

LEGAL PRACTITIONERS (WAR SERVICE) AMENDMENT BILL.

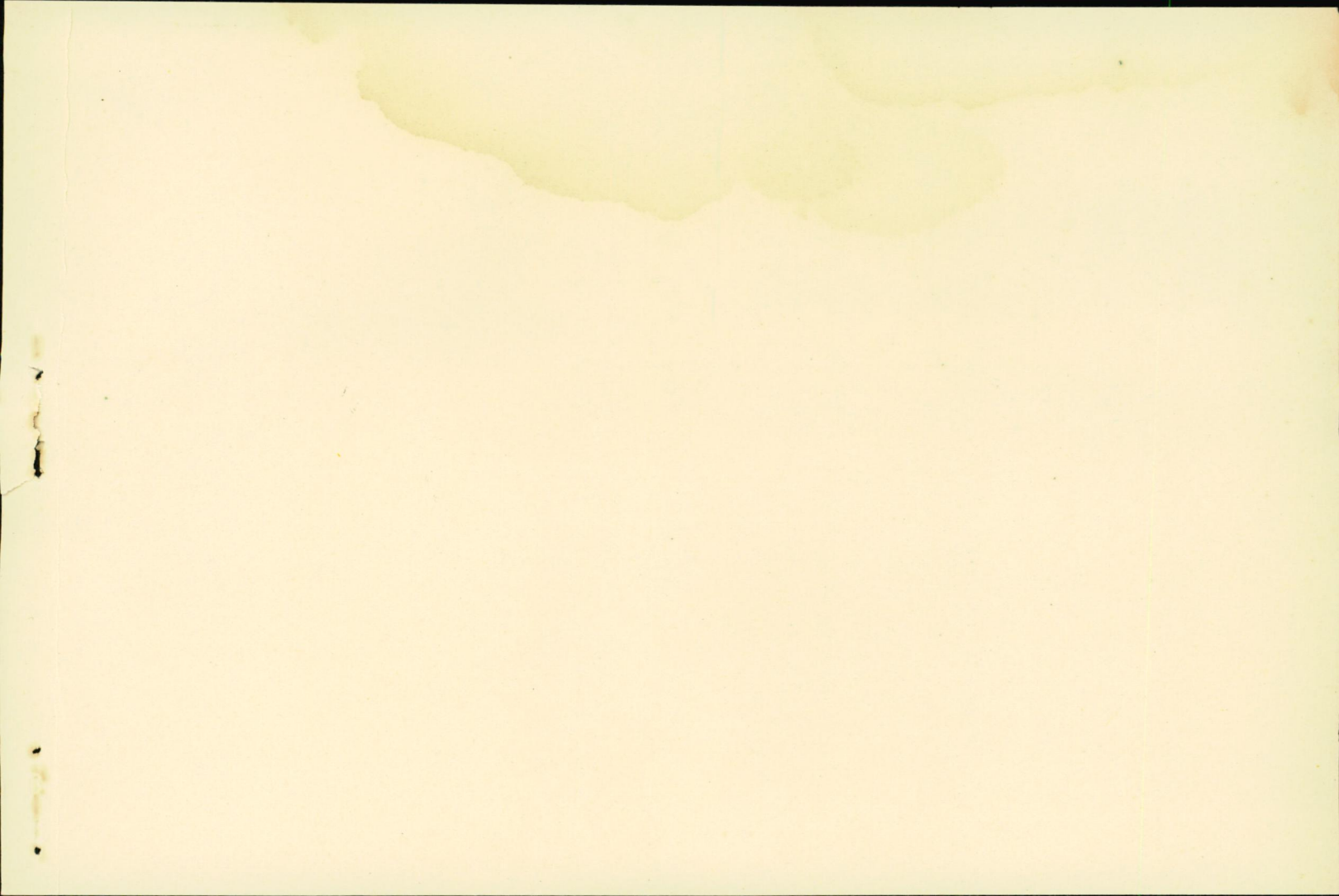
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*SCHEDULE of the Amendment referred to in Message of 14th November, 1940.*

Page 2, clause 2, line 5, after "(a)" insert—

- (i) was the holder of an annual practising certificate at the date upon which he became a member of His Majesty's naval, military or air forces bound to continuous service as referred to in paragraph (b) of this definition; or
- (ii)

54873



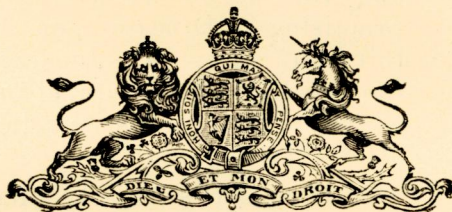
*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

W. R. McCOURT,  
*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, 29 October, 1940.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with an Amendment.*

W. K. CHARLTON,  
*Clerk of the Parliamēnts.*  
*Legislative Council Chamber,*  
*Sydney, 14th November, 1940.*

## New South Wales.



ANNO QUARTO

# GEORGII VI REGIS.

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Act No. , 1940.

An Act to make certain provisions with respect to solicitors who are members of His Majesty's Naval, Military or Air Forces; for this purpose to amend the Legal Practitioners Act, 1898-1936, and certain other Acts in certain respects; and for purposes connected therewith.

**B**E 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  
5 the same, as follows:—

**1.** (1) This Act may be cited as the "Legal Practitioners (War Service) Amendment Act, 1940."

Short title and construction.

(2) This Act shall be read and construed with the Legal Practitioners Act, 1898-1936.

54873 417—

**2.**

NOTE.—The words to be *inserted* are printed in **black letter**.

