

# EVIDENCE ACT, 1929-1974

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## SCHEDULES

## EVIDENCE ACT, 1929-1974

being

Evidence Act, 1929, No. 1907 of 1929 [Assented to 30th October, 1929];

as amended by

Evidence Act Amendment Act, 1933, No. 2110 of 1933 [Assented to 31st August, 1933];  
 Evidence Act Amendment Act, 1940, No. 40 of 1940 [Assented to 28th November, 1940];  
 Evidence Act Amendment Act, 1941, No. 27 of 1941 [Assented to 13th November, 1941];  
 Evidence Act Amendment Act, 1945, No. 29 of 1945 [Assented to 3rd January, 1946];  
 Evidence Act Amendment Act, 1947, No. 5 of 1947 [Assented to 2nd October, 1947];  
 Evidence Act Amendment Act, 1949, No. 36 of 1949 [Assented to 24th November, 1949];  
 Statute Law Revision Act, 1952, No. 42 of 1952 [Assented to 4th December, 1952];  
 Evidence Act Amendment Act, 1955, No. 26 of 1955 [Assented to 1st December, 1955];  
 Evidence Act Amendment Act, 1957, No. 36 of 1957 [Assented to 14th November, 1957];  
 Evidence Act Amendment Act, 1960, No. 25 of 1960 [Assented to 27th October, 1960];  
 Evidence Act Amendment Act, 1968, No. 46 of 1968 [Assented to 19th December, 1968];  
 Evidence Act Amendment Act, 1969, No. 72 of 1969 [Assented to 11th December, 1969]<sup>1</sup>;  
 Evidence Act Amendment Act, 1972, No. 53 of 1972 [Assented to 27th April, 1972]<sup>2</sup>;  
 Local and District Criminal Courts Act Amendment Act, 1972, No. 54 of 1972 [Assented to 27th April, 1972]<sup>3</sup>;

and

Evidence Act Amendment Act, 1974, No. 71 of 1974 [Assented to 17th October, 1974]<sup>4</sup>.

### An Act to consolidate certain Acts relating to evidence.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

### PART I

### PART I

#### PRELIMINARY

1. This Act may be cited as the "Evidence Act, 1929-1974".

Short title.  
 Citation  
 amended by 71,  
 1974, s. 1 (3).

2. This Act is divided as follows:—

PART I—Preliminary.

PART II—Witnesses.

PART III—Miscellaneous Rules of Evidence.

PART IV—Public Acts and Documents.

PART V—Banker's Books.

PART VI—Telegraphic Messages.

PART VIA—Computer Evidence.

Arrangement of  
 Act—  
 S. 2 amended by  
 53, 1972, s. 3;  
 71, 1974, s. 3.

Inserted by 53,  
 1972, s. 3.

<sup>1</sup> Came into operation 31st August, 1970: *Gaz.* 20th August, 1970, p. 701.

<sup>2</sup> Came into operation 1st February, 1973: *Gaz.* 1st February, 1973, p. 377.

<sup>3</sup> Came into operation 9th November, 1972: *Gaz.* 9th November, 1972, p. 2252.

<sup>4</sup> Came into operation 28th November, 1974: *Gaz.* 28th November, 1974, p. 3372.

## PART I

Inserted by 71,  
1974, s. 3.

PART VIB—Reciprocal Procedures for Obtaining Evidence.

PART VII—General Provisions.

PART VIII—Publication of Evidence.

Consolidation  
and repeal.

3. This Act is a consolidation of certain provisions contained in the Acts mentioned in the first schedule, and the said Acts are hereby repealed to the extent expressed in the said schedule.

Interpretation.

4. In this Act, unless some other intention is expressed, or implied by the context—

“bank” and “banker” mean any person, partnership, or company carrying on the ordinary business of banking, and also any savings bank or banking institution established in South Australia under or pursuant to the statute law of the State or of the Commonwealth:

“banker’s book” includes any ledger, day book, cash book, diary, account book, or other book used in the ordinary business of the bank:

Def. amended  
by 72, 1969,  
s. 3; 54, 1972,  
s. 37 (1) (a).

“court” includes any court, judge, magistrate, or justice, and any arbitrator or person having authority by law or by consent of parties to hear, receive, and examine evidence:

“judge” includes the member or members of any court having authority to admit evidence:

“legal proceeding” or “proceeding” includes any action, trial, inquiry, cause, or matter, whether civil or criminal, in which evidence is or may be given and includes an arbitration:

Def. substituted  
by 53, 1972,  
s. 4 (a).

“electric telegraph” means any system of telecommunication operated by the Postmaster General of the Commonwealth or any other authority approved by proclamation:

“telegraphic message” means any message or other communication transmitted, or intended for transmission, or purporting to have been transmitted, by electric telegraph:

Def. substituted  
by 53, 1972,  
s. 4 (b).

