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CHAPTER 60
OATHS

An Act relating to oaths in judicial and other proceedings and to prescribe the mode in which such oaths may be administered.

10 of 1912
40 of 1964
5 of 1987
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40 of 1964
5 of 1987

[Commencement 22nd May, 1912]

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

Short title.

2. (1) An oath may be administered and taken in the form and manner following: The person taking the oath shall stand and shall hold the New Testament or in the case of a Jew the Old Testament in his uplifted right hand and shall say or repeat after the person administering the oath the words “I swear by Almighty God that” followed by the words of the oath prescribed by law.

Manner of administering oaths.

(2) The person having authority to administer the oath shall (unless the person about to take the oath voluntarily objects thereto or is physically incapable of so taking the oath) administer the oath in the form and manner aforesaid without question:

Provided that in the case of a person who is neither a Christian nor a Jew the oath shall be administered in any manner which is now lawful.

3. Any person to whom an oath is administered may, if he so desires, swear with uplifted hand. The person swearing in this manner shall swear standing and holding up his right hand and shall repeat the words of the oath after the officer administering it. The oath shall commence “I swear by Almighty God as I shall answer to God at the great day of judgment,” and shall proceed with the words of the oath or the substance thereof as prescribed by law, but omitting any further words of imprecation or calling to witness.

Swearing with uplifted hand.

Declaration
when permitted.

4. Where any person is required or called upon, either by any rule of the common law or by any Act to take an oath, if he objects from alleged conscientious reasons to take it, or if he is ignorant of the nature of an oath, or if it is objected that he is incompetent to take it, the judge or any other person having authority to administer the oath may permit him to make a solemn affirmation or declaration in substitution for the oath; and thereupon he shall not be required to use the word “swear” or the words “So help me God,” but shall, in lieu thereof, solemnly, sincerely and truly affirm and declare the truth of that which he would otherwise have to swear to, or, as the case may be, that he will do and act as required by the oath for which the affirmation or declaration is substituted.

Declaration and
oath taken with
uplifted hand to
be followed by
same results as
oath taken in
ordinary form.

5. (1) In all cases in which an oath is required to be taken by or administered to any person, either by any rule or by any Act, either as a jurymen, witness, deponent, party, judge, arbitrator, officer or any other person, either in any civil or criminal proceedings, or on any occasion whatsoever a solemn affirmation or declaration may be made by the persons and in the manner by section 4 of this Act detailed in lieu of the oath, or the oath may be taken in the manner mentioned in sections 2 and 3 of this Act; and the same consequences and results shall in every respect follow and take place from the making of the affirmation or declaration or the taking of the oaths in the manner mentioned in sections 2 to 4 of this Act inclusive, as would follow and take place if the ordinary oath had been taken.

(2) In all cases in which the affirmation or declaration is substituted for the taking of an oath, it shall be the duty of the judge or other person having authority to administer the oath, before allowing the affirmation or declaration to be made, to satisfy himself that the person about to make it understands the consequences and results aforesaid.

Prohibition of
unauthorised
oaths.

6. (1) It shall not be lawful for any justice of the peace, magistrate or coroner to administer or cause or allow to be received any oath, solemn declaration or affidavit touching any matter or thing whereof he has not jurisdiction or cognizance by some rule of the common law or any Act in force at the time.

5 of 1987, Sch.

(2) Nothing herein shall be construed to extend to any oath, solemn declaration, or affidavit before any justice of the peace or magistrate in any matter or thing touching the preservation of the peace, nor to any solemn declaration or affidavit which may be required by any Act by the laws of any other country to give validity to instruments in writing designed to be used out of The Bahamas.

5 of 1987, Sch.

7. Whenever the confirmation of a written instrument is required, or allegation or proof of debts or of the execution of deeds or other matters, it shall be lawful for any other person now by law authorised to administer an oath to take and receive the declaration of any person voluntarily making it before him.

Confirmation of written instruments.

8. Except where otherwise directed, a declaration shall be made in the following form —

Form of declaration.

“I,, do solemnly and sincerely declare that, etc., and I make this solemn declaration conscientiously believing it to be true and by virtue of the provisions of the Oaths Act.”

9. Whenever any declaration shall be made and subscribed by any person in pursuance of the provisions of any Act all and every such fees as would have been due and payable on the taking or making any legal oath, solemn affirmation or affidavit shall be in like manner due and payable upon making and subscribing such declaration.

Fees.

10. If any person permitted by any Act to make a declaration instead of an oath refuses or neglects to make such declaration, he shall be subject to the same penalties and disabilities, if any, as he would have been subject to for refusing or neglecting to take the oath for which the declaration is substituted.

