

CHAPTER 23

OATHS AND AFFIRMATIONS

Ordinances  
Nos. 9 of 1895,  
22 of 1915,

AN ORDINANCE TO CONSOLIDATE THE LAW RELATING TO OATHS AND AFFIRMATIONS IN JUDICIAL PROCEEDINGS AND FOR OTHER PURPOSES.

Act  
No. 13 of 1954.

[15th May, 1896.]

Short title.

1. This Ordinance may be cited as the Oaths Ordinance.

(b) has a conscientious objection to make an oath, he may, instead of making an oath, make an affirmation.

Saving of certain proceedings

2. Nothing herein contained applies to proceedings before courts-martial.

6. All oaths and affirmations made under either of the two last preceding sections or for any other purpose shall be administered according to such forms and with such formalities as may be from time to time prescribed by rules made by the Supreme Court and until such rules are made, according to the forms and with the formalities now in use.

Forms of oaths and affirmation.

Authority to administer oaths.

3. All courts and persons having by law or consent of parties authority to receive evidence are authorized to administer by themselves, or by an officer empowered by them in this behalf, oaths and affirmations in discharge of the duties or in exercise of the powers conferred upon them respectively by law.

Oaths to be made by witnesses, &c.

4. (1) Subject to the provisions of the next following section oaths shall be made by the following persons :-

7. If any party to Or witness in any judicial proceeding offers to give evidence on oath or solemn affirmation in any form common amongst, or held binding by, persons of the race or persuasion to which he belongs, and not repugnant to justice or decency, and not purporting to affect any third person, the court may, if it thinks fit, notwithstanding anything hereinbefore contained, cause such oath or affirmation to be tendered to him.

Power of court to cause certain oaths to be tendered.

(a) all witnesses, that is to say, all persons who may be lawfully examined, or give or be required to give evidence by or before any court or person having by law or consent of parties authority to examine such persons, or to receive evidence;

(b) interpreters of questions put to, and evidence given by witnesses ; and

(c) jurors.

(2) Nothing herein contained shall render it necessary to administer to the official interpreter of any court, after he has entered on the execution of the duties of his office, an oath that he will faithfully discharge those duties.

8. (1) If any party to any judicial proceeding of a civil nature offers to bound by any such oath or solemn affirmation as is mentioned in the last preceding section, if such oath or affirmation is made by the other party to or by any witness in such proceeding, or if in any Judicial proceeding of a criminal nature the accused person desires that any witness for the prosecution shall make any such oath or affirmation, the court may, if it thinks fit, ask such party or witness, or cause him to be asked, whether or not he will make the oath or affirmation.

Court may ask party or witness whether he will make oath proposed by opposite party.

Exemptions.

5. Where the person required by law to make an oath-

(a) is a Buddhist, Hindu, or Muslim, or of some other religion according to which oaths are not of binding force: or

(2) "If such party or witness agrees to make such oath or affirmation, the court may administer it, or, if more convenient

Administration of oath if accepted.

may authorize any person to administer it, and to take and record in writing the evidence of the person to be sworn or affirmed and return it to the court.

such fine to undergo rigorous imprisonment for any period not exceeding two months. Whenever the power given by this section is exercised by a court other than the Supreme Court or the Court of Appeal, the Judge or Magistrate of such court shall record the reasons for imposing such fine.

Evidence conclusive against party offering to be

(3) The evidence so given shall, as against the person who offered to be bound as aforesaid, be conclusive proof of the matter stated.

(2) Any person who has undergone any sentence of imprisonment or paid any fine imposed under this section shall not be liable to be punished again for the same offence.

Procedure in a case of refusal.

(4) If the party or witness refuse to make such oath or solemn affirmation, he shall not be compelled to make it, but the court shall record as part of the proceedings the nature of the oath or affirmation proposed, the facts that he was asked whether he would make it and that he refused it, together with any reason which he may assign for his refusal.

