



BELIZE

**EVIDENCE ACT
CHAPTER 95**

REVISED EDITION 2000
SHOWING THE LAW AS AT 31ST DECEMBER, 2000

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Laws of Belize, Revised Edition 1980 - 1990.

This edition contains a consolidation of the following laws-	Page
ARRANGEMENT OF SECTIONS	3
EVIDENCE ACT	11
Amendments in force as at 31st December, 2000.	



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CHAPTER 95

EVIDENCE

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CHAPTER 95

EVIDENCE

Ch. 18,
R.L., 1958.
CAP. 75,
R.E. 1980-1990.
38 of 1963.
40 of 1963.
1 of 1969.
6 of 1980.
33 of 1980.
6 of 1982.
22 of 1987.
26 of 1992.
4 of 1996.
18 of 1998.

[9th May, 1953]

PART I

Preliminary

- 1. This Act may be cited as the Evidence Act. Short title.
- 2. In this Act, unless the context otherwise require:- Interpretation.
 - “banker’s book” includes any ledger, day book, cash book, account book and any other book used in the ordinary business of a bank;
 - “computer” means any device or combination of devices used together or in succession for the purpose of storing and processing information; 18 of 1998.
 - “court” means any court of Belize having jurisdiction to hear and determine causes and matters, whether civil or criminal, and includes arbitrators and referees;
 - “document” includes:- 18 of 1998.
 - (a) books, maps, plans, graphs, drawings and photographs;
 - (b) any disc, tape, sound track or other device in which sound or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment)

of being reproduced therefrom; and

- (c) any film, negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;

“facts in issue” means-

- (a) all facts which, by the form of the pleadings in any action or other proceeding, are affirmed on one side and denied on the other; and
- (b) in actions or other proceedings in which there are no pleadings, or in which the form of the pleadings is such that distinct issues are not joined between the parties, all facts from the establishment of which the existence, non-existence, nature or extent of any right, liability or disability, asserted or denied, in any such case would by law follow;

“judge” includes all persons authorised to take evidence, either by law or by consent of parties;

“proceedings” includes arbitrations and references;

“statement” includes any representation of fact, whether made in words or otherwise.

- Application. 3. Unless the contrary is in any case expressly provided, or by necessary implication appears to be intended, the provisions of this Act shall, so far as they extend and are respectively appropriate thereto, apply to all causes and matters in all courts of justice and before all judges in Belize.
- Operation of common law rules and principles. 4. Subject to the provisions of this Act and of any other statute for the time being in force, the rules and principles of the common law of England relating to evidence shall, so far as they are applicable to the circumstances of Belize, be in force therein.
- Saving of special provisions as to evidence in other statutes. 5. Nothing in this Act shall affect any special provision as to the proof of any

document or thing or otherwise relating to evidence, contained in any other statute for the time being in force and not repugnant to this Act.

PART II

Proof

Judicial Notice

6. Every judge shall take judicial notice of the following facts-

- (a) all unwritten laws, rules and principles having the force of law administered by any court in Belize;
- (b) all general customs which have been held to have the force of law in the Supreme Court;
- (c) all public Acts of Parliament, and all Acts of Parliament whatever passed after the year 1850, unless the contrary is expressly provided in any of those Acts;
- (d) all publications, Acts and laws of Belize, unless the contrary is expressly provided in any of the publications, Acts or laws;
- (e) all Orders of the Queen in Council having effect in Belize, all Orders of the Governor-General, and all rules, regulations, by-laws and other statutory instruments respectively made or approved by the Governor-General and National Assembly, or by the National Assembly or by either House thereof, or by the Governor-General or by any other body or person under statutory authority;
- (f) the general course of proceeding by and privileges of, the National Assembly, or by either House thereof, and the date and place of its sittings, but not transactions in its journals or minutes of proceedings;
- (g) the course of procedure and all rules of practice in force in the Supreme Court, and of the course of procedure and rules of

Facts to which
judicial notice is
to be taken.

practice of all courts of limited or inferior jurisdiction prescribed under statutory authority;

- (h) the accession and the sign manual of the Government of Belize;
- (i) the existence and title of every State and Sovereign recognised by the Government of Belize;
- (j) the Great Seal of the United Kingdom, the public seal of Belize, the Privy Seal, the seals of the superior courts of justice in the United Kingdom, and the seal of the Supreme Court;
- (k) the accession to office, name, title, functions and, when attached to any judgment, decree, order, certificate or other judicial or official document, the signature of the Chief Justice of Belize or of any puisne judge thereof;
- (l) the signature and seal of any mayor or other chief officer of any city or corporate town within the United Kingdom, the signature and seal of the Governor-General or other officer administering the government, or of the Chief or senior Justice of any court of record of any Commonwealth country, the signature and seal of any ambassador, minister, consul-general, consul, vice-consul or consular officer appointed by the Government of Belize at any foreign port or place:

Provided that that signature and seal shall be subscribed and affixed to any certificate or declaration purporting to legalise those deeds, letters of attorney, powers, procurations, affidavits, affirmations, declarations, contracts or agreements or other instruments in writing, which are hereinafter mentioned;

- (m) the signature and seal of any notary public in the United Kingdom, any British territory or possession or any Commonwealth country;
- (n) the signature and seal of any justice of the peace or other officer authorised by law to administer an oath in Belize,

when subscribed and affixed to any certificate or attestation of any declaration made before that justice or other officer under and by virtue of any law for the time being in force;

- (o) the *London Gazette* and the *Government Gazette* of any Commonwealth country;
- (p) the extent of Commonwealth countries, the divisions for any public purposes of Belize, but not their geographical position or the situation of particular places, the commencement, continuance and termination of war between Belize and any other Sovereign or State, and all other public matters directly concerning the general government of Commonwealth countries;
- (q) the ordinary course of nature, natural and artificial divisions of time, and the meaning of English words; and
- (r) all other matters which a judge is directed by any statute to notice.

7. No evidence of any fact of which the court will take judicial notice need be given by the party alleging its existence, but the judge, on being called upon to take judicial notice thereof, may, if he is unacquainted with that fact, refer to any person or to any document or book of reference for his satisfaction in relation thereto, or may refuse to take judicial notice thereof unless and until the party calling upon him to take the notice produces the document or book of reference.

Proof of fact
judicially noticed.

Admissions

8. No fact need be proved in any civil cause or matter which the parties thereto or their agents admit at the hearing, or which they have admitted before the hearing with reference thereto, by their pleadings, express admissions, in answer to interrogatories, agreement between the parties or on notice to admit facts.

Fact admitted by
party to civil
proceeding.

Contents of Documents

9. When any act of state, or any fact of a public nature may be proved,

Recital of public
fact in statute or

- 38 of 1963. any statement of it made in a recital contained in any public Act of Parliament, or in any royal proclamation or speech of the Queen in opening Parliament, or in any address to the Crown of either House of Parliament, or in any Act, or in any proclamation of the Governor-General, or in any order of a Minister, is admissible in evidence.
- Entry in public record made in performance of duty. 10. An entry in any record, official book or register kept in any Commonwealth country, or at sea, or in any foreign country, stating, for the purpose of being referred to by the public, a fact which may be proved, and made in proper time by any person in the discharge of any duty imposed upon him by the law of the place in which that record, book or register is kept, is admissible in evidence.
- Statement in work of history, map, chart or plan. 11.-(1) Statements as to matters of general public history, made in accredited historical books, are admissible in evidence when the occurrence of any of those matters may be proved, but statements in those works as to private rights or customs are inadmissible.
- (2) Statements of facts which may be proved, made in maps or charts made under the authority of any government or public municipality, or generally offered for public sale, as to matters of public notoriety, such as the relative position of towns and countries, and such as are usually represented or stated in those maps or charts, are admissible in evidence, but they are inadmissible if they relate to matters of private concern.
- Entry in banker's book. 12. A copy of any entry in a banker's book is admissible as *prima facie* evidence of the entry, and of the matter, transaction or accounts therein recorded:
- Provided that no such copy shall be received in evidence unless it is first proved that the book in which the entry was made was, at the time of making that entry, one of the ordinary books of the bank, and that the entry was made in the usual and ordinary course of business, and that the book is in the custody or control of the bank, which proof may be given, either orally or by affidavit, by a partner or officer of the bank, and that the copy has been examined with the original entry and is correct, which proof must be given by some person who has examined the copy with the original entry, and may be given either orally or by affidavit.
- Right of banker to refuse to produce books. 13. A bank or an officer of a bank is not, in any cause or matter to which

the bank is not a party, compellable to produce any banker's book, or to appear as a witness to prove the matters, transactions and accounts therein recorded, except by order of a court made for special cause.

14.-(1) On the application of any party to a cause or matter, a court or judge may order that the party is at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of that cause or matter.