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*Legal Practitioners (War Service) Amendment.*

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2. In this Act unless the context or subject matter Definitions.  
otherwise indicates or requires—

“Solicitor” includes a conveyancer.

“Solicitor soldier” means a solicitor who—

- 5                   (a) (i) **was the holder of an annual practising  
                          certificate at the date upon which he  
                          became a member of His Majesty's  
                          naval, military or air forces bound  
10                   to continuous service as referred to  
                          in paragraph (b) of this definition;  
                          or**
- (ii) was the holder of an annual  
                          practising certificate on the  
                          thirtieth day of June, one  
15                   thousand nine hundred and forty,  
                          or was admitted as a solicitor  
                          after that day; and
- (b) being a member of His Majesty's naval,  
                          military or air forces, is bound to  
20                   continuous service with such forces for  
                          the duration of the present war between  
                          His Majesty and Germany and her  
                          allies, whether or not he has agreed to  
                          serve or does serve beyond the limits of  
25                   the Commonwealth of Australia and  
                          those of any Territory under the  
                          authority of the Commonwealth.

                          “Period of war service” in its application to any  
30                   particular solicitor means the period commencing  
                          on the first day of July, one thousand nine  
                          hundred and forty, or on the first day of July  
                          next preceding the date upon which the solicitor  
                          becomes a solicitor soldier, whichever is the  
35                   later date, and ending on the thirtieth day of  
                          June in the year next following the declaration  
                          of peace in the present war between His  
                          Majesty and Germany and her allies, or on the  
                          thirtieth day of June in the year next following  
40                   the date upon which the solicitor soldier ceases  
                          to be bound to continuous service as a member of  
                          His Majesty's naval, military or air forces,  
                          whichever is the earlier.

*Legal Practitioners (War Service) Amendment.*

3. (1) A solicitor soldier shall be relieved of any obligation, to which he would, but for this subsection, have been subject, to pay the prescribed contribution to and any levy imposed in respect of the Solicitors' Fidelity Guarantee Fund for any year during his period of war service.

Contributions to Solicitors' Fidelity Guarantee Fund, etc.

(2) A solicitor soldier shall, subject to section five of this Act, be deemed, for all purposes of or relating to the Legal Practitioners Act, 1898-1936, to be the holder of an annual practising certificate as a solicitor who, for the time being, is engaged in the practice of his profession, either on his own account or in partnership with any other solicitor or, as the case may require, as a solicitor who is not so engaged, and to have paid the appropriate annual practising fee in respect of each year during his period of war service.

(3) The amount of any annual practising fee or any annual contribution to or levy imposed in respect of the Solicitors' Fidelity Guarantee Fund which has been paid by any solicitor soldier for any year during his period of war service shall, upon application made in writing to the secretary, be refunded to the solicitor soldier in such manner as he may direct.

This subsection shall extend to payments made before as well as to payments made after the commencement of this Act.

4. (1) (a) A solicitor soldier may, from time to time, by instrument in writing, authorise any other solicitor to manage and conduct the practice of such solicitor soldier during his period of war service: Provided that not more than one such authorisation shall be made to take effect at any one time.

Management and conduct of practice of solicitor soldier.

Any such authorisation is in this section hereinafter referred to as a "delegation" and the solicitor authorised is in this section hereinafter referred to as a "delegate."

(b) A solicitor soldier who has made a delegation under this section may, by instrument in writing, revoke the delegation.

(c) A delegate may, by instrument in writing, resign his office as delegate.

(d) Every such instrument in writing shall be registered at the office of the Prothonotary by filing the original instrument or a verified copy thereof.

(e)

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*Legal Practitioners (War Service) Amendment.*

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(e) Any such instrument in writing shall take effect as from the date upon which it is so registered or from a later date to be specified in the instrument.

(f) Rules of court of the Supreme Court may  
5 be made prescribing all matters necessary or convenient to be prescribed for carrying this section into effect.

(2) Where the solicitor soldier who makes a delegation under this section is—

10 (a) an attorney solicitor and proctor of the court—the delegate shall be an attorney solicitor and proctor of the court entitled to practise as a solicitor either on his own account or in partnership with some other solicitor;

15 (b) a conveyancer—the delegate shall be either an attorney solicitor and proctor of the court entitled to practise as a solicitor either on his own account or in partnership with some other solicitor, or a conveyancer entitled to practise as such either on his own account or in partnership with some other conveyancer.  
20

(3) A delegation under this section shall determine if—

25 (a) the solicitor soldier who made the delegation ceases to be, or to be deemed to be, the holder of an annual practising certificate; or

(b) the delegate ceases to hold the qualifications referred to in subsection two of this section.

30 Where a delegation is determined by operation of this subsection, the Prothonotary shall enter notice of such determination in the register kept by him under subsection one of this section.

(4) A delegate, when acting within the scope of his authority as such, may exercise, in or in relation to the management and conduct of the practice, all or any of  
35 the powers and functions which the solicitor soldier might have exercised if personally present and, in the exercise of those powers and functions, shall act in the name and on behalf of the solicitor soldier.

(5)

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*Legal Practitioners (War Service) Amendment.*

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(5) A delegate shall, when acting within the scope of his authority as such, be deemed for all purposes to be the solicitor soldier whose practice he has been authorised to manage and conduct.

5 (6) The solicitor soldier and the delegate shall be jointly and severally liable for and with respect to all matters arising in or in connection with the management and conduct by the delegate, when acting within the scope of his authority as such, of the practice of the  
10 solicitor soldier.

The delegate shall be personally liable for and with respect to all matters arising in or in connection with the management and conduct by him, when acting outside the scope of his authority as delegate, of the practice of  
15 the solicitor soldier.

