

No. 9 of 1895.

An Ordinance to consolidate the Law relating to Oaths and Affirmations in Judicial Proceedings and for other purposes.

(As amended by No. 22 of 1915.)

WHEREAS it is expedient to consolidate the law relating to oaths and affirmations in judicial proceedings and for other purposes: Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

1 This Ordinance may be cited as "The Oaths Ordinance, 1895"; and it shall come into operation at such date as the Governor shall, by Proclamation† to be published in the *Government Gazette*, appoint.

2 From and after the coming into operation of this Ordinance, Ordinance No. 3 of 1842, intituled "For the substitution of Solemn Affirmation in lieu of Oaths in certain cases," shall be repealed.

3 Nothing herein contained applies to proceedings before courts martial.

4 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

Preamble.

Short title.
Commencement,

Repeal.

Saving of certain proceedings.

Authority to administer oaths.

* Proclaimed from October 1, 1896, by Proclamation dated January 21, 1896, in *Government Gazette* No. 5,389 of January 24, 1896.—*Edd.*

† Proclaimed from May 15, 1896, by Proclamation dated May 1, 1896, in *Government Gazette* No. 5,405 of May 8, 1896.—*Edd.*

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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.

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

- (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.

Exemptions.

6 Where the person required by law to make an oath—

- (a) Not being a Christian, is a Buddhist, Hindu, or Moham-
medan, or of some other religion according to which
oaths are not of binding force ; or
- (b) Has a conscientious objection to make an oath ;

he may, instead of making an oath, make an affirmation.

Forms of oaths and affirmations.

7 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 under section 53* of "The Courts Ordinance, 1889," and until such rules are made according to the forms and with the formalities now in use.

Power of court to tender certain oaths.

8 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.

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

9 (1) If any party to any judicial proceeding of a civil nature offers to be 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.

* Superseded by section 11 of No. 24 of 1901.—*Edd.*

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

Administration of oath if accepted.

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

Evidence conclusive against party offering to be bound.

(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.

Procedure in a case of refusal.

10 No omission to take any oath or make any affirmation, no substitution of any one 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.

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

11 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.

Persons giving evidence bound to state the truth.

12 (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 Ceylon Penal Code," it shall be lawful for the court, if such court be the Supreme Court, 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 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, the Judge or Magistrate of such court shall record the reasons for imposing such fine.

Summary punishment for perjury in open court.

[See § 440, 15 of 1898.]

(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.

(3) Any person against whom any order is made by any court other than the Supreme Court, under sub-section (1) of this section, may appeal to the Supreme Court, and every such appeal shall be subject to the provisions of section 407 of "The Criminal Procedure Code, 1883." *

[See § 335, 15 of 1898.]

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[See § 380, 15 of
1898.]

(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 Criminal Procedure Code, 1883," * or proceed in manner provided by section 443 of "The Criminal Procedure Code, 1883," * or by section 835 of "The Civil Procedure Code, 1889."

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

*Commissioners
for Oaths.*
[§ 2, 22 of 1915.]

13 (1) *The Governor may from time to time, by commission signed by him, appoint fit and proper persons to be Commissioners for Oaths.*

(2) *A Commissioner for Oaths appointed under this Ordinance may by virtue of his commission 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 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 proctor 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.*

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

14 *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 section 20 of "The Courts Ordinance, 1889," 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.*

7th November, 1895.