Order of court for inspection of banker's books.

(2) The order may be made either with or without summoning the bank or any other party, and must be served on the bank three days before it is to be obeyed, unless the court or judge otherwise directs.

15. Sections 12 to 14 relating to banks shall apply to any government or post office savings bank, and to any other institutions, companies or partnerships defined either as banks or financial institutions under the Banks and Financial Institutions Act.

Application of provisions relating to banks. 40 of 1963. CAP. 263.

Books of Account

16. The court may permit any party to a civil cause or matter to use his books of account, kept in the course of his business, as evidence in support of his claim or defence, if they appear to have been kept in the course of business with so reasonable a degree of regularity as to be satisfactory to the court.

Evidence of entries in book of account.

Proof of Private Documents

17.-(1) Where a deed is executed in Belize, the execution thereof may be proved by the personal acknowledgement of the person or persons purporting to part with and pass any interest under such deed, or by the oath of one of the subscribing witnesses to such deed.

Proof of deed executed in Belize.

(2) The following persons are hereby authorised to take such acknowledgement or to administer such oath:

- (a) the Chief Justice;
- (b) the Registrar;
- (c) a commissioner of the Supreme Court; and

(d) a justice of the peace.

Proof of deed
executed elsewhere
in Commonwealth
countries.

18. Where a deed is executed in any Commonwealth country other than Belize, the execution thereof shall be proved by the affidavit or declaration of one of the subscribing witnesses or by the acknowledgement of the party or parties thereto, sworn or made-

- (a) before the mayor or other chief officer of any city, borough or corporate town within the United Kingdom and purporting to be attested under his hand and the public seal of such city, borough or corporate town; or
- (b) before and purporting to be attested under the hand of the Governor-General or other officer administering the government; or
- (c) before a judge of any court of record of any colony or dependency, and purporting to be attested under his hand and the seal of the court; or
- (d) before the Registrar of any court of record of any colony or dependency, and purporting to be attested under his hand; or
- (e) before and purporting to be attested under the hand and seal of any notary public in a Commonwealth country.

Proof of deed
executed in foreign
country.
4 of 1996.

19. Where a deed is executed in any foreign state or country outside a Commonwealth country, the execution thereof shall be proved by the affidavit or declaration of one or more of the subscribing witnesses or by the acknowledgement of the party or parties thereto, sworn or made-

- (a) before any ambassador, minister, consul-general, consul, vice-consul or consular officer appointed by The Government of Belize at such place, if it is attested or purports to be attested by the signature and seal of such officer; or
- (b) before and purporting to be attested under the hand of any Governor, Chief Justice or judge or any notary public.

20. All deeds executed out of Belize may, if the party or witness is within Belize at the time of proof, be proved in like manner as deeds executed within Belize are proved. Proof of deeds where party or witness in Belize.

21.-(1) Where any deed is made and executed, or purports to be made and executed, either before or after the commencement of this Act, in any place outside a Commonwealth country in the presence of a witness or witnesses, before or with one or more notaries public, the deed and every notarial grosse, or authentic copy thereof purporting to be a notarial grosse, or authentic copy of the original deed, certified and legalised, or purporting to be certified and legalised, either before or after the commencement of this Act, under the hand and seal of any officer of state, judge or magistrate of that place, or of any ambassador, minister, consul-general, consul, vice-consul or consular officer appointed by The Government of Belize for that place, may be recorded in the General Registry, and shall, without any proof, be as valid and effectual as any original power or letter of attorney, contract or agreement, or other instrument in writing coming from a Commonwealth country, and proved and attested in the manner prescribed in section 18. Recording of certified and legalised deeds executed outside Commonwealth countries.

(2) In subsection (1), “certified and legalised” means-

- (a) that the deed is attested by the signature of the notary public before whom it is, or purports to be, executed; and
- (b) that the fact that he holds that office in the place where the deed is, or purports to be, executed is certified, in the same manner as an affidavit or declaration, of the due execution of a deed is required to be attested.

(3) An office copy of every recorded procuration, power or letter of attorney, contract or agreement, or other instrument in writing mentioned in subsection (1), duly certified by the Registrar General or his Deputy shall, without any proof, be received in evidence in any civil cause or matter.

22. The signature and seal of any consul-general, consul, vice-consul or consular officer, appointed by The Government of Belize at any foreign port or place, to his certificate or attestation of any oath, affidavit, declaration, affirmation or notarial act administered, sworn, made, affirmed, had or done, either before or after the commencement of this Act, by or before the consul-general, or other officer mentioned in this section, under and by virtue of the Consular Admissibility in evidence of seal and signature of consular officer as proof of certain documents.

- 1891, c. 36. Salaries and Fees Act 1891, or under and by virtue of any other Act of Parliament in that behalf, shall, without any proof, be received as evidence, in any civil cause or matter, of the oath, affidavit, declaration, affirmation and notarial act having been duly administered, sworn, made, affirmed, had or done.
- Status of person acting for certain officers. 23. Where any person is acting for any ambassador, minister, consul-general, consul, vice-consul or consular officer, that person shall, for all the purposes of this Act, be deemed to be the ambassador, minister, consul-general, consul, vice-consul or consular officer, as the case may be.
- Admissibility in evidence of signature and seal of justice of the peace, etc., as proving statutory declaration. 1835, c. 62. 24. The signature and seal of any justice of the peace, notary public or other officer authorised by law to administer an oath in the United Kingdom, subscribed and affixed to the certificate or attestation of any declaration made, either before or after the commencement of this Act, before the justice, notary public or other officer, mentioned in this section, under and by virtue of the Statutory Declarations Act 1835, or under and by virtue of any other Act in that behalf, shall, without any proof, be received as evidence, in any civil cause or matter, of that declaration having been duly made.
- Onus of disproof of signature, admissible in evidence. 25. If any person whose duty or interest it is to deny or disprove the validity of any signature or seal, or other matter or thing, declared in section 21 to be receivable in evidence without any proof, denies and takes upon himself to disprove the validity of that signature or seal, or matter or thing, he shall be permitted to do so, but the proof of the invalidity shall rest entirely upon that person.
- Proof of document not requiring attestation. 26. An attested document not required by law to be attested may, in all causes and matters whatever, whether civil or criminal, be proved as if it were unattested.
- Meaning of “deed” in provisions relating to the execution of private documents. 27.-(1) In sections 17, 18, 19, 20 and 21 and in all other provisions of this Act relating to proof of the due execution of private documents, “deed” includes for all purposes whatever any letter of attorney or other power, contract or agreement or other instrument in writing.
- (2) Nothing contained in this Act shall apply to the proof of due execution of any instrument with regard to which a special form of execution and mode of proving thereof are prescribed by any law requiring the making of that instrument.

Proof of Public Documents

28. Any record under the charge and superintendence of the Master of the Rolls for the time being in England may be proved by a copy certified as a true and authentic copy by the deputy keeper of the records or one of the assistant record-keepers, and purporting to be sealed or stamped with the seal of the Record Office in England. General records of the United Kingdom.
29. Any record under the charge and superintendence of a Permanent Secretary or the Registrar General may be proved by a copy certified as a true and authentic copy by the Permanent Secretary or the Registrar General, as the case may be. Records of Belize.
- 30.-(1) The contents of Acts of Parliament or the National Assembly, not being public Acts, may be proved by copies thereof purporting to be printed by the Queen's Printer or the Government Printer. Proof of Acts and journals of Parliament or the National Assembly.
- (2) The journals of either House of Parliament or the National Assembly may respectively be proved by copies thereof purporting to be printed by the Queen's Printer or by the printers to either House of Parliament or by the Government Printer or certified to be true by the Clerk to the National Assembly.
- 31.-(1) The contents of any proclamation or statutory instrument issued at any time by The Government of Belize or by the Privy Council, and of any proclamation or statutory instrument issued at any time by or under the authority of any department of the United Kingdom Government or officer mentioned in the first column of the First Schedule, may be proved in all or any of the modes mentioned in this section-
- (a) by the production of a copy of the *London Gazette* purporting to contain the proclamation or statutory instrument; or
- (b) by the production of a copy of the proclamation or statutory instrument purporting to be printed by the Queen's Printer or under the superintendence of The Government of Belize's Stationery Office, or under the authority of the Governor-General or of the National Assembly or of either house thereof; or 38 of 1963.