The delegate shall, for and with respect to all matters arising in or in connection with the management and conduct by him of the practice of the solicitor soldier, be subject to the jurisdiction, powers and authorities of  
20 the court and of the statutory committee in all respects as if he were the solicitor soldier.

(7) Nothing in this section shall render the solicitor soldier liable to any disciplinary or punitive action by the court or the statutory committee for any profes-  
25 sional misconduct of the delegate.

(8) (a) A delegation under this section shall remain in force until notice of the death of the solicitor soldier or until notice of other revocation of the delegation is received by the delegate. cf. Act No. 6, 1919, s. 160.

30 (b) Every act or thing done or suffered in good faith by the delegate in or in connection with the management and conduct of the practice of the solicitor soldier, after the death or other revocation as aforesaid, and before notice thereof has been received by the dele-  
35 gate, shall be as effectual in all respects as if such death or other revocation had not happened or been made.

(c) A statutory declaration by the delegate in or to the effect of the form in the Schedule to this Act, if made at the time such act or thing was done or suffered  
40 or at any time thereafter, shall be taken to be conclusive proof of such non-revocation at the time when such act

or

*Legal Practitioners (War Service) Amendment.*

or thing was so done or suffered, in favour of all persons dealing with the delegate in good faith without notice of such death or revocation.

(d) A solicitor soldier who has made a delegation pursuant to this section shall, for the purposes of this Act, be deemed to remain alive until definite news of his death has been received, or until such death has been presumed by a court of competent jurisdiction, and the fact that he is reported "missing" or "missing and believed to be killed" or any similar report shall not be construed as giving to persons having knowledge of such report actual notice of his death, although in fact it has occurred.

(9) In this section "revocation" includes the determination of the delegation otherwise than by the expiration of the period for which it was made.

5. (1) Nothing in this Act contained shall prejudice, diminish or affect the jurisdiction, powers and authorities which are exercisable by the court over solicitors or the jurisdiction, powers and authorities which are conferred on the statutory committee by the Legal Practitioners Act, 1898-1936.

Jurisdiction  
of court  
over  
solicitors.

(2) Without prejudice to the generality of subsection one of this section, the council may exercise, in relation to any solicitor soldier, any of the powers or authorities conferred on it by section seventy-one of the Legal Practitioners Act, 1898-1936.

Where, in the exercise of those powers or authorities, the council determines that an annual practising certificate should not be issued to a solicitor soldier or that an annual practising certificate issued or deemed to have been issued to a solicitor soldier should be cancelled, then, subject to any appeal under section seventy-two of that Act, such solicitor soldier shall no longer be deemed to be the holder of an annual practising certificate.

6. This Act shall continue in force for the duration of the present war between His Majesty and Germany and her allies and until the thirtieth day of June in the year next following the year in which peace is declared and no longer.

Duration of  
this Act.

SCHEDULE.



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*Legal Practitioners (War Service) Amendment.*

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SCHEDULE.

Sec. 4.

DECLARATION OF NON-REVOCAION OF DELEGATION.

I (*name*).....of .....(*address*)  
.....(*occupation*) do solemnly and sincerely  
5 declare that:—

(1) I am the delegate appointed by.....(*name of solicitor  
soldier*) pursuant to the Legal Practitioners (War Service)  
Amendment Act, 1940.

(2) I have not received any notice or information of the revocation  
10 of the delegation by death, lunacy, unsoundness of mind, bank-  
ruptcy, act of the person making the delegation, or otherwise.

(3) I have not ceased to hold the qualification in virtue of which  
I was appointed delegate.

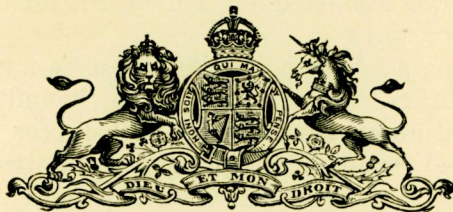
AND I make this solemn declaration conscientiously believing the  
15 same to be true and by virtue of the provisions of the Oaths Act,  
1900.



*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

W. R. McCOURT,  
*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, 29 October, 1940.*

## New South Wales.



ANNO QUARTO

# GEORGII VI REGIS.

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Act No.     , 1940.

An Act to make certain provisions with respect to solicitors who are members of His Majesty's Naval, Military or Air Forces; for this purpose to amend the Legal Practitioners Act, 1898-1936, and certain other Acts in certain respects; and for purposes connected therewith.

**B**E 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. (1) This Act may be cited as the "Legal Practitioners (War Service) Amendment Act, 1940."

Short title  
and  
construction.

(2) This Act shall be read and construed with the Legal Practitioners Act, 1898-1936.

*Legal Practitioners (War Service) Amendment.*

2. In this Act unless the context or subject matter otherwise indicates or requires—

Definitions.

“Solicitor” includes a conveyancer.

“Solicitor soldier” means a solicitor who—

- 5 (a) was the holder of an annual practising certificate on the thirtieth day of June, one thousand nine hundred and forty, or was admitted as a solicitor after that day; and
- 10 (b) being a member of His Majesty’s naval, military or air forces, is bound to continuous service with such forces for the duration of the present war between His Majesty and Germany and her allies, whether or not he has agreed to
- 15 serve or does serve beyond the limits of the Commonwealth of Australia and those of any Territory under the authority of the Commonwealth.

20 “Period of war service” in its application to any particular solicitor means the period commencing on the first day of July, one thousand nine hundred and forty, or on the first day of July next preceding the date upon which the solicitor becomes a solicitor soldier, whichever is the

25 later date, and ending on the thirtieth day of June in the year next following the declaration of peace in the present war between His Majesty and Germany and her allies, or on the

30 thirtieth day of June in the year next following the date upon which the solicitor soldier ceases to be bound to continuous service as a member of His Majesty’s naval, military or air forces, whichever is the earlier.

