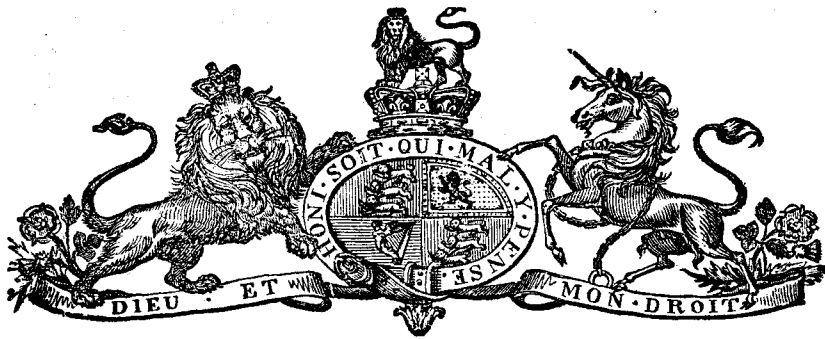


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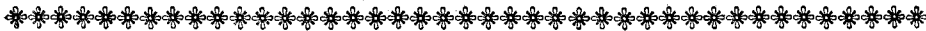


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ANNO TRICESIMO-TERTIO

VICTORIÆ REGINÆ,

No. 25.



AN ACT to amend the Law relating to Promissory Oaths. [22 October, 1869.]

WHEREAS it is expedient to amend the Law relating to Promissory Oaths: Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PREAMBLE.

1 This Act may be cited for all purposes as "The Promissory Oaths Act, 1869." Short Title.

PART I.

OATHS TO BE CONTINUED.

Oath of Allegiance. Official and Judicial Oaths.

2 The Oath in this Act referred to as the Oath of Allegiance shall be in the form following; that is to say— Form of Oath of Allegiance.

"I do swear that I will be faithful and bear true Allegiance to Her Majesty Queen Victoria, Her Heirs and Successors, according to Law. So help me God."

3 The Oath in this Act referred to as the Official Oath shall be in the form following; that is to say— Form of Official Oath.

"I do swear that I will well and truly serve Her Majesty Queen Victoria in the Office of So help me God."

The Promissory Oaths Act, 1869.

Form of Judicial Oath.

4 The Oath in this Act referred to as the Judicial Oath shall be in the form following ; that is to say—

“ I do swear that I will well and truly serve
 “ Our Sovereign Lady Queen *Victoria* in the Office of
 “ , and I will do right to all manner of people
 “ after the Laws and Usages of this Colony without Fear or
 “ Favour, Affection or Ill-will. So help me God.”

Form of Oath of Executive Councillor.

5 The Oath in this Act referred to as the Executive Councillor's Oath shall be in the form following ; that is to say—

“ I being chosen and admitted of Her Majesty's
 “ Executive Council of this Colony, do swear that I will, to
 “ the best of my judgment, at all times when thereto required,
 “ freely give my counsel and advice to the Governor or
 “ Officer Administering the Government of this Colony for
 “ the time being, for the good management of the public
 “ affairs of this Colony : that I will not directly or indirectly
 “ reveal such matters as shall be debated in Council and
 “ committed to my secrecy, but that I will in all things be a
 “ true and faithful Councillor.

“ So help me God.”

Persons to take the Oath of Allegiance and Official Oath.

6 The Oath of Allegiance and Official Oath shall be tendered to and taken by each of the Officers named in the First Part of the Schedule, as soon as may be after his acceptance of Office by the Officer, and in the manner in that behalf mentioned in the said First Part of the said Schedule.

Persons to take the Oath of Allegiance and Judicial Oath.

7 The Oath of Allegiance and Judicial Oath shall be taken by each of the Officers named in the Second Part of the said Schedule, as soon as may be after his acceptance of Office, and such Oaths shall be tendered and taken in manner in which the Oaths required to be taken by such Officer previously to the passing of this Act on entering his Office would have been tendered and taken.

Persons to take Executive Councillor's Oath.

8 The Executive Councillor's Oath shall be taken by every person who is appointed a Member of the Executive Council of this Colony, so soon as may be after his acceptance of such appointment ; and such Oath shall be tendered by the Clerk of the Executive Council, and taken in the presence of the Governor in Council or otherwise as the Governor directs.

Penalty on not taking required Oath.

9 If any Officer specified in the Schedule declines or neglects, when any Oath required to be taken by him under this Act is duly tendered, to take such Oath, he shall if he has already entered on his Office, vacate the same, and if he has not entered on the same be disqualified from entering on the same ; but no person shall be compelled, in respect of the same appointment to the same Office, to take such Oath or make such Affirmation more times than one.

Form of Oath of Allegiance in this Act substituted for Form in 18 Vict. No. 17.

10 The form of the Oath of Allegiance provided by this Act shall be deemed to be substituted in the case of “ The Constitutional Act ” for the form of the Oath thereby prescribed to be taken and subscribed by Members of the Legislative Council and House of Assembly before acting or voting therein respectively ; and all the provisions of the said Act shall apply to the Oath substituted by this Section in the same

The Promissory Oaths Act, 1869.

manner as if that form of Oath were actually inserted in the said Act in the place of the Oath for which it is substituted.

11 No person shall be required or authorised to take the Oaths of Allegiance, Supremacy, and Abjuration, or any of such Oaths, or any Oath substituted for such Oaths, or any of them, or to make any Declaration to the like effect of such Oaths, or any of them, except the persons required to take the Oath of Allegiance by this Act, any Act of Parliament, Charter, or Custom to the contrary notwithstanding.