(3) Any person against whom any order is made by any court other than the Supreme Court or the Court of Appeal, under subsection (1) of this section, may appeal to the Court of Appeal, and every such appeal shall be subject to the provisions of section 322 of the Code of Criminal Procedure Act.

Proceedings and evidence not to be invalidated by omission of oath or irregularity.

9. No omission to take any oath or make any affirmation, no substitution of anyone for any other of them, and no irregularity whatever in the form in which any one of them is administered, shall invalidate any proceeding or render inadmissible any evidence whatever in or in respect of which such omission, substitution, or irregularity took place, or shall affect the obligation of a witness to state the truth.

(4) In lieu of exercising the power given by this section, the court may, if it thinks fit, transmit the record of the judicial proceeding to the Attorney-General, to enable him to exercise the powers conferred on him by the Code of Criminal Procedure Act, or proceed in manner provided by section 387 of the Code of Criminal Procedure Act, or by section 835 of the Civil Procedure Code.

Persons giving evidence bound to state the truth.

10. Every person giving evidence on any subject before any court or person hereby authorized to administer oaths and affirmations shall be bound to state the truth on such subject.

(5) Nothing in this section contained shall be construed as derogating from or limiting the powers and jurisdiction of the Supreme Court or the Court of Appeal or the High Court, or the Judges thereof.

Summery punishment for giving false evidence in open court.

\*11. (1) If any person giving evidence on any subject in open court in any judicial proceeding, whether civil or criminal, gives, in the opinion of the court before which the judicial proceeding is held, false evidence within the meaning of section 188 of the Penal Code, it shall be lawful for the court, if such court be the Supreme Court or the Court of Appeal, summarily to sentence such witness as for a contempt of the court to imprisonment, either simple or rigorous, for any period not exceeding three months, or to fine such witness in any sum not exceeding two hundred rupees, or if such court be an inferior court to order such witness to pay a fine not exceeding fifty rupees, and in default of payment of

12. (1) The Minister in charge of the Commissioners subject of Justice may from time to time appoint fit and proper persons to be Commissioners for Oaths.

(2) A Commissioner for Oaths appointed under this Ordinance may administer any oath or affirmation or take any affidavit for the purpose of any legal proceedings or otherwise in all cases in which a Justice of the Peace is authorized by law so to do, and in all cases in which an oath, affirmation, or affidavit is commonly administered or taken before a Justice of the Peace ; and any oath or affirmation or affidavit administered or taken by a Commissioner for Oaths shall in all legal

\*Vide also section 449 of the Code of Criminal Procedure Act.

proceedings and for all other purposes have the same effect as an oath, affirmation, or affidavit administered or taken before a Justice of the Peace; and all enactments relating to oaths, affirmations, and affidavits administered or taken before a Justice of the Peace shall, with the necessary modifications, apply thereto:

Provided that a Commissioner for Oaths shall not exercise the powers given by this section in any proceeding or matter in which he is attorney-at-law to any of the parties, or in which he is otherwise interested.

(3) Every Commissioner before whom any oath or affirmation is administered, or before whom any affidavit is taken under this Ordinance, shall state truly in the jurat or attestation at what place and on

what date the same was administered or taken, and shall initial all alterations, erasures, and interlineations appearing on the face thereof and made before the same was so administered or taken.

**13.** Whoever wilfully and dishonestly swears or affirms falsely in any oath, affirmation or affidavit administered or taken, for the purpose of any legal proceedings or otherwise, before a Commissioner for Oaths appointed under this Ordinance, or a Commissioner to administer Oaths appointed under the Courts Ordinance,\* or a Justice of the Peace, shall be guilty of the offence of giving false evidence in every case where if he had so sworn in a judicial proceeding before a court of competent jurisdiction he would be guilty of the offence of giving false evidence.

False oath or affidavit before a Commissioner or Justice of the Peace.

\*Repealed by the Administration of Justice Law, No. 44 of 1973.