- First Schedule,
Second column.
- (c) by the production, in the case of any proclamation or statutory instrument issued by The Government of Belize or by the Privy Council, of a copy or extract purporting to be certified to be true by the Clerk of the Privy Council, or by any one of the Lords or others of the Privy Council and, in the case of any proclamation or statutory instrument issued by or under the authority of any of those departments or officers, by the production of a copy or extract purporting to be certified to be true by the person or persons specified in the second column of the First Schedule in connection with that department or officer.
- (2) Any copy or extract made under this section may be in writing.
- (3) No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this section, to the truth of any copy of or extract from the proclamation or statutory instrument.
- (4) In this section, “statutory instrument” has the meaning given to that term by section 1 of the Statutory Instruments Act 1946 and includes “subsidiary legislation” as defined in the Interpretation Act.
- 1946, c. 36.
CAP. 1.
- Proof of Proclamation, order or regulation issued in Belize.
38 of 1963.
- 32.-(1) Section 31 is *mutatis mutandis*, applicable to any proclamation issued by the Governor-General, any Order in Council, any statutory instrument or order made or approved by the Governor-General, the National Assembly, or either House thereof, or by a Minister, not being within the provisions of section 6, and to any commission, warrant, public notice or statutory instrument, issued by or under the authority of the Governor-General or a Minister, or any department or officer of the Government of Belize, the Governor-General, the Minister, the Permanent Secretary, or the head of that department, or that officer, as the case may be, being the certifying officer within the meaning of section 31.
- (2) Where by any Act the Governor-General or a Minister is empowered to do any act, or to authorise any act to be done, or to approve of any act, the doing or authorising or approving of the act may be proved by the production of a document to that effect, purporting to be issued by the authority of the Governor-General or Minister and signed by the Governor-General’s Administrative Officer or the Permanent Secretary, as the case may be, notwithstanding that the Act prescribes that the act shall be done, authorised or

approved in writing under the hand of the Governor-General or the Minister.

(3) Subsections (1) and (2) shall not apply to any case where an act is required to be executed by the Governor-General or the Minister by warrant under his hand, or under his hand and seal, or under his hand and the public seal or by proclamation or commission.

33.-(1) All proclamations, treaties and other acts of state of any foreign country or of any British colony or possession, and all judgments, decrees, orders and other judicial proceedings of any court of justice in any foreign country or in any British colony or possession, and all affidavits, pleadings and other legal documents filed or deposited in that court, may be proved either by examined copies or by copies authenticated as mentioned in this section-

Proof of foreign and colonial acts of state, judgments, orders and judicial proceedings.

- (a) if the document sought to be proved is a proclamation, treaty, or other act of state, the authenticated copy, to be admissible in evidence, must purport to be sealed with the seal of the foreign country, or of the British colony or possession, to which the original document belongs; and
- (b) if the document sought to be proved is a judgment, decree, order or other judicial proceeding of any foreign or colonial court, or an affidavit, pleading or other legal document filed or deposited in that court, the authenticated copy, to be admissible in evidence, must purport either to be sealed with the seal of the foreign or colonial court to which the original document belongs or, in the event of that court having no seal, to be signed by the judge or, if there are more judges than one, by any one of the judges, of that court, and the judge must attach to his signature a statement in writing on the copy that the court whereof he is judge has no seal.

(2) Any of the authenticated copies purporting to be sealed or signed as mentioned in subsection (1) (a) and (b) shall be admissible in evidence in every case in which the original document could have been received in evidence, without any proof of the seal, where a seal is necessary, or of the signature or the truth of the statement attached thereto, where that signature and that statement are necessary, or of the judicial character of the person appearing to have made the signature and statement.

- Proof of statutory notice. 34. The contents of any notice or advertisement required by any statute for the time being in force to be published in the *Gazette*, or so published in the usual course, may be proved, in any cause or matter, whether civil or criminal, by the production of a copy of the *Gazette* containing the notice or advertisement.
- Proof of legal process. 35. Any summons, rule, warrant, process, complaint, commitment, judgment, conviction, sentence, order or other written judicial act or document whatever, in any civil or criminal case, may be proved, in any legal proceeding whatever, against any person by producing a copy thereof certified by any judge or by the Registrar of the Supreme Court or, in the case of any other court, by any person performing functions analogous to those of a judge or the Registrar of the Supreme Court, without proof of the signature or official character of the person appearing to have certified the document.
- Use of report of official analyst as *prima facie* evidence. 36.-(1) Any document purporting to be a *post-mortem* report, under the hand of a registered medical practitioner or the Government Pathologist, or any document purporting to be a report under the hand of the government analytical chemist, government assistant analytical chemist, government pathologist or government bacteriologist, upon any matter or thing duly submitted to him for examination or analysis and report, for the purposes of any trial on indictment, or in any preliminary inquiry before a magistrate in respect of any indictable offence, or in any proceeding in a summary jurisdiction court, or before a coroner, shall be receivable at that trial, inquiry or proceeding as *prima facie* evidence of any matter or thing therein contained relating to the examination or analysis:
- 6 of 1980. Provided that where the report of any of the aforesaid experts is produced in any trial on indictment, such expert shall if within the country be called if the defence so requires.
- (2) If, on any inquiry or proceeding mentioned in subsection (1), any one of those experts is called as a witness to give evidence on the subject-matter of his report, the party calling him shall, unless the magistrate, or the summary jurisdiction court, or the coroner, otherwise expressly orders, pay all costs occasioned by his having been so called.
- 6 of 1980. (3) The provisions of this section shall, with the necessary modifications, apply in the case of a document purporting to be a report by a registered medical practitioner on any injuries received by a person which are the subject

of a prosecution in any trial on indictment, in any preliminary inquiry or in any proceeding in a summary jurisdiction court:

Provided that the report purports to have been written on the same day as, or on the day following, that on which the examination was made by the medical practitioner.

(4) The experts mentioned in subsection (1) may be persons either in the service of the Government of this country or that of any government within the British Commonwealth of Nations. 38 of 1963.

37.-(1) Whenever, by virtue of any statute for the time being in force, any certificate of any matter or thing whatever, or any certified copy of any official or public document, or of any document or proceeding of any corporation or joint-stock or other company, or of any by-law or entry in any register or other book, or of any other document whatever, is receivable in proof of any matter or thing in any court or otherwise, it is admissible as evidence if it purports to be authenticated in the manner prescribed by law, without proof of any stamp, seal or signature required for its authentication or of the official character of the person who appears to have signed it. Certified copy of document.

(2) Whenever any book or other document is of so public a nature as to be admissible in evidence on its mere production from the proper custody, and no statute exists which renders its contents provable by means of a copy, any copy thereof or extract therefrom is admissible in proof of its contents, provided the copy or extract purports to be signed and certified as a true copy or extract by the officer to whose custody the original is entrusted.

(3) That officer shall furnish the certified copy or extract to any person applying at a reasonable time for it, on payment of a reasonable sum for it, not exceeding twelve cents for every folio.

38. Any document by any law for the time being in force admissible in evidence of any matter or thing in courts of justice in England, without proof of the stamp, or seal, or signature authenticating it, or of the judicial or official character of the person appearing to have signed it, shall be admissible in evidence to the same extent and also for the same purpose, without that proof, in any court or before any judge in Belize. Admissibility of document admissible in courts in England.

39. Where, by this Act or by any other statute for the time being in force, an Use in first instance of

authenticated copy of document. authenticated or certified copy of any document is admissible in evidence, the original document shall not, unless the judge otherwise expressly orders, be received in evidence.

Certified copies of writings in custody of public officers. 40. Any copy of or extract from any writing, document or record in the custody of any public officer, required by any law or regulation to be written or made and delivered to that officer or to be recorded is, if it purports to be signed and certified as a true copy or extract by the officer to whose custody the original is entrusted, admissible as proof of the contents of the writing, document or record, and as *prima facie* evidence of the matter or transaction therein mentioned.

PART III

Relevancy

Guilty Knowledge

Evidence. 33 of 1980. 6 of 1982. 41.-(1) Whenever any person is being proceeded against for handling stolen goods, knowing or believing them to have been stolen, or for having in his possession stolen property, for the purpose of proving guilty knowledge there may be given in evidence at any stage of the proceedings-

- (a) the fact that other property stolen within the period of twelve months preceding the date of the offence charged was found or had been in his possession;
- (b) the fact that within the five years preceding the date of the offence charged he was convicted of any offence involving fraud or dishonesty.

(2) The fact referred to in subsection (1) (b) may not be proved unless-

- (a) seven days' notice in writing has been given to the offender that proof of such previous conviction is intended to be given;

(b) evidence has been given that the property in respect of which the offender is being tried was found or had been in his possession.

(3) No person shall be liable to be convicted of-

- (a) stealing any will; or
- (b) stealing any document of title to land; or
- (c) conversion of any property; or
- (d) conversion whilst a trustee of any property,

upon any evidence whatever in respect of any act done by him, if at any time previously to his being charged with such offence he has first disclosed such act on oath, in consequence of any compulsory process of any court of law or equity in any action, suit or proceeding which has been *bona fide* instituted by any person aggrieved.