“telegraph station” means a station established or used by the Postmaster General of the Commonwealth or other authority approved by proclamation for the receipt or transmission of telegraphic messages.

Application of  
Act (*prima  
facie*) to all  
courts and  
enabling only.

5. The provisions of this Act, unless an intention to the contrary is expressed, or appears or is implied by the context—

(a) apply to every proceeding before any court whatever; and

(b) are in addition to, and not in derogation of, any rules of evidence, or power, or right, or duty in relation to procedure or evidence, whether existing at common law, or provided for by any law, at any time, in force in the State.

## PART II

## PART II

## WITNESSES

6. Subject to the provisions of this Act, and unless the person to whom an oath is administered requests that the oath be administered in some other manner, an oath, whether in judicial proceedings or otherwise, shall be administered and taken in the following manner, namely:—

Ordinary manner of taking oath. 1056, 1911, s. 3.

The person taking the oath shall, standing up, hold a copy of the Bible (New Testament or Old Testament) in his hand, and, after the oath has been tendered by the officer administering the same, shall utter the words "I swear":

Provided that no oath shall be deemed illegal or invalid by reason of any breach of this section.

7. Notwithstanding anything in this Act or any other Act or law—

Oaths may be taken in other forms. 1056, 1911, s. 4.

- I. An oath, whether in judicial proceedings or otherwise, may be administered and taken in any form and in any manner which would have been lawful if this Act had not been passed:
- II. Every such oath shall be binding for all purposes if it is administered and taken in any form and in any manner which the person taking the same declares to be binding:
- III. Where any such oath has been administered and taken, the fact that the person taking the same had at the time no religious belief shall not for any purpose affect the legality or validity of the oath.

8. (1) A person who objects to being sworn and states as the ground of his objection—

Affirmation in lieu of oath. 1669, 1925, s. 4. Subsec. (1) substituted by 53, 1972, s. 5.

- (a) that he has no religious belief;
  - (b) that the taking of the oath is contrary to his religious belief or his conscience;
- or
- (c) any other ground that the court thinks sufficient,

shall be permitted to make a solemn affirmation instead of an oath in all circumstances in which, and for all purposes for which, an oath is required or permitted by law.

(1a) Where a person requests that an oath be administered to him otherwise than upon the Christian Bible and the book upon which, or the means by which, he requests that the oath be administered is not readily available to the court, he shall be permitted to make a solemn affirmation instead of an oath.

Subsec. (1a) inserted by 53, 1972, s. 5.

(2) Every such affirmation shall be of the same force and effect as if the oath had been taken, and if any person making any such affirmation shall falsely affirm any matter or thing he shall be liable to prosecution, indictment, sentence, and punishment, as if he had taken the oath.

(3) Every such affirmation shall be as follows, or to the effect following:—

"I, A.B., do solemnly and truly declare and affirm" and then proceed with the words of the oath prescribed by law, omitting any words of imprecation or calling to witness.

## PART II

Evidence without formality.  
S. 9 substituted by 53, 1972, s. 6.

9. (1) Where in any proceedings (including proceedings in the nature of a preliminary examination) it appears to a judge that a person does not understand the obligation of an oath, he may permit that person to give evidence without an oath and without formality.

(2) Before the judge receives any such evidence he must explain or cause to be explained to the person by whom the evidence is to be given that he is required to be truthful in anything that he may say before the court.

(3) Where it appears to a judge that a person called as an interpreter does not understand the obligation of an oath, he may, if he is satisfied of the ability of that person duly to interpret the evidence that may be given, and of his impartiality, permit that person to act as an interpreter without the administration of an oath.

(4) A person who in giving evidence under this section wilfully makes any false statement shall be guilty of an offence and liable to be imprisoned for a term not exceeding two years.

(5) A justice to whom it appears that any person who desires to lay a complaint or information does not understand the obligation of an oath may ascertain by inquiry the subject matter thereof and reduce it into the form of a complaint or information and any action or proceedings may be taken upon the complaint or information in all respects as if the complainant or informant had deposed to the truth of the contents thereof upon oath.

Ss. 10, 11 repealed by 53, 1972, s. 6.

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Evidence of child under the age of ten years.  
S. 12 substituted by 53, 1972, s. 7.

12. (1) A child under the age of ten years shall not be required to submit to the obligation of an oath, but may give evidence in any proceedings without an oath and without formality.

(2) Before the judge receives any such evidence, he must explain or cause to be explained to the child that he is required to be truthful in anything that he may say before the court.

Effect of unsworn evidence so given.  
3, 1848, s. 6.  
38, 1876, s. 378.  
S. 13 redesignated s. 13 (1) by 26, 1955, s. 3.  
Subsec. (1) amended by 53, 1972, s. 8.

