

No. XVI.

LAW OF EVIDENCE.
PARLIAMENTARY
PRINTER'S
PROTECTION.

An Act to amend the Law of Evidence and to facilitate the admission as Evidence of certain Official and other Documents and to give Protection to Persons employed in the Printing and Publication of Papers by the order or authority of the Legislative Council or a Committee thereof. [7th August, 1849.]

Preamble.

WHEREAS it is provided by many Acts of the Legislative Council of the Colony of New South Wales that various certificates and official and public documents and documents and proceedings of corporations and of joint stock and other companies and certified copies of documents and by-laws and entries in registers and other books shall be receivable in evidence of certain particulars in Courts of Justice provided they be respectively authenticated in the manner prescribed by such Acts And whereas the beneficial effect of these provisions has been found by experience to be greatly diminished by the difficulty of proving that the said documents are genuine And whereas it is expedient to make provision for the admission in evidence of certain judgments and other proceedings by the production of certified copies thereof as also to facilitate the admission in evidence of

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of such and the like documents Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That copies of all judgments decrees rules and orders filed or recorded in the Supreme Court of the said Colony at Sydney or in the Supreme Court of the said Colony for the District of Port Phillip shall be admitted as evidence of the contents thereof by all Courts Judges Justices and other Legal Tribunals and in every judicial proceeding in the said Colony without production of the originals of such documents respectively provided the copies of such orders and decrees made in the Equitable Jurisdiction of the said Supreme Court at Sydney be certified under the hand of the Master in Equity of the said Court and that such copies of all judgments decrees rules and orders made in the Common Law and Ecclesiastical Jurisdiction of the said Supreme Court at Sydney be certified under the hand of the Prothonotary or Chief Clerk thereof and that such copies of such orders decrees judgments and rules made either in the Equitable or in the Common Law or in the Ecclesiastical Jurisdiction of the said Supreme Court for the District of Port Phillip be respectively certified under the hand of the Deputy Registrar or other proper officer thereof.

Copies of judgments decrees rules and orders of Supreme Court to be received in evidence if duly certified by Master Prothonotary Chief Clerk or Deputy Registrar respectively.

2. And be it enacted That whenever by any Act now in force or hereafter to be in force any certificate or official or public document or document or proceeding of any corporation or joint stock or other company or any certified copy of any document or by-law or entry in any register or other book or of any other proceeding shall be receivable in evidence of any particulars in any Court of Justice or before any Legal Tribunal or before the Legislative Council of the said Colony or any Committee thereof or in any judicial proceeding the same shall respectively be admitted in evidence provided they respectively purport to be sealed or impressed with a stamp and signed as directed by the respective Acts made or to be hereafter made without any proof of the seal or stamp where a seal or stamp is necessary or of the signature or of the official character of the persons appearing to have signed the same and without any further proof thereof in every case in which the original record or document could have been received in evidence.

Certain documents to be received in evidence without proof of signature or seal.

3. And be it enacted That all Courts Judges Justices Masters in Equity Commissioners or other persons officiating judicially shall henceforth take judicial notice of the signature of any of the Judges of the said Supreme Court of this Colony at Sydney and any Resident Judge of the said Supreme Court of the said Colony resident at any other place in the said Colony and also of the Prothonotary and Master in Equity and Chief Clerk thereof respectively and of the Deputy Registrar of the said Supreme Court for the District of Port Phillip Provided such signature shall purport to be attached or appended to any decree order certificate or other judicial or official document.

Courts &c. to take judicial notice of signature of the Judges of Supreme Court and of certain officers thereof.

4. And be it enacted That all copies of the Private Acts of the Legislative Council of the said Colony and all Proclamations and Commissions issued by His Excellency the Governor of the said Colony or by the Officer administering the Government thereof for the time being if purporting to be printed by the Government Printer or by the authority of the Government shall be admitted *prima facie* evidence thereof by all Courts Judges Justices and others in the said Colony without proof being given that such copies were so printed.

Copies of Private Acts of the Legislative Council Proclamations and Commissions issued by the Governor and printed by the Government Printer admissible as evidence.

5. Provided always and be it enacted That if any person shall forge the signature of any Prothonotary or Master in Equity or Chief Clerk of the said Supreme Court or of any Deputy Registrar of the said Supreme Court for the District of Port Phillip or of any Commissioner or other person officiating judicially to any such certified

Persons forging signature or stamp of or to certain documents or printing any Act proclamation or commission with false purport guilty of felony.

copy

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Power of Judge &c.
to impound docu-
ments.