(4) In any proceedings in respect of any of the offences mentioned in subsection (3), a statement or admission made by any person in any compulsory examination or deposition before any court on the hearing of any matter in bankruptcy shall not be admissible in evidence against that person.

(5) In any proceedings for the theft of anything in the course of transmission (whether by post or otherwise) or for handling stolen goods from such a theft, a statutory declaration made by any person that he despatched or received or failed to receive any goods or postal packet, or that any goods or postal packet when despatched or received by him were in a particular state or condition, shall be admissible as evidence of the facts stated in the declaration, subject to the following conditions-

- (a) a statutory declaration shall only be admissible where and to the extent to which oral evidence to the like effect would have been admissible in the proceedings; and
- (b) a statutory declaration shall only be admissible if at least seven days before the hearing or trial a copy of it has been given to the person charged, and he has not, at least three days before

the hearing or trial or within such further time as the court may in special circumstances allow, given the prosecutor written notice requiring the attendance at the hearing or trial of the person making the declaration.

Evidence of former acts, how far admissible.

42.-(1) Upon the trial of any person for any crime or offence, the court may admit evidence of any former acts done by the accused person which, in the opinion of the court, are relevant as showing knowledge of the probable effect of any thing or act, or as proving or disproving good faith or claim of right, or as showing the purpose or intent with which the accused person has formerly done acts similar to the act of which he is accused.

(2) Upon the prosecution of an accused person for receiving stolen property knowing it to have been stolen, evidence that the accused person received at different times different articles from the same thief may be given to prove guilty knowledge.

Evidence to prove identity.

43. In criminal cases, after proof that the offence has been committed, evidence may be given to show that the accused person-

- (a) had or had not a motive for committing the offence; or
- (b) had or had not the means and opportunity of committing the offence; or
- (c) that he made preparations, or threatened, to commit the offence; or
- (d) possessed or did not possess the special knowledge, skill or peculiarity revealed by the offence itself or the mode of committing it.

Opinions

General rule as to inadmissibility of opinion.

44. The fact that any person is of opinion that a fact which may be proved does or does not exist is inadmissible in evidence on the trial of any question as to the existence of that fact except in the cases hereinafter specified.

Opinion of expert on point of science, or art, or foreign law.

45.-(1) Where there is a question as to any point of science or art, the

opinion upon that point of a person specially skilled in the science or art is admissible in evidence.

(2) That person is hereinafter called “an expert”.

(3) The words “science or art” include all subjects on which a course of special study or experience is necessary to the formation of an opinion and, amongst others, the examination of handwriting.

(4) Where there is a question as to a foreign law, the opinion of an expert, who in his profession is acquainted with that law, is the only admissible evidence thereof, though the expert may produce to the court books which he declares to be works of authority upon the foreign law in question, and those books the court, having received all necessary explanations from the expert, may construe for itself.

(5) It is the duty of the judge to decide whether the skill of any person in the matter on which evidence of his opinion is offered is sufficient to entitle him to be considered as an expert.

(6) The opinion of an expert as to the existence of the facts on which his opinion is to be given is inadmissible unless he perceived those facts himself.

46. A fact, not otherwise admissible in evidence, may, with the permission of the judge, be proved if it supports, or is inconsistent with, the opinion of an expert, when that opinion is admissible.

Fact bearing upon opinion of expert.

47.-(1) Where there is a question as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the supposed writer that it was or was not written or signed by him is admissible in evidence.

Opinion as to handwriting.

(2) A person is deemed to be acquainted with the handwriting of another person when he has at any time seen that person write, or when he has received documents purporting to be written by that person in answer to documents written by himself, or under his authority, and addressed to that person, or when, in the ordinary course of business, documents purporting to be written by that person have been habitually submitted to him.

- Comparison of handwriting. 48. Comparison of a disputed writing with any writing proved to the satisfaction of the judge to be genuine shall be permitted to be made by witnesses, and those writings and the evidence of witnesses respecting them may be submitted to the court as evidence of the genuineness or otherwise of the writing in dispute.
- Grounds of opinion. 49. Whenever the opinion of any living person is admissible in evidence, the grounds on which the opinion is based are also admissible.

Character

General rule as to inadmissibility of evidence of character. 50. The fact that a person is of a particular character is inadmissible in evidence on any inquiry respecting his conduct, except in the cases hereinafter mentioned.

Evidence of character in criminal cases. 51.-(1) In criminal causes or matters, the fact that the defendant or the accused person, as the case may be, has a good character may be proved, but the fact that he has a bad character is inadmissible in evidence, unless it is itself a fact in issue, or unless evidence has been given that he has a good character, in which case evidence that he has a bad character is admissible.

(2) Where evidence of his good character is given by any person who-

- (a) being on his trial for any felony not punishable with death, has been previously convicted of felony; or
- (b) being on his trial for any offence involving fraud or dishonesty punishable under the Summary Jurisdiction (Offences) Act, or the Criminal Code, has been previously convicted of any offence punishable on summary conviction or on indictment; or
- (c) being on his trial for any offence in respect of coin punishable under either of the said Acts, has been previously convicted of any offence in respect of coin,

CAP. 98.
CAP. 101.

the complainant or prosecutor, or the Crown, may, in answer to the evidence of good character, give evidence of any of those previous convictions before the magistrate gives his decision, or before the jury return its verdict,

in respect of the offence for which the offender is being tried.

(3) In this section, the word “character” means reputation as distinguished from disposition, and evidence may be given only of general reputation, and not of particular acts by which reputation or disposition is shown.

52. In civil causes or matters, the fact that a person’s general reputation is bad is admissible in evidence in reduction of damages, but evidence of rumours that his reputation was bad, and evidence of particular facts showing that his disposition was bad, are inadmissible.

Character as affecting damages.

PART IV

Production and Effect of Evidence

Competency and Privilege of Witnesses

53. All persons are competent to give evidence in all causes and matters, whether civil or criminal, except as provided in section 54.

General rule as to competency of witnesses.

54.-(1) A witness is incompetent to give evidence if, in the opinion of the judge, he is prevented by extreme youth, disease affecting his mind, or any other cause of the same kind, from recollecting the matter on which he is to testify, from understanding the questions put to him, from giving rational answers to those questions, or from knowing that he ought to speak the truth.

Incompetency of witnesses generally.

(2) A witness unable to speak or hear is not incompetent, but may give his evidence by writing or by signs, or in any other manner in which he can make it intelligible, but the writing must be written and the signs made in open court, and evidence so given is deemed to be oral evidence.

55. On the trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action or other civil proceeding in any court, the parties thereto, and the persons in whose behalf any such suit, action or other civil proceeding may be brought or defended shall, except as hereinafter provided, be competent and compellable to give evidence, either *viva voce* or by deposition or affidavit according to the practice of the court, on behalf of either

Parties to be admissible witnesses.

or any of the parties to the said suit, action or other civil proceeding.

Competency and compellability of husband and wife in civil cases.

56.-(1) In every action, suit or other civil proceeding in any court, the husband and wife of the parties shall, except as provided in subsection (2), be competent and compellable to give evidence, either *viva voce* or by deposition or affidavit according to the practice of the court, on behalf of either or any of the parties to the said action, suit or other proceeding.

(2) Neither the husband nor the wife shall be competent or compellable to give evidence for or against his wife or her husband in any proceeding instituted in consequence of adultery.

(3) On every petition presented by a husband or a wife for divorce on the ground of adultery and also on any other ground for divorce, the husband and wife shall be competent and compellable to give evidence with respect to the other ground for divorce set out in the petition.

(4) The parties to any proceedings instituted in consequence of adultery and the husbands and wives of the parties shall be competent to give evidence in the proceedings, but no witness in any such proceedings, whether a party thereto or not, shall be liable to be asked or be bound to answer any question tending to show that he or she has been guilty of adultery unless he or she has already given evidence in the same proceedings in disproof of the alleged adultery.

Competency and compellability of husband and wife in criminal cases. Second Schedule, Part I, Part II.

57. A husband or a wife shall be a competent and compellable witness to give evidence on behalf of either or any of the parties in any criminal proceedings against a wife or a husband mentioned in Part I of the Second Schedule, and shall be a competent, but not a compellable, witness to give evidence on behalf of either or any of the parties in any of the criminal proceedings against a wife or a husband mentioned in Part II of that Schedule.

Competency of accused person, etc., in criminal cases.