13. (1) Such weight and credibility shall be given to unsworn evidence under section 9 or section 12 of this Act as ought to be attached thereto as evidence given without the sanction of an oath.

Subsec. (2) inserted by 26, 1955, s. 3.

(2) Where the evidence of a child admitted by virtue of section 12 of this Act is given on behalf of the prosecution, and the accused denies the offence on oath, the accused shall not be convicted of the offence unless the evidence of the child is corroborated in some material particular by evidence implicating him.

S. 14 amended by 46, 1968, s. 2; repealed by 53, 1972, s. 9.

\* \* \* \* \*

Witness not disqualified by interest or crime.  
Cf. U.K. 6 & 7 Vict. c. 85, s. 1 (part). 2, 1852, s. 1.

15. No person shall be excluded from giving evidence on the ground—

(a) that he has or may have an interest in the matter in question or in the event of the proceeding, or

(b) that he has previously been convicted of any crime or offence.

16. In any proceeding not being a criminal proceeding the parties thereto and the persons on whose behalf such proceeding is brought or defended, and the husbands and wives of such parties or persons respectively, shall, subject to the provisions of this Act, be competent and compellable to give evidence on behalf of either or any of the parties to such proceeding.

Parties, their wives and husbands competent and compellable in civil proceedings.  
2, 1852, s. 2.  
3, 1867, s. 57.  
10, 1869-70, s. 1.

\* \* \* \* \*

S. 17 repealed by 26, 1955, s. 4.

18. Every person charged with an offence, and the wife or husband, as the case may be, of the person so charged shall be a competent witness for the defence at every stage of the proceedings, whether the person so charged is charged solely or jointly with any other person: Provided as follows:—

Accused persons (and wife or husband) competent to give evidence upon application of accused.  
1669, 1925, s. 12.

- I. A person so charged shall not be called as a witness in pursuance of this Act except upon his own application:
- II. The failure of any person charged with an offence, or of the wife or husband, as the case may be, of the person so charged, to give evidence shall not be made the subject of any comment by the prosecution:
- III. The wife or husband of the person charged shall not, save as herein mentioned, be called as a witness in pursuance of this Act, except upon the application of the person so charged:
- IV. Nothing herein contained shall make a husband compellable to disclose any communication made to him by his wife during the marriage, or a wife compellable to disclose any communication made to her by her husband during the marriage:
- V. 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 criminate him as to the offence charged:
- VI. 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—
  - (a) the proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of the offence wherewith he is then charged; or
  - (b) he has personally or by his advocate 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
  - (c) he has given evidence against any other person charged with the same offence:
- VII. Every person called as a witness in pursuance of this Act shall, unless otherwise ordered by the court, give his evidence from the witness box or other place from which the other witnesses give their evidence:



VIII. Nothing herein contained shall affect the provisions of section 110 of the Justices Act, 1921<sup>1</sup>, or any right of the person charged to make a statement without being sworn.

Accused if only witness to be called on close of case for prosecution. 1669, 1925, s. 13.

19. 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.

Evidence of accused not to give right of reply to prosecution. 1669, 1925, s. 14.

20. 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.

Wife or husband compellable in certain cases. 1669, 1925, s. 15.  
Subsec. (1) amended by 2110, 1933, s. 2.

21. (1) The wife or husband of a person charged with an offence under any enactment mentioned in the third schedule hereto may be called as a witness either for the prosecution or defence, and without the consent of the person charged and shall only as regards the age or relationship of any child of the husband or wife be compellable.

(2) Nothing herein contained shall affect the operation of any Statute or rule of law in a case where—

- (a) the person charged with an offence is compellable to give evidence by virtue of the provisions of any enactment specially applicable to the case; or
- (b) the wife or husband of a person charged with an offence may, either under any enactment specially applicable to the case, or at common law, be called as a witness without the consent of that person.

Certain questions may be disallowed. 435, 1888, s. 2.

22. In any proceeding in any court, whether civil or criminal, the judge may disallow any questions put in cross-examination of any party or other witness which may appear to him to be vexatious and not relevant to any matter proper to be inquired into in the proceeding.

Rules as to relevancy. 435, 1888, s. 3.

23. In deciding whether a question affecting the credibility of a witness is relevant, or ought to be allowed, the judge shall have regard to the following considerations:—

- I. Such questions are proper if they are of such a nature that the truth of the imputation conveyed by them would seriously affect the opinion of the court as to the credibility of the witness on the matter to which he testifies:
- II. Such questions are improper if the imputation which they convey relates to matters so remote in time, or of such a character, that the truth of the imputation would not affect, or would affect only in a slight degree, the opinion of the court as to the credibility of the witness on the matter to which he testifies:
- III. Such questions are improper if there is a great disproportion between the importance of the imputation made against the witness's character and the importance of his evidence.

