



ANNO VICESIMO SECUNDO

VICTORIÆ REGINÆ.

A.D. 1858.

No. 9.

An Act to confer certain Powers and Privileges on the Houses of the Parliament of South Australia.

[Assented to, 24th December, 1858.]

BE it 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:—

1. Each House of the Parliament of the said Province, and any Committee of either House, duly authorized by the House to send for persons and papers, may order any person to attend before the House or before such Committee, as the case may be, and also to produce to such House or Committee any paper, book, record, or other document in the possession or power of such person.

2. Any such order to attend, or to produce documents, before either House shall be notified to the person required to attend, or to produce documents, by a summons under the hand of the President or Speaker, as the case may be; and any such order to attend, or to produce documents, before any such Committee, shall be notified to the person required to attend, or to produce documents, by a summons under the hand of the Clerk of the House, authorized by the Chairman of the Committee; and in any such summons shall be stated the time and place when and where the person summoned is to attend, and the particular documents which such person is required to produce; and such summons shall be served on the person mentioned therein, either personally, or by leaving the same with some person for him, at his usual or last known place

*Left to the operation
of the Act
See Statute Book
Repealed 14 June 1859
Council of the 137
1858
but should be
cancelled.*

Power to order the attendance of persons.

Order to attend to be notified by summons.

place of abode in the said Province; and there shall be paid or tendered to the person so summoned, if he shall not reside within five miles of the Parliament House, a reasonable sum for his expenses of attendance.

Attendance of Members.

3. A Member of either House may be ordered by the House of which he is a Member, to attend before either House, or before any Committee, of either House without summons.

Objection to answer questions, or produce documents, to be reported to House.

4. If any person ordered to attend, or produce any paper, book, record, or other document to either House, or to any Committee of either House, shall object to answer any question that may be put to him, or to produce any such paper, book, record, or other document, on the ground that the same is of a private nature, and does not affect the subject of inquiry, the President, or Speaker, or the Chairman of the Committee, as the case may be, shall report such refusal, with the reason thereof to the House, who shall thereupon excuse the answering of such question, or the production of such paper, book, record, or other document, or order the answering or production thereof, as the circumstances of the case may require.

idegibles!
The Chairman of the
House of Representatives
if cannot be done by his
Assembly, Report from the
Committee
how to be put up
with of the House
to punish
Houses empowered to
punish summarily for
certain contempts.
at the Bar

5. Each House of the said Parliament is hereby empowered to punish in a summary manner, as for contempt, by imprisonment in the custody of its own Officer in such place as it may direct, or in Her Majesty's Gaol at Adelaide, during the then existing Session, or any portion thereof, any of the offences hereinafter enumerated, whether committed by a Member of the House or by any other person—

The disobedience of any order of either House, or of any Committee duly authorized in that behalf, duly notified in manner aforesaid, to attend, or to produce papers, books, records, or other documents before the House or such Committee, unless excused by the House in manner aforesaid.

Refusing to be examined before, or to answer any lawful and relevant question, put by the House or any such Committee, unless excused by the House in manner aforesaid.

The assaulting, menacing, obstructing, or insulting of any Member in his coming to or going from the House, or on account of his behaviour in Parliament, or endeavoring to compel any Member by force, insult, or menace to declare himself in favor of or against any proposition or matter depending or expected to be brought before either House:

The sending to a Member any insulting or threatening letter on account of his behaviour in Parliament:

The sending a challenge to fight to a Member:

The offering of a bribe to, or attempting to bribe, a Member:

The creating of, or joining in, any disturbance in the House, or in the vicinity of the House, while the same is sitting, whereby the proceedings of such House may be interrupted.

The

See S. 13 of Act
extending punishment
for contempt here
described which
Act gives power to
House of Commons
Drop this absurdity!

The publishing of any false, scandalous, or derogatory libel of any Member, touching his conduct as a Member.

6. Each House of the said Parliament may punish in a summary way, as aforesaid, a Member of such House guilty of disobedience of any order of the House to attend, or to produce papers, books, records, or other documents before either House, or any Committee thereof.