35 3. (1) A solicitor soldier shall be relieved of any obligation, to which he would, but for this subsection, have been subject, to pay the prescribed contribution to and any levy imposed in respect of the Solicitors’ Fidelity Guarantee Fund for any year during his period

40 of war service.

Contribu-  
tions to  
Solicitors’  
Fidelity  
Guarantee  
Fund, etc.

*Legal Practitioners (War Service) Amendment.*

(2) A solicitor soldier shall, subject to section five of this Act, be deemed, for all purposes of or relating to the Legal Practitioners Act, 1898-1936, to be the holder of an annual practising certificate as a solicitor who, for 5 the time being, is engaged in the practice of his profession, either on his own account or in partnership with any other solicitor or, as the case may require, as a solicitor who is not so engaged, and to have paid the appropriate annual practising fee in respect of each year 10 during his period of war service.

(3) The amount of any annual practising fee or any annual contribution to or levy imposed in respect of the Solicitors' Fidelity Guarantee Fund which has been paid by any solicitor soldier for any year during his 15 period of war service shall, upon application made in writing to the secretary, be refunded to the solicitor soldier in such manner as he may direct.

This subsection shall extend to payments made before as well as to payments made after the commencement of 20 this Act.

4. (1) (a) A solicitor soldier may, from time to time, by instrument in writing, authorise any other solicitor to manage and conduct the practice of such solicitor soldier during his period of war service: Provided that 25 not more than one such authorisation shall be made to take effect at any one time.

Management  
and conduct  
of practice  
of solicitor  
soldier.

Any such authorisation is in this section hereinafter referred to as a "delegation" and the solicitor authorised is in this section hereinafter referred to as a "de- 30 gate."

(b) A solicitor soldier who has made a delegation under this section may, by instrument in writing, revoke the delegation.

(c) A delegate may, by instrument in writing, 35 resign his office as delegate.

(d) Every such instrument in writing shall be registered at the office of the Prothonotary by filing the original instrument or a verified copy thereof.

(e)

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*Legal Practitioners (War Service) Amendment.*

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(e) Any such instrument in writing shall take effect as from the date upon which it is so registered or from a later date to be specified in the instrument.

(f) Rules of court of the Supreme Court may  
5 be made prescribing all matters necessary or convenient to be prescribed for carrying this section into effect.

(2) Where the solicitor soldier who makes a delegation under this section is—

10 (a) an attorney solicitor and proctor of the court—the delegate shall be an attorney solicitor and proctor of the court entitled to practise as a solicitor either on his own account or in partnership with some other solicitor;

15 (b) a conveyancer—the delegate shall be either an attorney solicitor and proctor of the court entitled to practise as a solicitor either on his own account or in partnership with some other solicitor, or a conveyancer entitled to practise as such either on his own account or in partnership with some other conveyancer.  
20

(3) A delegation under this section shall determine if—

25 (a) the solicitor soldier who made the delegation ceases to be, or to be deemed to be, the holder of an annual practising certificate; or

(b) the delegate ceases to hold the qualifications referred to in subsection two of this section.

Where a delegation is determined by operation of this subsection, the Prothonotary shall enter notice of such  
30 determination in the register kept by him under subsection one of this section.

(4) A delegate, when acting within the scope of his authority as such, may exercise, in or in relation to the management and conduct of the practice, all or any of  
35 the powers and functions which the solicitor soldier might have exercised if personally present and, in the exercise of those powers and functions, shall act in the name and on behalf of the solicitor soldier.

(5)

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*Legal Practitioners (War Service) Amendment.*

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(5) A delegate shall, when acting within the scope of his authority as such, be deemed for all purposes to be the solicitor soldier whose practice he has been authorised to manage and conduct.

5 (6) The solicitor soldier and the delegate shall be jointly and severally liable for and with respect to all matters arising in or in connection with the management and conduct by the delegate, when acting within the scope of his authority as such, of the practice of the  
10 solicitor soldier.

The delegate shall be personally liable for and with respect to all matters arising in or in connection with the management and conduct by him, when acting outside the scope of his authority as delegate, of the practice of  
15 the solicitor soldier.

The delegate shall, for and with respect to all matters arising in or in connection with the management and conduct by him of the practice of the solicitor soldier, be subject to the jurisdiction, powers and authorities of  
20 the court and of the statutory committee in all respects as if he were the solicitor soldier.

(7) Nothing in this section shall render the solicitor soldier liable to any disciplinary or punitive action by the court or the statutory committee for any profes-  
25 sional misconduct of the delegate.

(8) (a) A delegation under this section shall remain in force until notice of the death of the solicitor soldier or until notice of other revocation of the delegation is received by the delegate.

cf. Act No.  
6, 1919,  
s. 160.

30 (b) Every act or thing done or suffered in good faith by the delegate in or in connection with the management and conduct of the practice of the solicitor soldier, after the death or other revocation as aforesaid, and before notice thereof has been received by the dele-  
35 gate, shall be as effectual in all respects as if such death or other revocation had not happened or been made.

(c) A statutory declaration by the delegate in or to the effect of the form in the Schedule to this Act, if made at the time such act or thing was done or suffered  
40 or at any time thereafter, shall be taken to be conclusive proof of such non-revocation at the time when such act  
or

*Legal Practitioners (War Service) Amendment.*

or thing was so done or suffered, in favour of all persons dealing with the delegate in good faith without notice of such death or revocation.