<sup>1</sup> Now Justices Act, 1921-1975.

24. (1) If any question put to a witness upon cross-examination relates to a matter not relevant to the proceeding, except in so far as it affects the credit of the witness by injuring his character, it shall be the duty of the court to decide whether or not the witness shall be compelled to answer it, and the court may, if it thinks fit, inform the witness that he is not obliged to answer it.

Disallowance of certain questions in cross-examination. 1669, 1925, s. 17. Cf. W.A. 28, 1906, s. 25 (1).

(2) In exercising this discretion the court shall have regard to the considerations referred to in section 23.

25. The court may forbid any question it regards as—

- (a) indecent or scandalous, although the question may have some bearing on the case before the court, unless the question relates to facts in issue, or to matters necessary to be known in order to determine whether or not the facts in issue existed; or
- (b) intended to insult or annoy, or needlessly offensive in form, notwithstanding that the question may be proper in itself.

Disallowance of scandalous and insulting questions. 1669, 1925, s. 18. Cf. W.A. 28, 1906, s. 26.

26. A witness may, subject to any other provisions of this Act, be questioned as to whether he has been convicted of any felony or misdemeanour, and upon being so questioned, if he either denies or does not admit the fact, or refuses to answer, it shall be lawful for the cross-examining party to prove such conviction.

Proof of previous conviction of witness may be given. 24, 1855-6, s. 19. 13, 1866-7, s. 6.

27. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character; but if the judge is of opinion that the witness is adverse, the party may—

How far a party may discredit his own witness. 24, 1855-6, s. 16. 13, 1866-7, s. 3.

- (a) contradict the witness by other evidence; or
- (b) by leave of the judge, prove that the witness has made, at any other time, a statement inconsistent with his present testimony: Provided that, before giving such last-mentioned proof, the circumstances of the supposed statement sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he has made the statement.

28. If any witness, upon cross-examination as to a former statement made by him, relative to the subject matter of the cause, and inconsistent with his present testimony, does not distinctly admit that he has made the statement, proof may be given that he did in fact make it; but before such proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he has made the statement.

Proof of contradictory statements of adverse witness. 24, 1855-6, s. 17. 13, 1866-7, s. 4.

29. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the cause, without the writing being shown to him; but if it is intended to contradict the witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him: Provided always, that the judge, at any time during the trial, may require the production of the writing for his inspection; and may thereupon make such use of it, for the purposes of the trial, as he thinks fit.

Cross examination as to previous statements in writing. 24, 1855-6, s. 18. 13, 1866-7, s. 5.

## PART III

## PART III

## MISCELLANEOUS RULES OF EVIDENCE

As to  
comparison of  
disputed  
writing.  
24, 1855-6,  
s. 21.  
13, 1866-7, s. 8.

**30.** 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 such writings, and the evidence of witnesses respecting the same, may be submitted to the court as evidence of the genuineness or otherwise of the writing in dispute.

Attesting  
witness need  
not be called in  
certain cases.  
24, 1855-6,  
s. 20.  
13, 1866-7, s. 7.

**31.** It shall not be necessary to prove, by the attesting witness, any instrument to the validity of which attestation is not requisite; and such instrument may be proved by admission or otherwise, as if there had been no attesting witness thereto.

Plaintiff's  
evidence of  
promise to  
marry requires  
corroboration.  
10, 1869-70,  
s. 2.

**32.** No plaintiff in any action for breach of promise of marriage shall recover a verdict unless his or her testimony shall be corroborated by some other material evidence in support of such promise<sup>1</sup>.

Discoveries in  
actions for libel.  
1669, 1925,  
s. 26.

**33.** In any action for damages arising out of the publication of any alleged libel and upon any application for discovery, as to any matter relating to the fact of publication as alleged, the defendant shall not be entitled to object to answer upon the ground of tendency to criminate, but shall be compellable to make discovery, unless it appears that there is a reasonable probability of criminal proceedings being instituted against him: Provided always that such discovery shall not be made use of as evidence or otherwise in any other action or proceedings against the defendant.

Admissions by  
accused  
persons.  
1669, 1925,  
s. 16.

**34.** A person may admit on his trial any fact alleged or sought to be proved against him, and such admission shall be sufficient proof of the fact without other evidence: Provided that the admission shall be made by the accused either personally or by his counsel or solicitor in his presence, or, in the case of a body corporate, by its counsel or solicitor.

Proof of  
commission of  
offence.  
S. 34a enacted  
by 29, 1945,  
s. 3.