58. Every person charged with an offence, and his wife or her husband, as the case may be, shall be a competent witness for the defence at every stage of the proceedings, whether he or she is charged solely or jointly with any other person:

Provided that-

- (a) a person so charged shall not be called as a witness in pursuance of this Act except upon his own application;
- (b) the failure of any person charged with an offence, or of his wife or her husband, as the case may be, to give evidence shall not be made the subject of any comment by the prosecution;
- (c) the wife or husband of the person charged shall not, save as in this Act mentioned, be called as a witness in pursuance of this Act except upon the application of the person so charged;
- (d) a person charged and being a witness in pursuance of this Act may be asked any question in cross-examination, notwithstanding that it would tend to incriminate him, as to the offence charged;
- (e) a person charged and called as a witness in pursuance of this Act shall not be asked and, if asked, shall not be required to answer, any question tending to show that he has committed, or been convicted of, or been charged with, any offence other than that wherewith he is then charged, or is of bad character, unless-
 - (i) the proof that he has committed or been convicted of that other offence is admissible evidence to show that he is guilty of the offence wherewith he is then charged; or
 - (ii) he has personally or by his attorney asked questions of the witnesses for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or the witnesses for the

prosecution; or

(iii) he has given evidence against any other person charged with the same offence;

(f) every person called as a witness in pursuance of this Act shall, unless otherwise directed by the court, give his evidence from the witness box, or other place from which the other witnesses give their evidence;

CAP. 96. (g) nothing in this Act shall affect section 34 of the Indictable Procedure Act, or any right of the person charged to make a statement without being sworn.

Evidence of person charged. 59. Where the only witness to the facts of the case called by the defence is the person charged, he shall be called as a witness immediately after the close of the evidence for the prosecution.

Privilege as to question involving incrimination. 60.-(1) No one called as a witness shall be compellable to answer any question if the answer thereto would, in the opinion of the judge, have a tendency to expose the witness or, subject to section 54, his wife or her husband, to any criminal charge or to any penalty or forfeiture which the judge regards as reasonably likely to be preferred or sued for.

(2) No one is excused from answering any question only because the answer may establish, or tend to establish, that he owes a debt, or is otherwise liable to any civil proceeding, either at the instance of the Government or of any other person.

Legal professional privilege. 61.-(1) A legal adviser or his client shall not be compelled to disclose any confidential communication, oral or written, which passed between them, directly or indirectly through an agent of either, if such communication was made for the purpose of obtaining or giving legal advice.

(2) The communication must have been made to or by the legal adviser in his professional capacity or by the client while the relationship of client and legal adviser subsisted, whether or not litigation was pending or contem-

plated, to entitle the client to claim privilege from disclosure.

(3) No claim of privilege from disclosure shall be allowed if the communication between a client and his legal adviser was made for the purpose of committing a fraud, crime or other wrongful act.

(4) "Legal adviser" means counsel or attorney-at-law.

62. A clergyman, priest or other minister of religion shall not be compellable to give evidence of any confession made to him in his capacity as such clergyman, priest or other minister of religion. Clergyman, etc.

63. No husband shall be compellable to disclose any communication made to him by his wife during the marriage, and no wife shall be compellable to disclose any communication made to her by her husband during the marriage. Husbands and wives not compellable to disclose communications.

Oral Evidence

64.-(1) Oral evidence may be taken, according to the law relating to civil and criminal procedure for the time being in force- Different modes of taking oral evidence.

- (a) in court, on a preliminary or final hearing; or
- (b) out of court, for future use in the Supreme Court-
 - (i) upon affidavit; or
 - (ii) under a commission; or
 - (iii) before any officer of the court or any other person or persons appointed for that purpose by the court or a judge under rules of court, or under any other statute in that behalf.

(2) Oral evidence taken in court must be taken according to the rules contained in sections 65 to 81 relating to the examination of witnesses.

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1894, c. 60.

(3) Oral evidence taken on any preliminary hearing under Part III of the Indictable Procedure Act, or on any proceeding under section 691 of the Merchant Shipping Act 1894, may be recorded in the form of a deposition, and the deposition may be used as documentary evidence of the matters stated therein in the cases, and on the conditions, specified in section 123 of the Indictable Procedure Act, and in section 691 of the Merchant Shipping Act respectively.

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1894, c. 60

(4) Oral evidence taken upon affidavit must be confined to the facts the witness is able of his own knowledge to prove, except on interlocutory motions, on which statements as to his belief and the grounds thereof may be admitted, and the costs of every affidavit unnecessarily setting forth matters of hearsay or argumentative matter, or copies of or extracts from documents, must be paid by the party filing it.

(5) Oral evidence taken under a commission must be taken in the manner prescribed by the terms of the commission and, in default of that manner being prescribed, according to the rules contained in sections 65 to 81 relating to the examination of witnesses.

(6) Oral evidence taken under subsection (1) (b) (iii) must be taken in the same manner as if it were taken in court, but an examiner has no right to decide on the validity of an objection taken to any particular question, but must record the question, the objection taken to it, and the answer given.

(7) Where a deposition, or an affidavit, or the return to a commission, or evidence taken before an examiner, is used in any court as evidence of the matters stated therein, the party against whom it is read may object to the reading of anything therein contained on any ground on which he might have objected to its being stated by a witness examined in court, but no person shall be entitled to object to the reading of an answer to any question asked by his own representative on the execution of a commission to take evidence.

Examination of Witness

Examination in chief, cross-examination and re-examination.

65.-(1) A witness examined in court may be first examined in chief, then cross-examined, and then re-examined.

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(2) Where any witness has been examined in chief, or has been intentionally sworn, or has made an affirmation, the opposite party is entitled to cross-examine him, but the opposite party is not entitled to cross-examine merely because a witness has been called to produce a document on a *subpoena duces tecum*, or in order to be identified.

(3) After the cross-examination is concluded, the party who called the witness has a right to re-examine him.

(4) The judge may in any case, if he thinks fit, permit a witness to be recalled, either for further examination in chief or for further cross-examination and, if he does so, the parties have the right of further cross-examination and further re-examination respectively.

(5) If a witness dies, or becomes incapable of being further examined, at any stage of his examination, the evidence given by him before he became incapable is good.

(6) If, in the course of any hearing or trial, a witness who was supposed to be competent appears to be incompetent, his evidence may be withdrawn by order of the judge, and the cause or matter may be left for decision independently of it.

(7) The judge may, of his own motion at any stage of the examination of a witness, put any questions to the witness he thinks fit in the interests of justice.

66.-(1) The examination-in-chief and the cross-examination must relate to facts in issue or relevant thereto, or which may be proved, but the cross-examination need not be confined to the facts to which the witness has testified on his examination-in-chief.

Limitations of right of examination-in-chief, cross-examination and re-examination.

(2) The re-examination must be directed to the explanation of matters referred to in the cross-examination and if new matter is by permission of the judge introduced in re-examination, the opposite party may further cross-examine upon that matter.

- Rule as to leading questions. 67. Questions suggesting the answer which the person putting the question wishes or expects to receive, or suggesting disputed facts as to which the witness is to testify, must not, if objected to by the opposite party, be asked in an examination-in-chief or in a re-examination, except with the permission of the judge, but may be asked in cross-examination.
- Cross-examination as to accuracy, impartiality or credit. 68. When a witness is cross-examined, he may, in addition to the questions referred to in section 66, be asked any questions which tend-
- (a) to test his accuracy, veracity, impartiality or credibility; or
 - (b) to shake his credit, by injuring his character,
- but the judge has the right to exercise a discretion in those cases, and to refuse to compel the witness to answer any of those questions when the truth of the matter suggested would not in his opinion affect the accuracy, veracity, impartiality, credibility or credit of the witness in respect of the matter as to which he is required to testify.
- Exclusion of evidence to contradict answer to question testing accuracy, previous conviction or impartiality. 69. When a witness under cross-examination has been asked and has answered any question referred to in section 68, no evidence can be given to contradict him, except in the following cases-
- (a) if a witness is asked whether he has been previously convicted of any felony or misdemeanour, and denies or does not admit it, or refuses to answer, evidence may be given of the previous conviction; and
 - (b) if a witness is asked any question tending to show that he is not impartial and answers it by denying the facts suggested, he may, by permission of the judge, be contradicted by evidence of those facts.
- Power of judge to forbid certain questions. 70.-(1) The judge may forbid any question or inquiry which he regards as indecent or scandalous, although it may have some bearing on the question before the court, unless it relates to facts in issue or to matters necessary to be known in order to determine whether or not the facts in issue existed.

(2) The judge shall forbid any question appearing to him as intended to insult or annoy, or to be needlessly offensive in form, or not relevant to any matter proper to be investigated in the cause or matter.

71.-(1) A witness under cross-examination may be asked whether he has made any former statement relative to the subject-matter of the cause or matter and inconsistent with his present testimony, the circumstances of the supposed statement being referred to sufficiently to designate the particular occasion and, if he does not distinctly admit that he has made that statement, proof may be given that he did in fact make it.

Proof of statement inconsistent with present testimony.

(2) The same course may be taken with a witness upon his examination-in-chief, if the judge is of opinion that he is adverse to the party by whom he was called, or that his memory is in good faith at fault, and permits the question.