(d) A solicitor soldier who has made a delegation pursuant to this section shall, for the purposes of this Act, be deemed to remain alive until definite news of his death has been received, or until such death has been presumed by a court of competent jurisdiction, and the fact that he is reported "missing" or "missing and believed to be killed" or any similar report shall not be construed as giving to persons having knowledge of such report actual notice of his death, although in fact it has occurred.

(9) In this section "revocation" includes the determination of the delegation otherwise than by the expiration of the period for which it was made.

5. (1) Nothing in this Act contained shall prejudice, diminish or affect the jurisdiction, powers and authorities which are exercisable by the court over solicitors or the jurisdiction, powers and authorities which are conferred on the statutory committee by the Legal Practitioners Act, 1898-1936.

Jurisdiction  
of court  
over  
solicitors.

(2) Without prejudice to the generality of subsection one of this section, the council may exercise, in relation to any solicitor soldier, any of the powers or authorities conferred on it by section seventy-one of the Legal Practitioners Act, 1898-1936.

Where, in the exercise of those powers or authorities, the council determines that an annual practising certificate should not be issued to a solicitor soldier or that an annual practising certificate issued or deemed to have been issued to a solicitor soldier should be cancelled, then, subject to any appeal under section seventy-two of that Act, such solicitor soldier shall no longer be deemed to be the holder of an annual practising certificate.

6. This Act shall continue in force for the duration of the present war between His Majesty and Germany and her allies and until the thirtieth day of June in the year next following the year in which peace is declared and no longer.

Duration of  
this Act.



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*Legal Practitioners (War Service) Amendment.*

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SCHEDULE.

Sec. 4.

DECLARATION OF NON-REVOCAION OF DELEGATION.

I (name).....of.....(address)  
.....(occupation) do solemnly and sincerely  
5 declare that:—

(1) I am the delegate appointed by.....(name of solicitor  
soldier) pursuant to the Legal Practitioners (War Service)  
Amendment Act, 1940.

10 (2) I have not received any notice or information of the revocation  
of the delegation by death, lunacy, unsoundness of mind, bank-  
ruptcy, act of the person making the delegation, or otherwise.

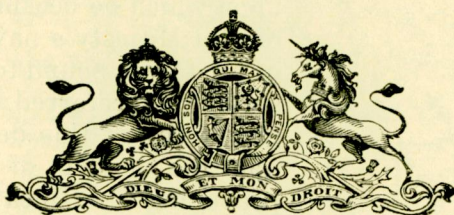
(3) I have not ceased to hold the qualification in virtue of which  
I was appointed delegate.

15 AND I make this solemn declaration conscientiously believing the  
same to be true and by virtue of the provisions of the Oaths Act,  
1900.

[7d.]



# New South Wales.



ANNO QUARTO

## GEORGI VI REGIS.

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### Act No. 38, 1940.

An Act to make certain provisions with respect to solicitors who are members of His Majesty's Naval, Military or Air Forces; for this purpose to amend the Legal Practitioners Act, 1898-1936, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 26th November, 1940.]

**B**E 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. (1) This Act may be cited as the "Legal Practitioners (War Service) Amendment Act, 1940."

Short title  
and  
construction.

(2) This Act shall be read and construed with the Legal Practitioners Act, 1898-1936.

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*Legal Practitioners (War Service) Amendment.*

---

Definitions.

**2.** In this Act unless the context or subject matter otherwise indicates or requires—

“Solicitor” includes a conveyancer.

“Solicitor soldier” means a solicitor who—

- (a) (i) was the holder of an annual practising certificate at the date upon which he became a member of His Majesty’s naval, military or air forces bound to continuous service as referred to in paragraph (b) of this definition; or
- (ii) was the holder of an annual practising certificate on the thirtieth day of June, one thousand nine hundred and forty, or was admitted as a solicitor after that day; and
- (b) being a member of His Majesty’s naval, military or air forces, is bound to continuous service with such forces for the duration of the present war between His Majesty and Germany and her allies, whether or not he has agreed to serve or does serve beyond the limits of the Commonwealth of Australia and those of any Territory under the authority of the Commonwealth.

“Period of war service” in its application to any particular solicitor means the period commencing on the first day of July, one thousand nine hundred and forty, or on the first day of July next preceding the date upon which the solicitor becomes a solicitor soldier, whichever is the later date, and ending on the thirtieth day of June in the year next following the declaration of peace in the present war between His Majesty and Germany and her allies, or on the thirtieth day of June in the year next following the date upon which the solicitor soldier ceases to be bound to continuous service as a member of His Majesty’s naval, military or air forces, whichever is the earlier.

*Legal Practitioners (War Service) Amendment.*

**3.** (1) A solicitor soldier shall be relieved of any obligation, to which he would, but for this subsection, have been subject, to pay the prescribed contribution to and any levy imposed in respect of the Solicitors' Fidelity Guarantee Fund for any year during his period of war service.

Contributions to Solicitors' Fidelity Guarantee Fund, etc.

(2) A solicitor soldier shall, subject to section five of this Act, be deemed, for all purposes of or relating to the Legal Practitioners Act, 1898-1936, to be the holder of an annual practising certificate as a solicitor who, for the time being, is engaged in the practice of his profession, either on his own account or in partnership with any other solicitor or, as the case may require, as a solicitor who is not so engaged, and to have paid the appropriate annual practising fee in respect of each year during his period of war service.

(3) The amount of any annual practising fee or any annual contribution to or levy imposed in respect of the Solicitors' Fidelity Guarantee Fund which has been paid by any solicitor soldier for any year during his period of war service shall, upon application made in writing to the secretary, be refunded to the solicitor soldier in such manner as he may direct.

