

OATHS (AMENDMENT) ACT.

Act No. 5, 1916.

An Act to amend the Oaths Act, 1900. [Assented to, 29th March, 1916.] George V.
No. 5.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Oaths (Amendment) Act, 1916." Short title.

2. Subsection two of section three of the Oaths Act, 1900, is hereby repealed, and the following subsections substituted therefor:— Repeal.

(2) The oaths prescribed in the Second, Third, and Fourth Schedules to this Act may be taken and subscribed at any hour— Before whom the scheduled oaths may be taken.

(a) within the State of New South Wales before any Justice of the High Court of Australia or of the Supreme Court, any chairman of a court of quarter sessions, any District Court Judge, or before any justice of the peace who is authorised by writ of dedimus potestatem for that purpose; and

(b) without the said State before any Justice of the High Court of Australia or of the Supreme Court of any State of the Commonwealth of Australia, or before any person who is authorised by writ of dedimus potestatem for that purpose.

(3) A writ of dedimus potestatem for the purpose of administering any such oath may be issued for execution in any part of His Majesty's Dominions.

Oaths (Amendment) Act.

George V,
No. 5.

3. Subsection two of section seven, subsection two of section eight, subsection two of section nine, and subsection two of section ten of the Oaths Act, 1900, are repealed.

The following section is inserted next after section eleven of the said Act :—

11A. (1) Any person taking any oath on the Bible or on the New Testament, or the Old Testament, for any purpose whatsoever, whether in judicial proceedings or otherwise, shall, if physically capable of doing so, hold a copy of the Bible or Testament in his hand, but it shall not be necessary for him to kiss such copy by way of assent.

(2) The officer administering the oath may repeat the appropriate form of adjuration, and the person taking the oath shall thereupon, while holding in his hand a copy of the Bible, New Testament, or Old Testament, indicate his assent to the oath so administered by uttering the words "So help me. God"; or

(3) The person taking the oath may, while holding in his hand a copy of the Bible, New Testament, or Old Testament, repeat the words of the oath as prescribed or allowed by law.

(4) In all judicial proceedings the officer administering the oath shall, unless the person about to take the oath voluntarily objects thereto, administer the oath in the form and manner set out in subsection two; but no oath shall be deemed illegal or invalid by reason of any breach of the provisions of this section.

(5) Provided that any witness in any judicial proceeding may swear with up-lifted hand in the following manner and form :—

The witness with uplifted hand says—"I swear by Almighty God as I shall answer to God at the Great Day of Judgment that I will speak the truth, the whole truth, and nothing but the truth."

(6) Provided also that—

- (a) an oath may be administered and taken in any form and in any manner which would have been lawful if this section had not passed; (b)

Special provision as to oaths in judicial proceedings.

Proviso.

Further proviso.

- (b) every oath shall be binding for all purposes for which it is administered and may be taken in any form and in any manner which the person taking the same declares to be binding; George V,
No. 5.
- (c) where an oath has been administered and taken, the fact that the person taking the same had at the time no religious belief shall not for any purpose affect the legality or validity of the oath.

4. (1) Section twenty-one of the said Act is repealed and the following section substituted therefor:— Repeal.

21. Any justice of the peace, notary public, commissioner of the court for taking affidavits, or other person by law authorised to administer an oath, may take and receive the declaration of any person voluntarily making the same before him, in the form or to the effect of the form in either the Eighth or the Ninth Schedule to this Act. Declaration in cases not specifically provided for.
9 Vic. No. 9, s. 9.
16 Vic. No. 17, s. 195.

(2) Any statutory declaration heretofore taken and received before any commissioner of the court for taking affidavits shall be deemed to have been duly taken and received. Validating.

5. Section twenty-six of the said Act is repealed, and the following sections are substituted therefor:— Repeal.

26. Any oath declaration or affidavit required for the purpose of any court or for the purpose of the registration of any instrument in the State of New South Wales may be taken or made— Before whom oaths or affidavits may be taken.
English Act, 1889, s. 3 (1).

(a) in any place in the said State before any justice of the peace for the said State; and

(b) in any place out of the said State before a notary public, or before any person having authority to administer an oath in that place.

26A. In the case of any person having authority by the law of any country within His Majesty's Dominions to administer an oath, judicial and official notice shall be taken of his seal or signature affixed, impressed, or subscribed to or on any oath or affidavit. Judicial notice to be taken of certain seals and signatures.
Ibid. subsec. (2).