72.-(1) A witness under cross-examination, or a witness whom the judge, under section 71 (2), has permitted to be examined by the party who called him as to previous statements, inconsistent with his present testimony, may be questioned as to previous statements made by him in writing, or reduced into writing, relative to the subject-matter of the cause or matter, without the writing being shown to him or being proved in the first instance but, if it is intended to contradict him by the writing, his attention must, before contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of contradicting him.

Cross-examination as to previous statement in writing.

(2) The judge may, at any time during the hearing or trial, require the document to be produced for his inspection, and may thereupon make any use of it for the purposes of the hearing or trial he thinks fit.

73.-(1) The credit of any witness may be impeached by the opposite party by the evidence of persons who swear that they, from their knowledge of the witness, believe him to be unworthy of credit upon oath, but those persons may not, upon their examination-in-chief, give reasons for their belief, although they may be asked their reasons in cross-examination and their answers cannot be contradicted.

Impeaching credit of witness.

(2) It shall not be competent for the party by whom any witness is called to impeach the credit of that witness by any such evidence but, when it is given by the opposite party, the party who called the witness may give evidence in reply to show that the witness is worthy of credit.

Restrictions on
evidence at trials for
rape, etc.
18 of 1998.

74.-(1) Where a man is prosecuted for rape or for an attempt to commit rape, then, except with the leave of the judge, no evidence and no question in cross-examination shall be adduced or asked at the trial, by or on behalf of any defendant at the trial, about any sexual experience of a complainant with a person other than that defendant.

(2) The Judge shall not give leave in pursuance of the preceding subsection for any evidence or question except on an application made to him in the absence of the jury by or on behalf of a defendant; and on such an application the judge shall give leave if and only if he is satisfied that it would be unfair to that defendant to refuse to allow the evidence to be adduced or the question to be asked.

(3) In subsection (1) of this section “complainant” means a woman upon whom, in a charge for rape or attempted rape to which the trial in question relates, it is alleged that rape was committed, attempted or proposed.

(4) Nothing in this section authorises evidence to be adduced or a question to be asked which cannot be adduced or asked apart from this section.

Proof of matters in
reference to de-
claration of de-
ceased person, or
deposition.

75. Where any declaration or statement made by a deceased person which is admissible in evidence, or any deposition, is proved, all matters may be proved in order to contradict it, or in order to impeach or confirm the credit of the person by whom it was made which might have been proved if that person had been called as a witness, and had denied upon cross-examination the truth of the matter suggested.

Refreshing memory
of witness.

76.-(1) A witness may, while under examination, refresh his memory by referring to any writing made by himself at the time of the transaction concerning which he is questioned, or so soon afterwards that the judge considers it likely that the transaction was at that time fresh in his memory.

(2) The witness may also refer to any writing made by any other person, and read by the witness within the time mentioned in subsection (1) if, when he read it, he knew it to be correct.

(3) An expert may refresh his memory by reference to professional treatises.

(4) Any such writing or treatise must be produced and shown to the opposite party, if he requires it, and that party may, if he pleases, cross-examine the witness thereupon.

77.-(1) Where a party calls for a document which he has given the opposite party notice to produce, and the document is produced to and inspected by the party calling for its production, he is bound to give it as evidence if the party producing it requires him to do so and if it is relevant or admissible in evidence.

Giving as evidence document called for and produced on notice.

(2) Where a party refuses to produce a document which he has had notice to produce, he may not afterwards use the document as evidence, without the consent of the opposite party, unless the refusal was, in the opinion of the judge, reasonable at the time.

78.-(1) Any person present in a court or judge’s chambers or at a preliminary inquiry into an indictable offence whether a party to the cause or matter or not, may be called upon and compelled by the court, judge or magistrate to give evidence and produce any document then and there in his actual possession or in his power in the same manner and subject to the same rules as if he had been summoned to attend and give evidence or to produce the document, and may be punished in like manner for any refusal to obey the order of the court.

Compelling person present in Court to give evidence.

(2) If any person being in a court or judge’s chambers or at a preliminary inquiry into an indictable offence, refuses to be sworn or to give evidence or to answer any question which the court directs him to answer, the court, judge or magistrate may from time to time commit him to prison without bail for any term not exceeding one week in respect of any one refusal.

79. Any person, whether a party to the cause or matter or not, may be summoned to produce a document without being summoned to give evidence,

Exemption from personal attendance of person

summoned only to produce document.	and any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes the document to be produced instead of attending personally to produce it.
General power of judge as to calling for evidence.	80. The judge may, of his own motion, call or recall any competent person as a witness and examine the person in any manner he thinks fit, and may call for and compel the production of any document or other evidence, and may impound any document or other things he considers material.
Right of reply.	81. In cases where the right of reply depends upon the question whether evidence has been called for the defence, the fact that the person charged has been called as a witness shall not of itself confer on the prosecution the right of reply.

PART V

Proof of Certain Statements by Documents

Admissibility of documentary evidence as to facts in issue.	82.-(1) In any civil proceedings where direct oral evidence of a fact would be admissible, any statement made by a person in a document and tending to establish that fact shall, on production of the original document, be admissible as evidence of that fact if the following conditions are satisfied- <ul style="list-style-type: none"> (a) if the maker of the statement either- <ul style="list-style-type: none"> (i) had personal knowledge of the matters dealt with by the statement; or (ii) where the document in question is or forms part of a record purporting to be a continuous record, made the statement (in so far as the matters dealt with thereby are not within his personal knowledge) in the performance of a duty to record information supplied to him by a person who had, or might reasonably be supposed to have, personal knowledge of those matters; and
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- (b) if the maker of the statement is called as a witness in the proceedings:

Provided that the condition that the maker of the statement shall be called as a witness need not be satisfied if he is dead, or unfit by reason of his bodily or mental condition to attend as a witness, or if he is outside Belize and it is not reasonably practicable to secure his attendance, or if all reasonable efforts to find him have been made without success.

(2) In any civil proceedings, the court may at any stage of the proceedings, if having regard to all the circumstances of the case, it is satisfied that undue delay or expense would otherwise be caused, order that such a statement as is mentioned in subsection (1) shall be admissible as evidence or may, without any such order having been made, admit such a statement in evidence-

- (a) notwithstanding that the maker of the statement is available but is not called as a witness;
- (b) notwithstanding that the original document is not produced, if *in lieu* thereof, there is produced a copy of the original document or of the material part thereof certified to be a true copy in such manner as may be specified in the order or as the court may approve, as the case may be.

(3) Nothing in this section shall render admissible as evidence any statement made by a person interested at a time when proceedings were pending or anticipated involving a dispute as to any fact which the statement might tend to establish.

(4) For the purposes of this section, a statement in a document shall not be deemed to have been made by a person unless the document or the material part thereof was written, made or produced by him with his own hand, or was signed or initialled by him or otherwise recognised by him in writing as one for the accuracy of which he is responsible.

(5) For the purpose of deciding whether or not a statement is admis-

sible as evidence by virtue of subsections (1) to (4), the court may draw any reasonable inference from the form or contents of the document in which the statement is contained, or from any other circumstances, and may, in deciding whether or not a person is fit to attend as a witness, act on a certificate purporting to be the certificate of a registered medical practitioner, and where the proceedings are with a jury, the court may in its discretion reject the statement notwithstanding that the requirements of this section are satisfied with respect thereto, if for any reason it appears to it to be inexpedient in the interests of justice that the statement should be admitted.

Documents produced by computers.
18 of 1998.

83.-(1) In any civil proceedings, a statement contained in a document produced by a computer is admissible as evidence of any fact stated therein of which direct oral evidence would be admissible, if it is shown-

- (a) that the document containing the statement was produced by the computer during a period over which the computer was used regularly to store and process information for the purposes of any activities regularly carried on over that period, whether for profit or not, by any person;
- (b) that over that period there was regularly supplied to the computer in the ordinary course of those activities information of the kind contained in the statement or of the kind from which the information so contained is derived;
- (c) that throughout the material part of that period the computer was operating properly or, if not, that any respect in which it was not operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of its contents; and
- (d) that the information contained in the statement reproduces or is derived from information supplied to the computer in the ordinary course of those activities.

(2) In any civil proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate:-

- (a) identifying the document containing the statement and describing the manner in which it was produced; and
- (b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer; and
- (c) dealing with any of the matters to which the conditions mentioned in subsection (1) relate, and purporting to be signed by a person occupying a responsible position with relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate),

shall be evidence of any matter stated therein; and for the purpose of this subsection it is sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(3) For the purposes of this section:-

- (a) information is taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment; and
- (b) information is taken to be supplied to a computer where, in the course of activities carried on by any individual or body, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities; and
- (c) a document is taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

84.-(1) For the purposes of this section “business” includes every kind of business, profession, occupation, calling, operation or activity, whether carried on for profit or otherwise.

