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No. 175.

2nd Session, 7th Parliament, 26 Victoria, 1863

BILL.

An Act to extend the provisions of the Consolidated Statute for Upper Canada, Chapter thirty-two, respecting witnesses and evidence.

Received and read, first time, Monday, 16th
March, 1863.

Second reading, Wednesday, 18th March,
1863.

MR. SCOBLE.

QUEBEC :

PRINTED FOR THE CONTRACTORS BY HUNTER,
ROSE & LEMIEUX, ST. URSULE STREET.

An Act to extend the provisions of Chapter thirty-two of the Consolidated Statutes for Upper Canada, respecting witnesses and evidence.

WHEREAS it is expedient to grant relief to persons who, from Preamble.
 conscientious motives may refuse or be unwilling to be sworn or
 to take any oath ; Therefore, Her Majesty, by and with the advice and
 consent of the Legislative Council and Assembly of Canada, enacts as
 follows :

1. In any case in which an oath, declaration, or affirmation is required Persons hav-
 by law, or upon any lawful occasion whatever on which the oath of any ing scruples
 person is admissable, any person who shall from conscientious motives against tak-
 or religious scruples refuse or be unwilling to be sworn or take any oath, ing an oath,
 may make his or her solemn declaration, in the form of words follow- may affirma.
 ing, or in words to the same effect, viz :

“ I, A. B. do solemnly and truly affirm and declare that the taking of Form.
 any oath is according to my religious belief, unlawful : and I do
 also solemnly and sincerely, and truly declare and affirm, that,” &c.,
 which solemn affirmation or declaration shall be of the same force and
 effect as if such person had taken an oath in the usual form. Effect.

2. Every person authorized or required to administer an oath for any Persons who
 purpose, may administer an affirmation or declaration, in the cases pro- might admin-
 vided for by this Act, instead of an oath, upon being satisfied of the ister oath,
 sincerity of the declarant's or affirmant's objection from conscientious may adminis-
 motives, to being sworn or to take any oath. ter affirma-
 tion.

3. The jurat of every written deposition, affirmation, or declaration What the
 authorized by this Act, shall contain a certificate of the officer or person jurat must
 before whom it is taken, or by whom it is administered, that he was satis- show.
 fied of the sincerity of the affirmant's or declarant's objection to being
 sworn, or to take any oath, and therefore permitted such person to
 affirm and declare, instead of swear to the same.

4. No person offered as a witness shall, by reason of defect or pecu- Peculiarity or
 liarity of religious principle, be excluded from giving evidence, either in defect of re-
 person or by deposition, according to the practice of the court, on the ligious prin-
 trial of any issue joined, or of any matter or question, or on any enquiry ciple not to
 arising in any suit, action or proceeding, civil or criminal, in any court, disqualify as
 or before any Judge, Jury, Sheriff, Coroner, Arbitrator, Magistrate, a witness.
 Officer or person having by law or by consent of parties authority to hear
 and examine witnesses.

5. Every person so offered, shall be admitted and be compellable to Such persons
 give evidence on oath, or solemn affirmation where affirmation is receiv- shall and may
 able, notwithstanding that such person has, or may labor under, or have be examined.
 some defect, or entertain some peculiarity of religious principle.

Weight to be given to such testimony to be in the discretion of Court, Jury, &c. **6.** The testimony of every person so offered as a witness, and the credit to be attached to his or her evidence and statements and his probity, shall in all cases be considered by the court, or person, or officer before whom it is given, and the weight or importance to be attached thereto, shall be always considered as in the discretion of the Court, Jury, Officer, or person or persons who have to deal with the same in all cases. **5**

False affirmation, &c., to be punishable as perjury. **7.** If any person making a solemn affirmation or declaration, or who shall give evidence under this Act, shall wilfully, falsely, and corruptly declare, affirm or state any matter or thing which, if the same had been sworn in the usual form, would have amounted to wilful and corrupt perjury, every such person so offending, shall incur the same penalties as by the laws and statutes in force in this Province, are, or may be enacted or provided against persons convicted of wilful and corrupt perjury. **10**

Act limited to U. C. **8.** This Act shall extend only to Upper Canada. **15**