**34a.** Where a person has been convicted of an offence, and the commission of that offence is in issue or relevant to any issue in a civil proceeding, the conviction shall be evidence of the commission of that offence admissible against the person convicted or those who claim through or under him but not otherwise: Provided that a conviction other than upon information in the Supreme Court shall not be admissible unless it appears to the court that the admission is in the interests of justice.

Proof of  
adultery.  
S. 34b enacted  
by 29, 1945,  
s. 3.

**34b.** Where in any proceedings in the Supreme Court in its matrimonial causes jurisdiction a person has been found guilty of adultery, the decree or order of the court reciting or based upon that finding shall be admissible in any subsequent proceedings in the Supreme Court in its matrimonial causes jurisdiction as evidence of the adultery as against that person, notwithstanding that the parties to the proceedings in which the finding is tendered are not the same as in the proceedings in which the decree or order was made.

<sup>1</sup> See Act No. 75 of 1971.

**34c.** (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, that is to say—

Admissibility of documentary evidence as to facts in issue.  
S. 34c enacted by 36, 1949, s. 3.

(i) if the maker of the statement either—

- (a) had personal knowledge of the matters dealt with by the statement; or
- (b) 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

(ii) 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 beyond the seas 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) of this section 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 recognized 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 admissible as evidence by virtue of the foregoing provisions, 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 legally qualified 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.

Weight to be attached to evidence.  
S. 34d enacted by 36, 1949, s. 3.

**34d.** (1) In estimating the weight, if any, to be attached to a statement rendered admissible as evidence by this Act, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement, and in particular 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 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 Act shall not be treated as corroboration of evidence given by the maker of the statement.

Proof of instrument to validity of which attestation is necessary.  
S. 34e enacted by 36, 1949, s. 3.

**34e.** Subject as hereinafter provided, 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: Provided that nothing in this section shall apply to the proof of wills or other testamentary documents.

Presumptions as to documents twenty years old.  
S. 34f enacted by 36, 1949, s. 3.

**34f.** 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.

Interpretation and savings.  
S. 34g enacted by 36, 1949, s. 3.

**34g.** (1) In sections 34c to 34f (inclusive) of this Act—

“document” includes books, maps, plans, drawings and photographs:

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

“proceedings” includes arbitrations and references, and “court” shall be construed accordingly.

(2) Nothing in sections 34c to 34f (inclusive) of this Act shall—

(a) prejudice the admissibility of any evidence which would apart from the provisions of those sections 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 those sections had not been enacted.

Evidence of access or non-access.  
S. 34h enacted by 36, 1949, s. 3.

**34h.** In any proceedings a husband or wife may give evidence proving or tending to prove that he or she did or did not have sexual relations with his or her spouse, notwithstanding that any such evidence would prove or tend to prove that any child born to the wife during marriage was illegitimate.

## PART IV

## PART IV

## PUBLIC ACTS AND DOCUMENTS

35. Where by any law at any time in force the Governor or a Minister of the Crown is authorized or empowered to do any act whatsoever, production of the *Government Gazette* purporting to contain a copy or notification of any such act shall be evidence of such act having been duly done.

Proof of act done by Governor or Minister.  
1669, 1925, s. 19.

36. All documents purporting to be copies of the votes and proceedings or journals or minutes of either House of Parliament, or of papers presented to either House of Parliament, if purporting to be printed by the Government Printer, shall on their mere production be admitted as evidence thereof.

Proof of votes and proceedings of Parliament.  
1669, 1925, s. 9.

37. (1) In this section "order-in-Council" means proclamation, commission, order, by-law, rule, or regulation issued or made by the Government or by or under the authority of a Minister.

Proof of orders-in-Council, etc.  
S. 37 substituted by 36, 1957, s. 3.

(2) Evidence of the making and contents of an order-in-Council may be given by production of—

- (a) a document purporting to be a copy of the *Gazette* containing the order-in-Council; or
- (b) a document purporting to be a copy of the order-in-Council and purporting to be printed by the Government Printer or by the authority of the Government of the State; or
- (c) a document purporting to be certified by the Secretary to the Attorney-General as a true copy of the order-in-Council.

(3) The date printed on a copy of the *Gazette* and apparently intended to indicate the date of the publication of the *Gazette* shall be evidence that any order-in-Council contained in such *Gazette* was published on that date.

(4) A statement in any such document as mentioned in paragraph (b) or (c) of subsection (2) of this section as to the date of publication of the order-in-Council set out therein shall be evidence that such order-in-Council was published on that date.

(5) This section shall also apply in relation to any act, matter or thing which is directed by any Act of Parliament to be notified or published in the *Gazette*, in the same way as it applies to orders-in-Council.

37a. The mere production of a paper purporting to be the *Gazette* shall in all courts be evidence that the paper is the *Gazette* and was published on the day on which it bears date.