Admissibility of
certain documents in
criminal proceedings
- Business records.
18 of 1998.

(2) In any criminal proceeding where direct oral evidence of a fact would be admissible, any statement contained in a document and tending to establish that fact shall, on production of the document, be admissible as *prima facie* evidence of that fact if -

- (a) the document is, or forms part of, a record relating to any trade or business and compiled in the course of that trade or business from information supplied (whether directly or indirectly) by persons who have, or may reasonably be supposed to have, personal knowledge of the matters dealt with in the information they supply; and
- (b) the person who supplied the information recorded in the statement in question is dead, or outside Belize, or unfit by reason of his bodily or mental condition to attend as a witness, or cannot with reasonable diligence be identified or found, or cannot reasonably be expected (having regard to the time which has elapsed since he supplied the information and to all the circumstances) to have any recollection of the matters dealt with in the information he supplied.

(3) For the purpose of deciding whether or not a statement is admissible as evidence by virtue of this section, the court may draw any reasonable inference from the form or content of the document in which the statement is contained, and may, in deciding whether or not a person is fit to attend as a witness, act on a certificate purporting to be a certificate of a registered medical practitioner.

Weight to be attached to evidence.
18 of 1998.

85.-(1) In estimating the weight, if any, to be attached to a statement rendered admissible as evidence by virtue of this Part, regard shall be had to all the circumstances from which any inference may reasonably be drawn as to the accuracy or otherwise of the statement and in particular-

- (a) in the case of a statement falling within section 83, to the question whether or not the matter which the information contained in the statement reproduces, or is derived from, was supplied to the relevant computer, or recorded for the purpose of

being supplied thereto, contemporaneously with the concurrence or existence of the facts dealt with therein, and to the question whether or not any person concerned with the supply of information to that computer, or with the operation of that computer or any equipment by means of which the document containing the statement was produced by it, had any incentive to conceal or misrepresent the facts;

- (b) in the case of a statement falling within any other section in this Part (other than section 83), to the question whether or not the statement was made contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not the maker of the statement had any incentive to conceal or misrepresent the facts.

(2) For the purpose of any rule of law or practice requiring evidence to be corroborated or regulating the manner in which uncorroborated evidence is to be treated, a statement rendered admissible as evidence by this Part shall not be treated as corroboration of evidence given by the maker of the statement.

86.-(1) Subject to subsection (2), in any proceedings whether civil or criminal, an instrument to the validity of which attestation is requisite may, instead of being proved by an attesting witness, be proved in the manner in which it might be proved if no attesting witness were alive.

Proof of instrument to validity of which attestation is necessary.

(2) Subsection (1) shall not apply to the proof of wills or other testamentary documents.

87. In any proceedings, whether civil or criminal, there shall, in the case of a document proved, or purporting, to be not less than twenty years old, be made any presumption which immediately before the commencement of this Act would have been made in the case of a document of like character proved, or purporting, to be not less than thirty years old.

Presumptions as to documents twenty years old.

88. Section 95 of the Supreme Court of Judicature Act (which relates to the making of rules of court) authorises the making of rules of court providing for orders being made at any stage of any proceedings directing that specified facts

Explanation of section 95 of the Supreme Court of Judicature Act.

CAP. 91. may be proved at the trial by affidavit with or without the attendance of the deponent for cross-examination, notwithstanding that a party desires his attendance for cross-examination and that he can be produced for that purpose.

Saving as to other provisions relating to evidence.

89. Nothing in this Part shall-

- (a) prejudice the admissibility of any evidence which would apart from the provisions of this Act be admissible; or
- (b) enable documentary evidence to be given as to any declaration relating to a matter of pedigree, if that declaration would not have been admissible as evidence if this Act had not been passed.

PART VI

Miscellaneous Provisions Relating to Evidence

Confessions

Confession of crime.

90.-(1) An admission at any time by a person charged with the commission of any crime or offence which states, or suggests the inference, that he committed the crime or offence may be admitted in evidence against him as to the facts stated or suggested, if such admission was freely and voluntarily made.

(2) Before such admission is received in evidence the prosecution must prove affirmatively to the satisfaction of the judge that it was not induced by any promise of favour or advantage or by use of fear, threat or pressure by or on behalf of a person in authority.

Voluntary confession sufficient to warrant conviction. 18 of 1998.

91.-(1) Subject to the provisions of this section, where the voluntary nature of an accused person's confession or admission of guilt has been established beyond reasonable doubt, such confession or admission shall be sufficient to warrant a conviction without any confirmatory or corroborative evidence.

(2) Without prejudice to the general duty of the court at a trial on

indictment to direct the jury on any matter on which it appears to the court appropriate to do so, where at such a trial-

- (a) the case against the accused depends wholly or substantially on a confession by him; and
- (b) the court is satisfied-
 - (i) that he is mentally handicapped; and
 - (ii) that the confession was not made in the presence of an independent person,

the court shall warn the jury that there is a special need for caution before convicting the accused in reliance on the confession, and shall explain that the need arises because of the circumstances mentioned in paragraphs (a) and (b).

(3) In any case where at the summary trial of a person for an offence it appears to the court that a warning under subsection (2) would be required if the trial were on indictment, the court shall treat the case as one in which there is a special need for caution before convicting the accused on his confession.

(4) In this section -

“independent person” does not include a police officer or a person employed for, or engaged on, police purposes;

“mentally handicapped”, in relation to a person, means that he is in a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning.

Corroboration

92.-(1) No plaintiff in any action for breach of promise of marriage shall obtain judgment, unless his or her testimony is corroborated by some other material evidence in support of that promise.

Cases in which corroborative evidence is required.

(2) No order against any person alleged to be the father of an illegitimate child shall be made by a summary jurisdiction court, unless the evidence of the mother of the illegitimate child is corroborated in some material particular, to the satisfaction of the court.

18 of 1998.

(3) Where at a trial on indictment -

- (a) a person is prosecuted for rape, attempted rape, carnal knowledge or any other sexual offence, and the only evidence for the prosecution is that of the person upon whom the offence is alleged to have been committed or attempted; or
- (b) an alleged accomplice of the accused gives evidence for the prosecution,

the judge shall, where he considers it appropriate to do so, warn the jury of the special need for caution before acting on the evidence of such person and he shall also explain the reasons for the need for such caution.

(4) In any case where at the summary trial of a person for an offence it appears to the court that a warning under subsection (3) would be appropriate if the trial were on indictment, the court shall treat the case as one in which there is a special need for caution before convicting the accused on the evidence of such person.

(5) Nothing in subsections (3) and (4) applies in relation to any trial on indictment, or any proceeding before a magistrate, which began before the commencement of the said subsections.¹

Corroboration
required in case of
perjury.

93. If on any trial for perjury the only evidence against the defendant or the accused person is the oath of one witness contradicting the oath on which perjury is assigned, and if no circumstances are proved which corroborate that witness, the defendant or the accused person, as the case may be, is

1. The said subsections were enacted under the Law Reform (Miscellaneous Provisions) Act and came into force on the 1st day of August, 1998, by virtue of Statutory Instrument 81 of 1998.

entitled to be discharged or acquitted.

94. In any trial for high treason or for misprision of treason, the rules of the law of evidence and the practice in relation to evidence on the trial of those offences respectively for the time being in force in England shall, so far as the same are applicable to the circumstances of Belize, be in force therein.

Evidence in case of treason.

95. A judge of the Supreme Court, with the written consent of the Director of Public Prosecutions, may order that a pardon be granted to any person accused or suspected of, or committed for trial for, any crime on condition of his giving full and true evidence upon any preliminary inquiry or trial, and such order shall have effect as a pardon by the Governor-General, but may be withdrawn by a judge of the Supreme Court upon proof satisfying him that the person has withheld evidence or given false evidence.

Pardon to accomplices.

Complaints

96.-(1) The particulars and details of a complaint made soon after the commission of an alleged offence in the absence of an accused person by the person in respect of whom the crime is alleged to have been committed may be admitted in evidence in prosecutions for rape, indecent assault, other offences against women and boys and offences of indecency between male persons.

Complaints in sexual cases.

(2) Such particulars and details are not to be taken in proof of the facts in issue, but merely as showing the consistency of the conduct of the person complaining and supporting his credibility.

Recent Possession

97. Possession by a person of property recently stolen is, in the absence of a reasonable explanation by that person as to how it came into his possession, some evidence that he either stole it or handled it knowing it to have been stolen according to the circumstances of the case, but if the accused gives an explanation which raises a reasonable doubt as to his guilt, the judge shall direct the jury that it ought not to say that the case has been proved to its satisfaction on that evidence alone.