Members liable for disobedience whether summoned or ordered to attend.

*What if the Member be attended but refuses to be examined?
If the order should be to attend the evidence is the refusal to be examined by the President or Speaker to issue warrant.
Order punishable under this section
L. S. A.*

7. For the purpose of punishing any of the contempts aforesaid, the President or Speaker, as the case may be, is hereby empowered, upon the resolution in that behalf of the House, to issue his warrant, under his hand, for the apprehension and imprisonment of any person adjudged by the House guilty of any such contempt.

8. Any person creating, or joining in, any disturbance in the House, during its actual sitting, may be apprehended without warrant on the verbal order of the President or Speaker, as the case may be; and may be kept in the custody of the Officer of the House until a warrant can be made out for the imprisonment of such person in manner aforesaid.

Persons disturbing proceedings of House may be arrested without warrant.

9. Every such warrant shall contain a statement that the person therein mentioned has been adjudged guilty of contempt by the House, the President or Speaker whereof shall have issued the same, specifying the nature of such contempt in the words of this Act defining the same, or in equivalent words; and every warrant, from which it can be reasonably collected that the person mentioned therein has been adjudged guilty of any of the contempts aforesaid, shall be sufficient; and no particular form shall be necessary to be observed in such warrant.

Form of warrant.

10. The Sheriff and his officers, and all constables and other persons, are hereby required to assist in the apprehension and detention of any person in pursuance of the verbal order of the President or Speaker, as the case may be, by virtue of section 8 of this Act, and also to be aiding and assisting in the execution of any such warrant as aforesaid; and where any such warrant directs that the person mentioned therein shall be imprisoned in the said Gaol, the keeper thereof is hereby required to receive such person into his custody in the said Gaol, and there to imprison him according to the tenor and exigency of the warrant.

Sheriffs, constables, and others, to assist in execution of warrant or verbal order.

Gaoler to imprison.

11. It shall be lawful for any person charged with or assisting in the execution of any warrant under the hand of the President or Speaker, issued under the authority of this Act, to break open in the daytime all doors of places where the person for whose apprehension such warrant was issued is concealed.

Doors may be broken open in executing warrant.

12. It shall in all cases be a valid and conclusive return to any writ of habeas corpus to bring up the body of any person, that such person

Warrant or verbal order plea in bar to action.

person is detained by virtue of any such warrant as aforesaid; and in any action brought on account of any arrest, trespass, or imprisonment, it shall be a good plea in bar to such action that such arrest, trespass or imprisonment, took place by virtue of any such warrant or verbal order as aforesaid.

x quibus pro...
the House
of Commons

House may direct Attorney-General to prosecute contempts mentioned, instead of proceeding summarily.
Punishment on conviction.

13. The contempts mentioned in section 5 of this Act are hereby declared to be misdemeanors; and it shall be lawful for either House, instead of exercising its summary powers under this Act, to direct Her Majesty's Attorney-General to prosecute, before the Supreme Court, any person committing any such contempt; and every person convicted before the said Court of any such misdemeanor shall be liable to imprisonment for any period not exceeding two years, or to a fine not exceeding One Hundred Pounds, or to both such punishments.

House of Commons
may direct the Attorney-General
to prosecute for other contempts.
at all times
that it may see fit
to order
to be done

House may direct Attorney-General to prosecute for other contempts.

14. It shall be lawful for either House to direct Her Majesty's Attorney-General to prosecute, before the Supreme Court, any person guilty of any other contempt against the House which is punishable at law.

Wilfully false answer, how punished.

15. If any person examined before either House, or before any Committee of either House, shall give a wilfully false answer to any lawful and relevant question which shall be put to him during the course of any examination, he shall be guilty of a misdemeanor, and shall be liable, on being convicted thereof, to be punished in the same manner as though he had been convicted of wilful and corrupt perjury.

This is a power which
the House of Commons
does not possess

Short Title.

16. This Act may be cited as "The Parliamentary Privilege Act."

Commencement of Act.

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