This subsection shall extend to payments made before as well as to payments made after the commencement of this Act.

**4.** (1) (a) A solicitor soldier may, from time to time, by instrument in writing, authorise any other solicitor to manage and conduct the practice of such solicitor soldier during his period of war service: Provided that not more than one such authorisation shall be made to take effect at any one time.

Management and conduct of practice of solicitor soldier.

Any such authorisation is in this section hereinafter referred to as a "delegation" and the solicitor authorised is in this section hereinafter referred to as a "delegate."

(b) A solicitor soldier who has made a delegation under this section may, by instrument in writing, revoke the delegation.

(c) A delegate may, by instrument in writing, resign his office as delegate.

(d)

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*Legal Practitioners (War Service) Amendment.*

---

(d) Every such instrument in writing shall be registered at the office of the Prothonotary by filing the original instrument or a verified copy thereof.

(e) Any such instrument in writing shall take effect as from the date upon which it is so registered or from a later date to be specified in the instrument.

(f) Rules of court of the Supreme Court may be made prescribing all matters necessary or convenient to be prescribed for carrying this section into effect.

(2) Where the solicitor soldier who makes a delegation under this section is—

(a) an attorney solicitor and proctor of the court—the delegate shall be an attorney solicitor and proctor of the court entitled to practise as a solicitor either on his own account or in partnership with some other solicitor;

(b) a conveyancer—the delegate shall be either an attorney solicitor and proctor of the court entitled to practise as a solicitor either on his own account or in partnership with some other solicitor, or a conveyancer entitled to practise as such either on his own account or in partnership with some other conveyancer.

(3) A delegation under this section shall determine if—

(a) the solicitor soldier who made the delegation ceases to be, or to be deemed to be, the holder of an annual practising certificate; or

(b) the delegate ceases to hold the qualifications referred to in subsection two of this section.

Where a delegation is determined by operation of this subsection, the Prothonotary shall enter notice of such determination in the register kept by him under subsection one of this section.

(4) A delegate, when acting within the scope of his authority as such, may exercise, in or in relation to the management and conduct of the practice, all or any of the powers and functions which the solicitor soldier might

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*Legal Practitioners (War Service) Amendment.*

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might have exercised if personally present and, in the exercise of those powers and functions, shall act in the name and on behalf of the solicitor soldier.

(5) A delegate shall, when acting within the scope of his authority as such, be deemed for all purposes to be the solicitor soldier whose practice he has been authorised to manage and conduct.

(6) The solicitor soldier and the delegate shall be jointly and severally liable for and with respect to all matters arising in or in connection with the management and conduct by the delegate, when acting within the scope of his authority as such, of the practice of the solicitor soldier.

The delegate shall be personally liable for and with respect to all matters arising in or in connection with the management and conduct by him, when acting outside the scope of his authority as delegate, of the practice of the solicitor soldier.

The delegate shall, for and with respect to all matters arising in or in connection with the management and conduct by him of the practice of the solicitor soldier, be subject to the jurisdiction, powers and authorities of the court and of the statutory committee in all respects as if he were the solicitor soldier.

(7) Nothing in this section shall render the solicitor soldier liable to any disciplinary or punitive action by the court or the statutory committee for any professional misconduct of the delegate.

(8) (a) A delegation under this section shall remain in force until notice of the death of the solicitor soldier or until notice of other revocation of the delegation is received by the delegate.

*cf. Act No.  
6, 1919,  
s. 160.*

(b) Every act or thing done or suffered in good faith by the delegate in or in connection with the management and conduct of the practice of the solicitor soldier, after the death or other revocation as aforesaid, and before notice thereof has been received by the delegate, shall be as effectual in all respects as if such death or other revocation had not happened or been made.

(c)

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*Legal Practitioners (War Service) Amendment.*

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(c) A statutory declaration by the delegate in or to the effect of the form in the Schedule to this Act, if made at the time such act or thing was done or suffered or at any time thereafter, shall be taken to be conclusive proof of such non-revocation at the time when such act or thing was so done or suffered, in favour of all persons dealing with the delegate in good faith without notice of such death or revocation.

(d) A solicitor soldier who has made a delegation pursuant to this section shall, for the purposes of this Act, be deemed to remain alive until definite news of his death has been received, or until such death has been presumed by a court of competent jurisdiction, and the fact that he is reported "missing" or "missing and believed to be killed" or any similar report shall not be construed as giving to persons having knowledge of such report actual notice of his death, although in fact it has occurred.

(9) In this section "revocation" includes the determination of the delegation otherwise than by the expiration of the period for which it was made.

Jurisdiction  
of court  
over  
solicitors.

**5.** (1) Nothing in this Act contained shall prejudice, diminish or affect the jurisdiction, powers and authorities which are exercisable by the court over solicitors or the jurisdiction, powers and authorities which are conferred on the statutory committee by the Legal Practitioners Act, 1898-1936.

(2) Without prejudice to the generality of subsection one of this section, the council may exercise, in relation to any solicitor soldier, any of the powers or authorities conferred on it by section seventy-one of the Legal Practitioners Act, 1898-1936.

Where, in the exercise of those powers or authorities, the council determines that an annual practising certificate should not be issued to a solicitor soldier or that an annual practising certificate issued or deemed to have been issued to a solicitor soldier should be cancelled, then, subject to any appeal under section seventy-two of that Act, such solicitor soldier shall no longer be deemed to be the holder of an annual practising certificate.



*Legal Practitioners (War Service) Amendment.*

**6.** This Act shall continue in force for the duration of the present war between His Majesty and Germany and her allies and until the thirtieth day of June in the year next following the year in which peace is declared and no longer. Duration of this Act.

SCHEDULE.