Proof of *Gazette*.  
S. 37a enacted by 36, 1957, s. 4.

37b. The mere production of a paper purporting to be printed by the Government Printer or by the authority of the Government of the State shall in all courts be evidence that the paper was printed by the Government Printer or by such authority.

Proof of printing by Government Printer.  
S. 37b enacted by 36, 1957, s. 4.

38. (1) Evidence of any proclamation, treaty, or other act of State, of any foreign State, or in any part of His Majesty's Dominions outside the Commonwealth and other than the United Kingdom, may be given by the production of a document, purporting to be a copy thereof and—

Foreign and Colonial Acts of State, judgments, etc., provable by copies.  
2, 1852, s. 5.  
1669, 1925, s. 3.

- (a) proved to be an examined copy thereof; or
- (b) purporting to be sealed with the seal of the foreign State or of the said part of His Majesty's Dominions.

(2) Evidence of any judgment, decree, order or other judicial proceeding of any court of justice in the United Kingdom or in any foreign State or part of His Majesty's Dominions outside the Commonwealth and other than the United Kingdom (including any affidavit, pleading, or other legal document filed or deposited in the court) may be given by the production of a document purporting to be a copy thereof; and

- (a) proved to be an examined copy thereof; or
- (b) purporting to be sealed with the seal of such court; or
- (c) purporting to be signed by a judge of such court with a statement in writing attached by him to his signature that such court has no seal, and without proof of his judicial character, or of the truth of such statement.

(3) If any such document as aforesaid purports to be sealed or signed as aforesaid it shall be admissible without proof of the seal or of the signature as the case may be.

Public documents provable by examined or certified copy. 2, 1852, s. 8.

39. (1) Whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from the proper custody, and no Act exists which renders its contents provable by means of a copy, any copy thereof or extract therefrom shall be admissible in evidence,

- (a) if it is proved to be an examined copy or extract; or
- (b) it purports to be signed and certified as a true copy or extract by the officer to whose custody the original is entrusted.

(2) Every such officer is hereby required to furnish such certified copy or extract to any person applying for the same at a reasonable time, upon payment of a reasonable sum for the same, not exceeding five cents<sup>1</sup> for every folio of ninety words.

Proof of documents by examined or certified copies. 2, 1852, s. 9. 1669, 1925, s. 3.

40. Whenever any book, or other document, in the United Kingdom, or in any part of His Majesty's Dominions outside the Commonwealth and other than the United Kingdom, is provable (according to the law of England, or of the said part of His Majesty's Dominions) by means of a copy, any copy thereof or extract therefrom shall be admissible in evidence if it—

- (a) is proved to be an examined copy or extract; or
- (b) purports to be signed and certified as a true copy or extract by some officer who shall further certify that he is the officer to whose custody the original is entrusted.

Certifying a false document a misdemeanour. 2, 1852, s. 10.

41. If any officer authorized or required by this Act to furnish any certified copy or extract shall wilfully certify any document as being a true copy or extract, knowing that the same is not a true copy or extract, as the case may be, he shall be guilty of a misdemeanour, and be liable, on conviction, to imprisonment with hard labour for any term not less than eighteen months or more than three years.

Proof of conviction or acquittal of an indictable offence. 2, 1852, s. 7. 38, 1876, s. 380. 791, 1902, s. 3.

42. (1) The information, trial, and conviction, or acquittal of any person for an indictable offence may be proved by a certificate purporting to be under the hand of the Chief Clerk of the Supreme Court or the associate or other officer having the custody of the records of the court where such conviction, or acquittal took place, or of the deputy of such associate or other officer.

<sup>1</sup> Pursuant to s. 8 of the Acts Reproduction Act, 1967, as amended, references to amounts of money expressed in decimal currency have been substituted for references to amounts of money expressed in the old currency.

(2) The certificate may set forth the substance and effect of the record omitting the formal parts thereof.

(3) A conviction for any offence committed in any other State or any Territory of the Commonwealth may be proved by a like certificate.

Subsec. (3) amended by 40, 1940, s. 3 (a), (b).

(4) No proof shall be required of the handwriting or official position of any person certifying in pursuance of this section.

(5) The mode of proof authorized by this section shall be in addition to and not to the exclusion of any other authorized mode of proof.

43. (1) Any conviction, order of dismissal or other order made by a court of summary jurisdiction may be proved in any court whatever by the production of a copy of such conviction, order of dismissal or other order, purporting to be certified by the clerk of the court by which such conviction, order of dismissal or other order was made, or by the deputy of such clerk.

Proof of convictions and orders of courts of summary jurisdiction. 1669, 1925, s. 8.

(2) No proof shall be required of the signature or official character of the person appearing to have signed any such copy as aforesaid.

(3) This section shall apply to any conviction, order of dismissal or other order made before or after the commencement of this Act.

