An Act to amend the Law relating to Promissory Oaths.

[Assented to, 9th February, 1870.]

WHEREAS it is expedient to amend the law relating to Promissory Oaths—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

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

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—

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—

I, do swear that I will well and truly serve Her Majesty Queen Victoria in the office of

So help me God!
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**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 Province, without fear or favor, affection, or illwill. — So help me God!

5. The oath of allegiance and the official oath shall be tendered to and taken by each of the officers named in the first part of the Schedule annexed hereto 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.

6. The oath of allegiance and the judicial oath shall be taken by each of the officers named in the second part of the said Schedule hereto 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.

7. The Members of Her Majesty’s Executive Council in the said Province shall have tendered to them and shall take the oath of allegiance, and also an oath of fidelity, in discharge of their duties; and such oaths shall be tendered to and taken by each of them as soon as may be after his acceptance of office, and in the manner in which the oaths required to be taken by such Councillor previously to the passing of this Act would have been tendered and taken.

8. The oath of fidelity to be tendered to and taken by each of the Members of Her Majesty’s Executive Council in the said Province, shall be in the form following, that is to say—

    I, being chosen and admitted of Her Majesty’s Executive Council in the Province of South Australia, 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, for the time being, for the good management of the public affairs of the said Province; that I will not directly nor 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!

9. If any officer specified in the Schedule hereto, or any Member of Her Majesty’s Executive Council, in the said Province, declines or neglects when any oath or affirmation required to be taken by him under this Act, is duly tendered, to take such oath, or make such affirmation, 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.

10. No person shall be required or authorized to take the oath of allegiance, or any oath substituted for such oath, or to make any affirmation or declaration to the like effect of such oath, except the persons required to take the oath of allegiance by this Act, or any Act or Ordinance of the Legislature of this Province, specially requiring such oath to be taken, any Act, charter, or custom to the contrary notwithstanding.

Miscellaneous Provisions as to Oaths.

11. Where in any oath under this Act, the name of Her present Majesty is expressed, the name of the Sovereign of the United Kingdom of Great Britain and Ireland for the time being, shall be substituted from time to time.

12. 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.”

Part II.—Oaths to be abolished:

13. The following regulations shall be enacted with respect to the substitution of declarations for oaths, that is to say:

1. Where, before the passing of this Act, an oath was required to be taken by any person on or as a condition of accepting any employment or office in or under a municipal corporation, or on or as a condition of admission to membership in or participation in the privileges of any municipal corporation, there shall be substituted for such oath, in the case of an office, a declaration that the declarant will faithfully perform the duties of his office, and, in the case of admission to membership or participation in the privileges of a municipal corporation, a declaration that the declarant will faithfully demean himself as a member of, or a participator in the privileges of such corporation:

11. Where, before the passing of this Act, an oath was required to be taken on or as a condition to admission to membership or fellowship or participation in the privileges of any body corporate, society, or company, a declaration to the like effect of such oath shall be substituted:

111. 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 accept
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ing any employment or office, a declaration shall be substituted for such oath, to the like effect in all respects as such oath:

iv. 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 would have had if this Act had not passed.

14. 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.

PART III. Saving Clauses:

15. Nothing in this Act shall affect—

i. "The Constitution Act," or any Act or Ordinance passed by the Legislature of this Province, specially requiring any particular form of oath to be taken:

ii. Any oath required or authorized by Act of the Governor and Legislature or Parliament of the said Province to be taken or made for the purpose of attesting any fact, or verifying any account or document:

iii. Any oath required to be taken by any juror, witness, or other person, in pursuance of any Act of the Governor and Legislature or Parliament of the said Province, or any 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 Governor.

16. Nothing in this Act shall be deemed to render it necessary for any person who has been sworn under the Laws for the time being in force, to be re-sworn by reason of the passing of this Act.

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.

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 conditions, he shall, nevertheless, on complying with the other conditions,
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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.

In the name and on behalf of the Queen I hereby assent to this Act.

JAMES FERGUSSON, Governor.
SCHEDULE.

First Part.

The Governor.

{ The oaths are to be tendered by the Master of the Supreme Court or the Judge's Associate, and taken in the presence of the Chief Justice or Acting Chief Justice of the Supreme Court of the Province.

Each Member of the Executive Council.

{ The oaths are to be tendered by the Clerk of the Executive Council, and taken in the presence of the Governor in Council.

Second Part.

The Chief Justice of the Supreme Court.

The Judges of the Supreme Court.

The Commissioner of Insolvency.

Special Magistrates.

Justices of the Peace.