

No. IX.

An Act for the more effectual abolition of Oaths and Affirmations taken and made in various Departments of the Government of New South Wales and to substitute Declarations in lieu thereof and for the suppression of voluntary and extra-judicial Oaths and Affidavits. [27th October, 1845.]

GOVERNMENT OATHS
ABOLITION.

WHEREAS an Act of the Imperial Parliament was passed in the Preamble.
fifth and sixth year of the reign of His late Majesty King Wil- 5 and 6 William IV.
liam the Fourth whereby declarations are substituted for oaths in certain ch. 62.
public departments of the State and other provisions are therein made
for the abolition of unnecessary oaths and it is deemed expedient that
provisions of a similar nature should be made for substituting declara-
tions for oaths in the various departments of the Colonial Government
of New South Wales Be it therefore enacted by His Excellency the
Governor of New South Wales with the advice and consent of the
Legislative Council thereof That in any case where by any Statute Law
or Ordinance made or to be made relating to any of the public Revenue
of the Colony or any of the public offices or public departments or by
any official regulation in any department any oath solemn affirmation
or affidavit might but for the passing of this Act be required to be taken or made by any person on the doing of any act matter or thing
or for the purpose of verifying any book entry or return or for any
other purpose whatsoever it shall be lawful for the Governor and
Executive Council of the said Colony if they shall so think fit to
substitute a declaration to the same effect as the oath solemn affirmation
or affidavit which might but for the passing of this Act be required
to be taken or made and the person who might under the Act or Acts
imposing the same be required to take or make such oath solemn affirmation
or affidavit shall in the presence of the officer or person
empowered by such Act or Acts to administer such oath solemn affirmation or affidavit make and subscribe such declaration and every
such officer or person is hereby empowered and required to administer
the same accordingly.

Declarations substi-
tuted for oaths and
affirmations.

Government Oaths Abolition.

Such substitution
to be notified in
Gazette.

Oaths or affirmations
not be made or taken
thereafter.

Persons making false
declaration guilty of
misdemeanor.

Act not to extend to
oath of allegiance.

Nor to oaths in
judicial proceeding.

Abolition of extra-
judicial oaths.

Proviso.

2. And be it enacted That when the Governor and Executive Council shall in any such case as aforesaid have substituted a declaration in lieu of an oath solemn affirmation or affidavit the same shall be notified in the *New South Wales Government Gazette* and from and after the expiration of twenty-one days next following the day of the date of the *Government Gazette* wherein such notification shall have been first published the provisions of this Act shall extend and apply to each and every case office or department specified in such notification.

3. And be it enacted That after the expiration of the said twenty-one days it shall not be lawful for any officer or other person to administer or cause to be administered or receive or cause to be received any oath solemn affirmation or affidavit in lieu of which such declaration as aforesaid shall have been directed by the said Governor and Executive Council to be substituted.

4. And be it enacted That if any person shall make and subscribe any such declaration as hereinbefore mentioned in lieu of any oath solemn affirmation or affidavit by any Act or Acts relating to the public Revenue as aforesaid required to be made on the doing of any act matter or thing or for verifying any book account entry or return or for any purpose whatsoever and shall wilfully make therein any false statement as to any material particular the person making the same shall be deemed guilty of a misdemeanor.

5. Provided always and be it enacted That nothing in this Act contained shall extend or apply to the oath of allegiance in any case in which the same now is or may be required to be taken by any person who may be appointed to any office but that such oath of allegiance shall continue to be required and shall be administered and taken as well and in the same manner as if this Act had not been passed.

6. Provided also and be it enacted That nothing in this Act contained shall extend or apply to any oath solemn affirmation or affidavit which now is or hereafter may be made or taken or be required to be made or taken in any judicial proceeding in any Court of Justice or in any proceeding for or by way of summary conviction before any Justice or Justices of the Peace but all such oaths affirmations and affidavits shall continue to be required and to be administered taken and made as well and in the same manner as if this Act had not been passed.

7. And whereas a practice has prevailed of administering and receiving oaths and affidavits voluntarily taken and made in matters not the subject of any judicial inquiry nor in anywise pending or at issue before the Justice of the Peace or other person by whom such oaths or affidavits have been administered or received and whereas doubts have arisen whether or not such proceeding is illegal For the more effectual suppression of such practice and removing such doubts Be it enacted That from and after the commencement of this Act it shall not be lawful for any Justice of the Peace or other person to administer or cause or allow to be received any oath solemn affirmation or affidavit touching any matter or thing whereof such Justice or other person hath not jurisdiction or cognizance by some Statute Act or Ordinance in force at the time being Provided always that nothing herein contained shall be construed to extend to any oath solemn affirmation or affidavit before any Justice in any matter or thing touching the preservation of the peace or the prosecution trial or punishment of offences or touching any inquiry held before any Justice of the Peace in the nature of Coroner's Inquests respecting sudden deaths or touching any proceedings before the Legislative Council or any Committee thereof nor to any oath solemn affirmation or affidavit which may be required by the laws of any foreign or other country out of New South Wales to give validity to instruments in writing designed to be used in foreign or other countries respectively.

Government Oaths Abolition.

8. And be it enacted That it shall and may be lawful to and ^{Wills may be verified on declaration.} for any attesting witness to the execution of any will or codicil deed or instrument in writing and to and for any other competent person to verify and prove the signing sealing publication or delivery of any such will codicil deed or instrument in writing by such declaration in writing made as aforesaid and every such Justice Notary or other officer shall be and is hereby authorized and empowered to administer or receive such declaration.

9. And whereas it may be necessary and proper in many cases ^{Declaration in cases not specially provided for.} not herein specified to require confirmation of written instruments or allegations or proof of debts or of the execution of deeds or other matters Be it therefore enacted That it shall and may be lawful for any Justice of the Peace Notary Public or other officer now by law authorized to administer an oath to take and receive the declaration of any person voluntarily making the same before him in the form of the Schedule to this Act annexed and if any declaration so made shall be false or untrue in any material particular the person wilfully making such false declaration shall be deemed guilty of a misdemeanor.

10. And be it enacted That whenever any declaration shall be ^{Fees payable.} made and subscribed by any person or persons under or in pursuance of the provisions of this Act or any of them all and every such fees or fee as would have been due and payable on the taking or making any legal oath solemn affirmation or affidavit shall be in like manner due and payable upon making and subscribing such declaration.

11. And be it enacted That in all cases where a declaration in ^{Form of declaration.} lieu of an oath shall have been substituted by this Act or by virtue of any power or authority hereby given or where a declaration is directed or authorized to be made and subscribed under the authority of this Act or of any power hereby given although the same be not substituted in lieu of an oath heretofore legally taken such declaration unless otherwise directed by the powers hereby given shall be in the form prescribed in the Schedule hereunto annexed.

12. And be it enacted That in any case where a declaration is ^{False declaration.} substituted for an oath under the authority of this Act or by virtue of any power or authority hereby given or is directed and authorized to be made and subscribed under the authority of this Act or by virtue of any power hereby given any person who shall wilfully and corruptly make and subscribe any such declaration knowing the same to be untrue in any material particular shall be deemed guilty of a misdemeanor.

SCHEDULE REFERRED TO BY THE FOREGOING ACT.

I A. B. do solemnly and sincerely declare That and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act made and passed in the ninth year of the reign of Her present Majesty intituled "An Act for the more effectual abolition of Oaths and Affirmations taken and made in various Departments of the Government of New South Wales and to substitute Declarations in lieu thereof and for the suppression of voluntary and extra-judicial Oaths and Affidavits."