(4) In this section the expression "court of summary jurisdiction" shall mean any court, by whatever name called, which in any State or Territory of the Commonwealth has jurisdiction to try offences summarily.

Subsec. (4) inserted by 40, 1940, s. 4.

43a. For the purpose of proving the identity of any person alleged to have been convicted in any other State, or any Territory of the Commonwealth, an affidavit substantially in the form of the Fourth Schedule shall be admissible in evidence in all courts and shall be *prima facie* evidence that the person whose finger-prints are exhibited thereto—

Proof of identity of person convicted in another State. S. 43a enacted by 40, 1940, s. 5.

(a) is the person who in any document exhibited to the said affidavit and purporting to be a certificate of conviction or a certified copy of conviction, is referred to as having been convicted:

(b) has been convicted of the offences mentioned in the said affidavit.

44. (1) Every register of vessels kept under any of the Acts of the Imperial Parliament relating to the registry of British vessels, may be proved either by the production of the original or by an examined copy thereof, or by a copy thereof purporting to be certified under the hand of the person having the charge of the original.

Registers of British vessels and certificates of registry admissible as *prima facie* evidence of their contents. 2, 1852, s. 6.

(2) Every such register, or such copy of a register, and also every certificate of registry granted under any of the said Acts relating to the registry of British vessels, and purporting to be signed as required by law, shall be received in evidence as *prima facie* proof of all the matters contained or recited in such register when the register or such copy thereof as aforesaid is produced, and of all matters contained or recited in or endorsed on such certificate of registry when the said certificate is produced.

45. (1) An apparently genuine document purporting to be a document of a prescribed nature and to relate to the transportation or shipment of any person or goods, from one place to another—

Documents relating to transportation of persons or goods. S. 45 substituted by 53, 1972, s. 10.

(a) shall be admissible in evidence on production without further proof; and

(b) shall be evidence of any fact stated, or referred to, in the document, or to be inferred from the document, and where the document



relates to the shipment of goods, shall be evidence that the ownership of goods referred to in the document is in the consignee named in the document or his assignee.

(2) Evidence of the description of any package or property, or of any inscription or mark upon any package or property shall be admissible (without production of the original inscription or mark) for the purpose of raising an inference as to the identity of the package or property with that referred to in a document admissible in evidence under this section.

(3) For the purpose of determining the evidentiary weight, if any, of a document admitted in evidence under this section, consideration shall be given to the source from which the document is produced, the safeguards (if any) that have been taken to ensure its accuracy and any other relevant matters.

(4) In this section—

“document of a prescribed nature” means—

(a) bill of lading, manifest, shipping receipt, consignment note, way-bill, delivery sheet, register or order, invoice, ticket, passenger list or register, and any document of a like nature;

or

(b) any reproduction of any such document by photographic, photostatic, lithographic or other like process:

“shipment” means carriage by any means by air, land or water.

Admission of  
business  
records in  
evidence.  
S. 45a enacted  
by 53, 1972,  
s. 10.

**45a.** (1) An apparently genuine document purporting to be a business record—

(a) shall be admissible in evidence without further proof;

and

(b) shall be evidence of any fact stated in the record, or any fact that may be inferred from the record (whether the inference arises wholly from the matter contained in the record, or from that matter in conjunction with other evidence).

(2) A document shall not be admitted in evidence under this section if the court is of the opinion—

(a) that the person by, or at whose direction, the document was prepared can and should be called by the party tendering the document to give evidence of the matters contained in the document;

(b) that the evidentiary weight of the document is slight and is outweighed by the prejudice that might result to any of the parties from the admission of the document in evidence;

or

(c) that it would be otherwise contrary to the interests of justice to admit the document in evidence.

(3) For the purpose of determining the evidentiary weight, if any, of a document admitted in evidence under this section, consideration shall be given to the source from which the document is produced, the safeguards (if any) that have been taken to ensure its accuracy, and any other relevant matters.

(4) In this section—

“business” means business, occupation, trade or calling and includes the business of any governmental or local governmental body or instrumentality;

“business record” means—

(a) any book of account or other document prepared or used in the ordinary course of a business for the purpose of recording any matter relating to the business;

or

(b) any reproduction of any such record by photographic, photostatic, lithographic or other like process.

**45b.** (1) An apparently genuine document purporting to contain a statement of fact, or written, graphical or pictorial matter in which a statement of fact is implicit, or from which a statement of fact may be inferred shall, subject to this section, be admissible in evidence.

Admission of certain documents in evidence.  
S. 45b enacted by 53, 1972, s. 10.

(2) A document shall not be admitted in evidence under this section where the court is not satisfied that the person by whom, or at whose direction, the document was prepared could, at the time of the preparation of the document, have deposed of his own knowledge to the statement that is contained or implicit in, or may be inferred from, the contents of the document.