copy as aforesaid or shall forge the seal stamp or signature appended to any such certified copy of any official or public document or document or proceeding of any corporation or joint stock or other company or to any certified copy of any document or by-law or entry in any register or other book or of any other proceeding as aforesaid or shall tender in evidence any such certified copy as aforesaid of any official or public document or document or proceeding of any corporation or joint stock or other company or any certified copy of any such judgment decree rule order as aforesaid or of any document or by-law or entry in any register or other book or of any other proceeding with a false or counterfeit seal stamp or signature thereto knowing the same to be false or counterfeit whether such seal or stamp or signature be that of or relating to any corporation or company already established or to any corporation or company to be hereafter established or if any person shall forge the signature of any such Judge as aforesaid to any order decree certificate or other judicial or official document or shall tender in evidence any order decree certificate or other official or judicial document with a false or counterfeit signature of any such Judge as aforesaid thereto knowing the same to be false or counterfeit or if any person shall print any copy of any Act of the Legislative Council of the said Colony or of any proclamation or commission as aforesaid which copy shall falsely purport to have been printed by the Government Printer or if any person shall tender in evidence any such copy knowing the same was not printed by the person or persons by whom it so purports to have been printed every such person shall be deemed guilty of felony and shall upon conviction thereof be liable to transportation for a term not exceeding fifteen years Provided also that whenever any such document as before mentioned shall have been received in evidence by virtue of this Act the Court Judge Justice Commissioner or other person officiating judicially who shall have admitted the same shall on the request of any party against whom the same shall have been so received be authorized at its or his own discretion to direct that the same shall be impounded and be kept in the custody of some officer of the Court or other proper person until further order touching the same shall be given by the said Court Judge Justice Commissioner or other person officiating judicially respectively.

Power of the Govern-
nor to appoint a
Government Printer.

6. And be it enacted That it shall and may be lawful for the Governor of the said Colony or for the officer administering the Government for the time being for and in behalf of Her Majesty to appoint a Government Printer for the said Colony and such Government Printer to suspend or remove and to appoint another in his stead as occasion may from time to time in the opinion of the said Governor or Officer administering the Government aforesaid require.

Proceedings criminal
or civil against
persons for publica-
tion of papers printed
by order of the
Legislative Council
of the Colony of
New South Wales to
be stayed upon
delivery of a certifi-
cate and affidavit to
the effect that such
publication is by
order of the said
Legislative Council
of the said Colony.

7. And whereas it is essential to the due and effectual exercise and discharge of the functions and duties of the Legislative Council of New South Wales that no obstructions or impediments should exist to the publication of such of the Reports Papers Votes and Proceedings of the Legislative Council of New South Wales as the said Council may deem fit or necessary to be published and whereas obstructions or impediments to such publication may hereafter arise by means of civil or criminal proceedings being taken against persons employed by or acting under the authority of the said Legislative Council in the publication of such Reports Papers Votes or Proceedings by reason and for remedy whereof it is expedient that protection should be afforded to all persons acting under the authority aforesaid Be it enacted That it shall and may be lawful for any person or persons who shall be a defendant or defendants in any civil or criminal proceeding commenced or prosecuted

St. Philip's School Site Exchange.

cuted in any manner soever for or on account or in respect of the publication of any such Reports Papers Votes or Proceedings by such person or persons or by his her or their servant or servants by or under the authority of the Legislative Council of the said Colony to bring before the Court in which such proceeding shall have been or shall be so commenced or prosecuted or before any Judge of the same first giving twenty-four hours' notice of his intention so to do to the prosecutor or plaintiff in such proceeding a certificate under the hand of the Speaker of the said Legislative Council or of the Clerk of the said Council stating that the Report Paper Votes or Proceedings as the case may be in respect whereof such civil or criminal proceeding shall have been commenced or prosecuted was published by such person or persons or by his her or their servants by or under the authority of the said Legislative Council or a Committee thereof together with an affidavit verifying such certificate and such Court or Judge shall thereupon immediately stay such civil or criminal proceeding and the same and every writ or process issued therein shall be and shall be deemed and taken to be finally put an end to determined and superseded by virtue of this Act.

8. And be it enacted That in case of any civil or criminal proceeding to be commenced or prosecuted for or on account or in respect of the publication of any copy of such Report Paper Votes or Proceedings it shall be lawful for the defendant or defendants at any stage of the proceedings to lay before the Court or Judge such Report Paper Votes or Proceedings and such copy with an affidavit verifying such Report Paper Votes or Proceedings and the correctness of such copy and the Court or Judge shall immediately stay such civil or criminal proceeding and the same and every writ of process issued therein shall be and shall be deemed and taken to be finally put an end to determined and superseded by virtue of this Act.

Proceedings to be stayed when commenced in respect of the publication of a copy of the authenticated Report &c. on affidavit verifying such copy being laid before the Court.

9. And be it enacted That it shall be lawful in any civil or criminal proceeding to be commenced or prosecuted for printing any extract from or abstract of such Report Paper Votes or Proceedings to give in evidence under the general issue such Report Paper Votes or Proceedings and to shew that such extract or abstract was published *bond fide* and without malice and if such shall be the opinion of the jury a verdict of not guilty shall be entered for the defendant or defendants.

In proceedings for printing any extract or abstract of a paper it may be shewn that such extract was *bond fide* made.