of the Peace in the said Province—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:—

Judges of Supreme Court may appoint Commissioners to take affidavits.

1. The Chief Justice and other the Judges of the said Supreme Court, for the time being, or any two of them, whereof the Chief Justice for the time being shall be one, may, by Commission under the seal of the said Court, from time to time empower such persons as they shall think fit and necessary, as well within the said Province as without the same, to take and receive all such affidavits as any person shall be willing and desirous to make before any of the persons so empowered, in or concerning any cause, matter, or thing depending, or hereafter to be depending in the said Court, which said affidavits shall be filed in the office of the said Court, and then be read and made use of in the said Court to all intents as affidavits taken in the said Court now are, and all and every person or persons wilfully forswearing himself in any such affidavit, taken within the said Province, shall incur and be liable to the same punishment as if such affidavit had been taken in open Court.

Persons appointed to be Justices of the Peace may take oaths of office, &c., before Commissioners.

2. The oaths of office and of allegiance to Her Majesty the Queen, to be taken by persons appointed to be Justices of the Peace in the said Province, may be taken either in open Court or before any Judge of the Supreme Court, or in the case of a person appointed to act as a Justice of the Peace for the said Province, who resides more than twenty miles from the Supreme Court House in Adelaide, then before a Commissioner, appointed in manner aforesaid to take affidavits in the Supreme Court, and in such last-mentioned case, the said oaths of office and of allegiance, shall be subscribed by the person taking the same, in the presence of and attested by the Commissioner before whom they were taken, and forthwith transmitted to the Master of the said Court, to be kept with the roll of Justices of the Peace for the said Province.

*see No 6 of 1869-70  
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