Sec. 4.

DECLARATION OF NON-REVOCAION OF DELEGATION.

I (*name*).....of.....(*address*)  
.....(*occupation*) do solemnly and sincerely  
declare that:—

(1) I am the delegate appointed by.....(*name of solicitor soldier*) pursuant to the Legal Practitioners (War Service) Amendment Act, 1940.

(2) I have not received any notice or information of the revocation of the delegation by death, lunacy, unsoundness of mind, bankruptcy, act of the person making the delegation, or otherwise.

(3) I have not ceased to hold the qualification in virtue of which I was appointed delegate.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act, 1900.

By Authority:

THOMAS HENRY TENNANT, Government Printer, Sydney, 1940.

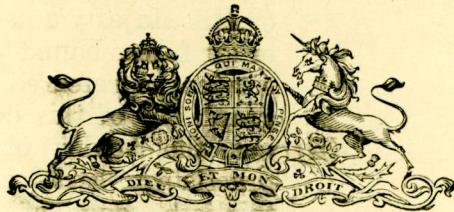
[3d.]



I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. R. McCOURT,  
Clerk of the Legislative Assembly.  
Legislative Assembly Chamber,  
Sydney, 21 November, 1940.

## New South Wales.



ANNO QUARTO

# GEORGII VI REGIS.

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## Act No. 38, 1940.

An Act to make certain provisions with respect to solicitors who are members of His Majesty's Naval, Military or Air Forces; for this purpose to amend the Legal Practitioners Act, 1898-1936, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 26th November, 1940.]

**B**E 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. (1) This Act may be cited as the "Legal Practitioners (War Service) Amendment Act, 1940."

Short title  
and  
construction.

(2) This Act shall be read and construed with the Legal Practitioners Act, 1898-1936.

2.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

W. W. HEDGES,  
Chairman of Committees of the Legislative Assembly.

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*Legal Practitioners (War Service) Amendment.*

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## Definitions.

2. In this Act unless the context or subject matter otherwise indicates or requires—

“Solicitor” includes a conveyancer.

“Solicitor soldier” means a solicitor who—

- (a) (i) was the holder of an annual practising certificate at the date upon which he became a member of His Majesty’s naval, military or air forces bound to continuous service as referred to in paragraph (b) of this definition; or
- (ii) was the holder of an annual practising certificate on the thirtieth day of June, one thousand nine hundred and forty, or was admitted as a solicitor after that day; and
- (b) being a member of His Majesty’s naval, military or air forces, is bound to continuous service with such forces for the duration of the present war between His Majesty and Germany and her allies, whether or not he has agreed to serve or does serve beyond the limits of the Commonwealth of Australia and those of any Territory under the authority of the Commonwealth.

“Period of war service” in its application to any particular solicitor means the period commencing on the first day of July, one thousand nine hundred and forty, or on the first day of July next preceding the date upon which the solicitor becomes a solicitor soldier, whichever is the later date, and ending on the thirtieth day of June in the year next following the declaration of peace in the present war between His Majesty and Germany and her allies, or on the thirtieth day of June in the year next following the date upon which the solicitor soldier ceases to be bound to continuous service as a member of His Majesty’s naval, military or air forces, whichever is the earlier.

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*Legal Practitioners (War Service) Amendment.*

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**3.** (1) A solicitor soldier shall be relieved of any obligation, to which he would, but for this subsection, have been subject, to pay the prescribed contribution to and any levy imposed in respect of the Solicitors' Fidelity Guarantee Fund for any year during his period of war service.

Contributions to Solicitors' Fidelity Guarantee Fund, etc.

(2) A solicitor soldier shall, subject to section five of this Act, be deemed, for all purposes of or relating to the Legal Practitioners Act, 1898-1936, to be the holder of an annual practising certificate as a solicitor who, for the time being, is engaged in the practice of his profession, either on his own account or in partnership with any other solicitor or, as the case may require, as a solicitor who is not so engaged, and to have paid the appropriate annual practising fee in respect of each year during his period of war service.

(3) The amount of any annual practising fee or any annual contribution to or levy imposed in respect of the Solicitors' Fidelity Guarantee Fund which has been paid by any solicitor soldier for any year during his period of war service shall, upon application made in writing to the secretary, be refunded to the solicitor soldier in such manner as he may direct.

This subsection shall extend to payments made before as well as to payments made after the commencement of this Act.

**4.** (1) (a) A solicitor soldier may, from time to time, by instrument in writing, authorise any other solicitor to manage and conduct the practice of such solicitor soldier during his period of war service: Provided that not more than one such authorisation shall be made to take effect at any one time.

Management and conduct of practice of solicitor soldier.

Any such authorisation is in this section hereinafter referred to as a "delegation" and the solicitor authorised is in this section hereinafter referred to as a "delegate."

(b) A solicitor soldier who has made a delegation under this section may, by instrument in writing, revoke the delegation.

(c) A delegate may, by instrument in writing, resign his office as delegate.

(d)

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*Legal Practitioners (War Service) Amendment.*

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(d) Every such instrument in writing shall be registered at the office of the Prothonotary by filing the original instrument or a verified copy thereof.

(e) Any such instrument in writing shall take effect as from the date upon which it is so registered or from a later date to be specified in the instrument.

(f) Rules of court of the Supreme Court may be made prescribing all matters necessary or convenient to be prescribed for carrying this section into effect.

(2) Where the solicitor soldier who makes a delegation under this section is—

(a) an attorney solicitor and proctor of the court—the delegate shall be an attorney solicitor and proctor of the court entitled to practise as a solicitor either on his own account or in partnership with some other solicitor;

(b) a conveyancer—the delegate shall be either an attorney solicitor and proctor of the court entitled to practise as a solicitor either on his own account or in partnership with some other solicitor, or a conveyancer entitled to practise as such either on his own account or in partnership with some other conveyancer.