Presumption from possession of property recently stolen.

Power to Direct Prosecution for Perjury

Power to direct a prosecution for perjury.

98.-(1) Where any of the following authorities namely, a judge of the Supreme Court, magistrate or coroner is of opinion that any person has, in the course of a proceeding before that authority, been guilty of perjury, the authority may order the prosecution of that person for such perjury, where there appears to be reasonable cause for such prosecution and may commit him to prison or admit him to bail, pending such prosecution, and may require any person to enter into a recognisance to prosecute or give evidence against the person whose prosecution is so ordered, and may give the person so bound to prosecute a certificate of the making of the order for the prosecution, for which certificate no charge shall be made.

(2) An order made or certificate given under this section shall not be given in evidence for the purpose or in the course of any trial of a prosecution resulting therefrom.

Sanction of Evidence

Sanction of oral evidence.

99. Except as provided in section 103, all oral evidence shall be given upon oath.

Administration of oath.

100. A judge shall have power by himself or by an officer of the court, if he presides in or is a member of a court, to administer an oath to all witnesses lawfully called before him.

Form of evidence generally.

101.-(1) Subject to the provisions hereinafter contained, an oath is binding which is administered in the form and with the ceremonies which the person sworn declares to be binding on him.

CAP. 130.

(2) In the absence of that declaration, an oath shall be binding when taken in the form prescribed by the Oaths Act or, if no form is thereby prescribed, in the form and with the ceremonies in and with which it was actually administered.

Swearing with uplifted hand.

102. If any person to whom an oath is administered desires to swear with uplifted hand, in the form and manner in which an oath is usually adminis-

tered in Scotland, he shall be permitted to do so, and the oath shall be administered to him in that form and manner without further question.

103.-(1) Where a child or other person is tendered as a witness in a civil or criminal cause and in the opinion of the court that child or other person does not understand the nature of an oath, the evidence of that child or other person may be received without the oath being taken if, in the opinion of the court, the child or other person is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

Evidence of child or person ignorant of nature of oath.

(2) The evidence of that child or other person, although not given on oath but otherwise taken in accordance with the provisions of the law, shall have the same effect as the evidence of a person duly given upon oath, however, no accused person in a criminal cause shall be liable to be convicted of any offence upon the unsworn evidence of a child or such other person unless that evidence is corroborated in some material particular implicating the accused person.

(3) A child or other person whose unsworn evidence is received in accordance with subsections (1) and (2) who wilfully gives false evidence under such circumstances that, if the evidence had been given on oath, he would have been guilty of perjury shall, notwithstanding that the evidence has been given without oath, be guilty of an offence and be liable on summary conviction to a fine not exceeding two hundred and fifty dollars or to imprisonment for a term not exceeding six months.

104.-(1) In any criminal cause or matter in which evidence is given in a language not understood by a defendant or an accused person, the evidence shall be interpreted to him in a language which he understands.

Interpretation of evidence in criminal cause.

(2) If the court thinks any document unnecessary to be fully interpreted, it may direct the substance only thereof to be interpreted or explained.

(3) An interpreter shall be sworn to interpret in accordance with the provisions of the Oaths Act.

CAP. 130.

PART VII

*Evidence in Criminal Proceedings**Supplementary Provisions*

First-hand hearsay.
26 of 1992.
18 of 1998.

105.-(1) Notwithstanding anything to the contrary contained in this Act or any other law, but subject to subsections (4) and (5), a statement made by a person in a document shall be admissible in criminal proceedings (including a preliminary inquiry) as evidence of any fact of which direct or oral evidence by him would be admissible if -

- (a) the requirements of one of the paragraphs of subsection (2) are satisfied; and
- (b) the requirements of subsection (3) are satisfied.

(2) The requirements mentioned in subsection (1) (a) are-

- (a) that the person who made the statement is dead or by reason of his bodily or mental condition unfit to attend as a witness;
- (b) that-
 - (i) the person who made the statement is outside Belize; and
 - (ii) it is not reasonably practicable to secure his attendance; or
- (c) that all reasonable steps have been taken to find the person who made the statement but that he cannot be found.

(3) The requirements mentioned in subsection (1) (b) are that the statement to be tendered in evidence contains a declaration by the maker and signed before a magistrate or a justice of the peace to the effect that it is true to the best of his knowledge and belief and that he made the statement knowing that if it were tendered in evidence he would be liable to prosecu-

tion if he wilfully stated in it anything which he knew to be false or did not believe to be true.

(4) Subsection (1) above does not render admissible an admission or confession made by an accused person that would not be admissible except in accordance with section 90 (2).

(5) Section 85 of this Act shall apply as to the weight to be attached to any statement rendered admissible as evidence by virtue of this section.

106.-(1) Subject to the provisions of this section, any fact of which oral evidence may be given in any criminal proceedings may be admitted for the purpose of those proceedings by or on behalf of the prosecution or the defence, and the admission by any party of any such fact under this section shall as against that party be conclusive evidence in those proceedings of the fact admitted.

Proof by admission in criminal cases.
18 of 1998.

(2) An admission under this section:-

- (a) may be made before, at, or during the proceedings;
- (b) if made otherwise than in court, shall be in writing;
- (c) if made in writing by an individual, shall purport to be signed by the person making it and, if made by a body corporate or an unincorporated entity, shall purport to be signed by a director, manager, secretary, clerk, or other similar officer of the body corporate or unincorporated entity;
- (d) if made on behalf of a defendant who is an individual, shall be made by his attorney-at-law;
- (e) if made at any stage before the proceedings by a defendant who is an individual, shall be approved by his attorney-at-law, either at the time it is made or at any time thereafter before, at, or during the proceedings in question.

(3) An admission under this section for the purpose of proceedings

relating to any matter shall be treated as an admission for the purposes of any subsequent criminal proceedings relating to that matter, including any appeal or retrial.

FIRST SCHEDULE

[Section 31]

Sec. 31 & 32
Vict., c. 37,
Schedule and 8
Edw. 7, c. 48.

Table of Certifying Departments and Officers

Name of department or officer	Name of certifying officer
The Commissioners of the Treasury ...	Any Commissioner, Secretary or Assistant Secretary of the Treasury.
The Commissioners for executing ... the office of Lord High Admiral	Any of the Commissioners for executing the office of Lord High Admiral, or either of the secretaries to the said Commissioners.
Secretaries of State	Any Secretary or Under Secretary of State.
The Committee of Privy Council ... for Trade	Any Member of the Committee of the Privy Council for Trade, or any secretary or assistant secretary of the said Committee.
The Poor Law Board	Any commissioner of the Poor Law Board, or any secretary or assistant secretary of the said Board.
The Postmaster General	Any Secretary or Assistant Secretary of the Post Office.

SECOND SCHEDULE
[Section 57]

Competency and Compellability of Husband and Wife

PART I

No.	Criminal Proceedings
1.	Proceedings, whether on summary conviction or on indictment, for personal injury or violence committed by the husband or wife upon or against the wife or husband.
2.	Any indictment or summary proceedings for the purpose of enforcing a civil right only.
3.	Proceedings, whether on summary conviction or on indictment, for the protection and security of the property of a husband or a wife or the person prosecuted under any provisions relating to married person's property, except that no husband or wife who is a defendant or an accused person shall be compellable to give evidence.

PART II

No.	Criminal Proceedings
1.	Proceedings for neglecting to maintain or for deserting his wife or family, either on summary conviction or on indictment, or for running away and leaving his wife or his or her child or children under section 3 (1) (xv) of the Summary Jurisdiction (Offences) Act.

CAP. 98.

2. Proceedings for-

- (a) rape and other unlawful carnal knowledge of girls and women;
- (b) attempt to commit rape;
- (c) rape by personation of husband;
- CAP. 101. (d) procuration under section 49 of the Criminal Code or any other law;
- CAP. 101. (e) procuring defilement of women by threats or fraud or administration of drugs under section 50 of the Criminal Code or any other law;
- (f) permitting defilement of girl on premises;
- (g) abduction of women and girls for any unlawful purpose;
- (h) detention of female with intent to have carnal knowledge;
- (i) child stealing;
- (j) committing or attempting to commit an unnatural offence;
- (k) indecent assault; and
- (l) aggravated assault on females or a male child, whether on summary conviction or on indictment.

3. Proceedings for incest or bigamy.

4. Proceedings for the following offences committed against a child or young person-

- (a) manslaughter;

- (b) common assault or battery; and
 - (c) all other offences involving ill-treatment and neglect of, or bodily injury to, a child or young person.
5. Proceedings for any crime mentioned in section 111 of the Criminal Code. CAP. 101.
6. Proceedings for the punishment of vagrancy, the suppression of brothels or against persons for keeping disorderly houses under any law.
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