Prohibition of Oath of Allegiance except in accordance with Act.

Miscellaneous Provisions as to Oaths.

12 Where in any Oath under this Act the name of Her present Majesty is expressed, the name of the Sovereign of the Realm for the time being shall be substituted from time to time.

The name of the Sovereign for the time being to be used in the Oath.

13 When an Oath is required to be taken under this Act, every person for the time being by Law permitted to make a solemn Affirmation or Declaration instead of taking an Oath may, instead of taking such Oath, make a solemn Affirmation in the form of the Oath hereby appointed, substituting the words "solemnly, sincerely, and truly declare and affirm," for the word "swear," and omitting the words "So help me God."

Provision in favour of persons permitted to make Affirmations.

PART 2.**OATHS TO BE ABOLISHED.***Substitution of Declaration for Oaths.*

14 The following Regulations shall be enacted with respect to the substitution of Declarations for Oaths; that is to say—

Regulations as to substitution of Declarations for Oaths.

1. Where in any case not otherwise provided for by this Act, or included within the Saving Clauses thereof, an Oath is required to be taken by any person on or as a condition of his accepting any Employment or Office, a Declaration shall be substituted for such Oath to the like effect in all respects as such Oath.
2. The making a Declaration in pursuance of this Section instead of Oath shall in all respects have the same effect as the taking the Oath for which such Declaration is substituted could have had if this Act had not been passed.

15 If any person required by this Act to make a Declaration instead of an Oath declines or neglects to make such Declaration, he shall be subject to the same penalties and disabilities, if any, as he would have been subjected to for declining or neglecting to take the Oath for which the Declaration provided by this Act is substituted.

Penalty on not making Declaration required by this Act.

The Promissory Oaths Act, 1869.

PART 3.

SAVING CLAUSE.

Not to affect
matters herein
stated.

16 Nothing in this Act contained shall affect—

1. Any Oath directed to be taken by the Governor or Officer Administering the Government of this Colony :
2. The Parliamentary Oath, except in relation to the form of Oath in manner hereinbefore mentioned :
3. The Oaths taken by Members of the Executive Council of this Colony, with the exceptions that the form of the Oath of Allegiance prescribed by this Act shall be substituted for the Oaths of Allegiance, Supremacy, and Abjuration now required to be taken by Executive Councillors, and that the form of Executive Councillor's Oath prescribed by this Act shall be substituted for the Oath to perform his duty and to maintain secrecy now required to be taken by Executive Councillors :
4. Any Oath taken by Knights on their Creation, with this exception, that where the Oaths of Allegiance, Supremacy, or Abjuration, or any two or one of such Oaths, or any Oath substituted for such Oaths, or any of them, are or is required to be taken by such Knights, there shall be substituted for such Oaths, or any two or one of them, the Oath of Allegiance prescribed by this Act :
5. Any Oath required to be taken in the Army, the Marines, the Militia, or the Volunteers :
6. The Oath taken by Aliens on being Naturalized, with this exception, that the form of the Oath of Allegiance prescribed by this Act shall be substituted for the form of the Oath required so to be taken by Aliens previously to the passing of this Act :
7. The Eighteenth Section of "The Merchant Shipping Act, 1854," or any provision to be substituted therefor, whereby certain persons claiming to be owners of *British* ships are required to take the Oath of Allegiance, with this exception, that the form of the Oath of Allegiance as prescribed by this Act shall be substituted for the form of the Oath of Allegiance contained in the said Merchant Shipping Act, 1854 :
8. Any Oath required or authorised by any Law to be taken or made for the purpose of attesting any fact or verifying any Account or Document :
9. Any Oath required to be taken by any Juror, Witness, or other person in pursuance of any Law or Custom as preliminary to or in the course of any Civil, Military, Criminal, or other Trial, Inquest, or Proceedings of a Judicial nature, including any Arbitration, or as preliminary to or in the course of any proceedings before a Committee of either House of Parliament, or before any Commissioner or other Special Tribunal appointed by the Crown.

Savings of powers
of alteration
hitherto exercised.

17 Where a Declaration has been substituted for an Oath under this Act, any person, Body Corporate, or Society, which before the passing of this Act had power to alter such Oath, or to substitute another Oath in its place, may exercise a like power with regard to such Declaration.

The Promissory Oaths Act, 1869.

18 Where previously to the passing of this Act the taking of any Oath formed a condition precedent or subsequent to the attainment by any person of any Office, Privilege, Exemption, or other Benefit, and such person is by this Act prevented from fulfilling such condition, he shall nevertheless, on complying with the other conditions, if any, attached to the attainment of such Office, Privilege, Exemption, or other Benefit, be entitled thereto in the same manner as if the condition relating to such Oath, and any directions as to the Certificate or Registration of the taking of such Oath, or otherwise, had been fulfilled and performed.

General saving
as to matters
herein stated.

SCHEDULE.

FIRST PART.

All Members of the Executive Council holding any Office. } The Oath is to be tendered by the Clerk of the Executive Council, and taken in presence of the Governor in Council or otherwise as the Governor directs.

The Sheriff of *Tasmania*.

SECOND PART.

The Chief Justice.

The Puisne Judge.

Recorders of any Courts of General Sessions of the Peace.

Justices of the Peace for the Colony.

Justices of the Peace for every Municipality.