(3) A delegation under this section shall determine if—

(a) the solicitor soldier who made the delegation ceases to be, or to be deemed to be, the holder of an annual practising certificate; or

(b) the delegate ceases to hold the qualifications referred to in subsection two of this section.

Where a delegation is determined by operation of this subsection, the Prothonotary shall enter notice of such determination in the register kept by him under subsection one of this section.

(4) A delegate, when acting within the scope of his authority as such, may exercise, in or in relation to the management and conduct of the practice, all or any of the powers and functions which the solicitor soldier might

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*Legal Practitioners (War Service) Amendment.*

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might have exercised if personally present and, in the exercise of those powers and functions, shall act in the name and on behalf of the solicitor soldier.

(5) A delegate shall, when acting within the scope of his authority as such, be deemed for all purposes to be the solicitor soldier whose practice he has been authorised to manage and conduct.

(6) The solicitor soldier and the delegate shall be jointly and severally liable for and with respect to all matters arising in or in connection with the management and conduct by the delegate, when acting within the scope of his authority as such, of the practice of the solicitor soldier.

The delegate shall be personally liable for and with respect to all matters arising in or in connection with the management and conduct by him, when acting outside the scope of his authority as delegate, of the practice of the solicitor soldier.

The delegate shall, for and with respect to all matters arising in or in connection with the management and conduct by him of the practice of the solicitor soldier, be subject to the jurisdiction, powers and authorities of the court and of the statutory committee in all respects as if he were the solicitor soldier.

(7) Nothing in this section shall render the solicitor soldier liable to any disciplinary or punitive action by the court or the statutory committee for any professional misconduct of the delegate.

(8) (a) A delegation under this section shall remain in force until notice of the death of the solicitor soldier or until notice of other revocation of the delegation is received by the delegate.

cf. Act No.  
6, 1919,  
s. 160.

(b) Every act or thing done or suffered in good faith by the delegate in or in connection with the management and conduct of the practice of the solicitor soldier, after the death or other revocation as aforesaid, and before notice thereof has been received by the delegate, shall be as effectual in all respects as if such death or other revocation had not happened or been made.

(c)

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*Legal Practitioners (War Service) Amendment.*

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(c) A statutory declaration by the delegate in or to the effect of the form in the Schedule to this Act, if made at the time such act or thing was done or suffered or at any time thereafter, shall be taken to be conclusive proof of such non-revocation at the time when such act or thing was so done or suffered, in favour of all persons dealing with the delegate in good faith without notice of such death or revocation.

(d) A solicitor soldier who has made a delegation pursuant to this section shall, for the purposes of this Act, be deemed to remain alive until definite news of his death has been received, or until such death has been presumed by a court of competent jurisdiction, and the fact that he is reported "missing" or "missing and believed to be killed" or any similar report shall not be construed as giving to persons having knowledge of such report actual notice of his death, although in fact it has occurred.

(9) In this section "revocation" includes the determination of the delegation otherwise than by the expiration of the period for which it was made.

Jurisdiction  
of court  
over  
solicitors.

**5.** (1) Nothing in this Act contained shall prejudice, diminish or affect the jurisdiction, powers and authorities which are exercisable by the court over solicitors or the jurisdiction, powers and authorities which are conferred on the statutory committee by the Legal Practitioners Act, 1898-1936.

(2) Without prejudice to the generality of subsection one of this section, the council may exercise, in relation to any solicitor soldier, any of the powers or authorities conferred on it by section seventy-one of the Legal Practitioners Act, 1898-1936.

Where, in the exercise of those powers or authorities, the council determines that an annual practising certificate should not be issued to a solicitor soldier or that an annual practising certificate issued or deemed to have been issued to a solicitor soldier should be cancelled, then, subject to any appeal under section seventy-two of that Act, such solicitor soldier shall no longer be deemed to be the holder of an annual practising certificate.



*Legal Practitioners (War Service) Amendment.*

6. This Act shall continue in force for the duration of the present war between His Majesty and Germany and her allies and until the thirtieth day of June in the year next following the year in which peace is declared and no longer. Duration of this Act.

SCHEDULE.

Sec. 4.

DECLARATION OF NON-REVOCAION OF DELEGATION.

I (*name*).....of.....(*address*)  
.....(*occupation*) do solemnly and sincerely  
declare that:—

(1) I am the delegate appointed by.....(*name of solicitor  
soldier*) pursuant to the Legal Practitioners (War Service)  
Amendment Act, 1940.

(2) I have not received any notice or information of the revocation  
of the delegation by death, lunacy, unsoundness of mind, bank-  
ruptcy, act of the person making the delegation, or otherwise.

(3) I have not ceased to hold the qualification in virtue of which  
I was appointed delegate.

AND I make this solemn declaration conscientiously believing the  
same to be true and by virtue of the provisions of the Oaths Act,  
1900.

*In the name and on behalf of His Majesty I assent to  
this Act.*

WAKEHURST,  
*Governor.*

*Government House,  
Sydney, 26th November, 1940.*

1870

Received of the Treasurer of the  
Board of Directors of the  
City of New York  
the sum of \$1000.00  
for the year ending  
June 30, 1870

RECEIPTS

Received of the Treasurer of the  
Board of Directors of the  
City of New York  
the sum of \$1000.00  
for the year ending  
June 30, 1870

In witness whereof  
I have hereunto set my hand  
and the seal of the City of New York  
this 1st day of July 1870

Mayor of the City of New York