Penalty for neglect or refusal to make declaration.

11. (1) Any person appointed or called upon to exercise duties similar to those of Provost Marshal or returning officer at an election shall before entering upon his duties take the following oath before a magistrate, and every magistrate is hereby empowered to administer the oath:

Oath of Provost Marshal or returning officer.

“I,, do swear that I will discharge my duties at the election now about to take place, fairly and impartially, without favour or affection, malice or hatred, and according to the best of my judgment. So help me God.”

(2) Any person failing to take the oath or failing to perform his duties in the matter mentioned therein shall be liable, if convicted upon information in the Supreme Court, to a fine of two thousand dollars.

5 of 1987. s. 2.

Jurors' oath, civil causes.

12. Jurors may be sworn in civil causes in open court in the following form or to the like effect:

“You shall well and truly try the issues joined between the parties (or, *assess the damage herein*), and a true verdict give according to the evidence. So help you God.”

Jurors' oath, criminal trial; felonies.

13. (1) Jurors may be sworn in criminal trials, in felonies, in open court in the following form or to the like effect:

“You shall well and truly try and true deliverance make, between Our Sovereign Lady the Queen and the prisoner at the bar whom you shall have in charge, and a true verdict give according to the evidence. So help you God.”

Misdemeanours.

(2) Jurors may be sworn in criminal trials, in misdemeanours, in open court in the following form or to the like effect:

“You shall well and truly try the issue (or issues), joined between Our Sovereign Lady the Queen and the defendant, and a true verdict give according to the evidence. So help you God.”

Oath of jurors on being permitted to separate on adjournment in cases of felony.

(3) Whenever upon the trial of a criminal case not capital in which the charge is one of felony the judge shall decide to permit the jury trying such case to depart from the court during any adjournment of such trial, such jurors shall not be permitted so to depart from the court until they shall have first taken in open court the following oath to be administered to such jurors by the Registrar of the Supreme Court:

“You swear that during any adjournment of the trial of the issue joined between Our Sovereign Lady the Queen (*or as the case may be*) and the prisoner at the bar which you and your fellows are empanelled and sworn to try, you will not whilst separated, or until you shall be again assembled in court, speak with or listen to, or hold any communication with any person whomsoever other than your fellows empanelled with you touching the said issue, or any matter relative to the trial thereof; And that upon the termination of every adjournment thereof you will again come into this court. So help you God.”

(4) If any juror shall refuse to take the said oath, his refusal shall not prevent the separation and departure of so many of the jurors as shall have taken the said oath; but the juror or jurors so refusing shall be kept during such adjournment by the proper officers sworn in the usual manner neither themselves to speak to, nor to permit any other person to hold any communication with such juror or jurors touching any matter relative to the issue wherewith they are charged at such trial.

Refusal of juror to take oath not to affect separation of other jurors.

14. Witnesses may be sworn in civil causes in open court in the following form or to the like effect:

Oath of witness – civil causes.

“The evidence which you shall give to the court and jury sworn touching the matters in question between the parties shall be the truth, the whole truth, and nothing but the truth. So help you God.”

15. Any person may be sworn on the *voire dire* in the following form or to the like effect:

Oath on the *voire dire*.

“You shall true answer make to all questions as the court shall demand of you. So help you God.”

16. Witnesses may be sworn on the criminal trials in open court in the following form or to the like effect:

Oath of witness – criminal trials.

“The evidence which you shall give to the court and jury sworn between Our Sovereign Lady the Queen and the prisoner at the bar (*or, the defendant*), shall be the truth, the whole truth, and nothing but the truth. So help you God.”

17. Interpreters may be sworn in civil causes in open court in the following form or to the like effect:

Oath of interpreter.

“You swear that you understand the language of the witness (*or, plaintiff, or, defendant*), and are able to interpret between him and the court and jury sworn and all persons conversant with the English language. So help you God.”

“You shall well and truly interpret and true explanation make between the witness (*or, plaintiff or, defendant*), and the court and jury sworn, and all persons conversant with the English language, and to the best of your knowledge, skill and ability, the evidence you shall give to the court and jury sworn touching the matters in question shall be the truth, the whole truth, and nothing but the truth. So help you God.”

Interpreter may be sworn on the voire dire.

18. Interpreters may be sworn in civil causes in open court to interpret on the voire dire in the following form or to the like effect:

“You swear that you understand the language of the witness (*or, plaintiff, or, defendant*), and are able to interpret between him and all persons conversant with the English language. So help you God.”

“You shall well and truly interpret and true explanation make between the witness (*or plaintiff, or, defendant*), and the court and all persons conversant with the English language, to the best of your knowledge, skill, and ability, and shall true answer make to all such questions as the court shall demand of you. So help you God.”

Oath of interpreter for conducting arraignment of accused person.

19. Interpreters may be sworn in open court for the purpose of conducting the arraignment of any person accused, in the following form or to the like effect:

“You swear that you understand the language of the prisoner at the bar, and are able to interpret between him and the court. So help you God.”

“You shall well and truly interpret and true explanation make between the prisoner at the bar and the court to the best of your knowledge, skill and ability, and you shall true answer make to all such questions as the court shall demand of you. So help you God.”

And whenever on the trial of such person it may be necessary to examine a witness who does not speak the English language on the voire dire, the interpreter’s oath may be in form given in section 17 of this Act, or to the like effect, retaining the word “witness” throughout.

Oath of interpreter in criminal trial.

20. Interpreters may be sworn for the purposes of a criminal trial in open court in the following form or to the like effect:

“You swear that you understand the language of the prisoner at the bar (*or, the defendant*), and are able to interpret between him and the court and the jury sworn, and between him and all persons conversant with the English language. So help you God.”

“You shall well and truly interpret and true explanation make between the prisoner at the bar (*or, the defendant*), and the court and jury sworn, to the best of your knowledge, skill and ability, and the evidence which you shall give to the court and jury sworn between Our Sovereign Lady the Queen and the prisoner at the bar (*or, the defendant*), shall be the truth, the whole truth, and nothing but the truth. So help you God.”

“You swear that you understand the language of the witness, and are able to interpret between him and the court, and the jury sworn, and the prisoner and all persons conversant with the English language. So help you God.”

“You shall well and truly interpret and true explanation make between the witness and the court and jury sworn, and the prisoner and all persons conversant with the English language, and the evidence which you shall give to the court and jury sworn between Our Sovereign Lady the Queen and the prisoner at the bar, shall be the truth, the whole truth, and nothing but the truth. So help you God.”

Provided that when the witness and the prisoner are foreigners of different languages, and the interpreter is unable to interpret to the prisoner, the reference to the prisoner shall be omitted, and an additional interpreter sworn to interpret the English interpretation of the first interpreter to the prisoner.

21. When on any criminal trial a witness and the prisoner are foreigners of different languages, and a foreign interpreter can be found conversant with the languages of the prisoner and the witness, and able to interpret between them, and a second interpreter can be found conversant with English and with any language with which the first interpreter is conversant, and able to interpret from the last named language into English, the first interpreter may be sworn through the second interpreter, in open court, in the following form, or to the like effect:

Interpreters and form of oath where witness and prisoner are foreigners of different languages.

“You swear that you understand the several languages of the witness and the prisoner and are able to interpret between them. So help you God.”

“You shall well and truly interpret and true explanation make, between the witness and the prisoner at the bar, and the prisoner at the bar and the witness, and between them and each of them and the court and jury sworn, and all interpreters, witnesses and persons whatsoever, to the best of your knowledge, and skill and ability, and the evidence which you shall give to the court and the jury sworn between Our Sovereign Lady the Queen and the prisoner at the bar, shall be the truth, the whole truth, and nothing but the truth. So help you God.”

And whatever be the number of interpreters necessary before the statements of the prisoner and the witness can be interpreted into one and the same language and into English, the same forms of oath shall be administered *mutatis mutandis* to each interpreter in succession, and the like provision shall apply in civil causes as far as may be.

Presiding judge to declare manner of swearing interpreter.

22. If it appears to the presiding judge in any criminal proceedings that the person called as interpreter understands the language of the accused or other person, between whom and the court he is called to interpret, sufficiently to be able to make true explanation of the evidence and other proceedings, but that he cannot for any cause be sworn in the form and manner herein prescribed, it shall be the duty of the presiding judge to declare in what manner he shall be sworn or otherwise bound to make true declaration; and it shall in that case be the further duty of the presiding judge to ascertain that true explanation of the evidence and all other proceedings is made to the accused person; and, if the presiding judge is satisfied that true explanation is so made, the trial, and any verdict given thereat, shall be as valid as if the interpreter had been sworn in the ordinary manner.

New trial by reason of incompetence of interpreter.

23. If on any trial for a criminal offence it appears to the presiding judge, after the accused has been given in charge to the jury, that true explanation of the evidence cannot by reason of the incompetence of any interpreter be made to the accused, he shall not by reason thereof be entitled to be acquitted, but it shall be the duty of the presiding judge to discharge the jury from giving any verdict, and the accused shall be liable to be again tried as if the first trial had not been commenced