(3) A document shall not be admitted in evidence under this section if the court is of the opinion—

(a) that the person by, or at whose direction, the document was prepared can and should be called by the party tendering the document to give evidence of the matters contained in the document;

(b) that the evidentiary weight of the document is slight and is outweighed by the prejudice that might result to any of the parties from the admission of the document in evidence;

or

(c) that it would be otherwise contrary to the interests of justice to admit the document in evidence.

(4) In determining whether to admit a document in evidence under this section, the Court may receive evidence by affidavit of any matter pertaining to the admission of that document in evidence.

(5) For the purpose of determining the evidentiary weight, if any, of a document admitted in evidence under this section, consideration shall be given to the source from which the document was produced, the safeguards (if any) that have been taken to ensure its accuracy, and any other relevant matters.

(6) In this section—

“document” means—

(a) any original document;

or

(b) any reproduction of an original document by photographic, photostatic or lithographic or other like process.

## PART V

## PART V

## BANKER'S BOOKS

Copy of entry  
in banker's  
book, *prima*  
*facie* evidence.  
162, 1879, s. 2.

**46.** Subject to the provisions of this Part of this Act, a copy of an entry in a banker's book shall in all legal proceedings be received as *prima facie* evidence of such entry, and of the matters, transactions and accounts therein recorded.

Proof that entry  
is in a  
"banker's  
book".  
162, 1879, s. 3.

**47.** (1) The copy of an entry in a banker's book shall not be received in evidence under this Part unless it is first proved—

- (a) that the book was, at the time of the making of the entry, one of the ordinary books of the bank; and
- (b) that the entry was made in the usual and ordinary course of business; and
- (c) that the book is in the custody or control of the bank.

(2) Such proof may be given by any partner or officer of the bank, and may be given orally or by an affidavit.

Copy of entry  
to be examined.  
162, 1879, s. 4.

**48.** (1) The copy of an entry shall not be received in evidence under this Part unless it is further proved that the copy has been examined with the original entry and is correct.

(2) Such proof may be given by any person who has examined the copy with the original entry, and may be given either orally or by an affidavit.

Proof that a  
person has no  
banking  
account.  
S. 48a enacted  
by 40, 1940,  
s. 6.

**48a.** An affidavit made by a partner or officer of a bank stating that any person named in the affidavit has no account at the bank or, as the case may be, at any branch thereof named in the affidavit, shall in all legal proceedings be *prima facie* evidence of the fact so stated.

Application of  
preceding  
sections.  
S. 48b enacted  
by 40, 1940,  
s. 6.

**48b.** Sections 46, 47, 48 and 48a of this Act shall apply to bankers' books and banks and branches of banks in any State or Territory of the Commonwealth.

Power under  
order of judge  
to inspect books  
and take copies.  
162, 1879, ss. 6,  
9.

**49.** (1) On the application of any party to a legal proceeding a judge may order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceedings.

(2) An order under this section may be made either with or without summoning the bank or any other party, and shall be served on the bank three clear days before the same is to be obeyed, unless the judge otherwise directs. Any Sunday or public holiday shall be excluded from the computation of time under this section.

Banker not  
compellable to  
produce his  
books unless  
under order.  
162, 1879, s. 5.

**50.** A banker or officer of a bank shall not in any legal proceeding to which the bank is not a party be compellable—

- (a) to produce any banker's book, the contents of which can be proved under this Act; or
  - (b) to appear as a witness to prove the matters, transactions, and accounts recorded in a banker's book,
- unless by order of a judge made for special cause.

## 51. The costs of—

Costs in  
discretion of  
court.  
162, 1879, s. 7.

- (a) any application to a judge, under or for the purposes of this Part of this Act; or
- (b) anything done or to be done under an order of a judge made under or for the purposes of this Part of this Act,

shall be in the discretion of the judge, who may order the same or any part thereof to be paid to any party by the bank, where the same have been occasioned by any default or delay on the part of the bank.

(2) Any such order against a bank may be enforced as if the bank were a party to the proceedings in aid of which the application is made.

## 52. In this Part of this Act "judge" means—

Meaning of  
"judge" in this  
Part.  
1669, 1925,  
s. 7 (b).

- (a) Judge of the Supreme Court; and
- (b) any person who is authorized by law to exercise in relation to the proceeding in question the powers of a Judge of the Supreme Court with respect to the trial of any cause or matter or issue of fact; and
- (c) the Judge in Insolvency in relation to any cause or matter pending in the Court of Insolvency; and
- (d) any Local Court Judge, District Criminal Court Judge, or special magistrate in relation to any proceedings pending before a local court or before justices.

Para. (d)  
amended by 54,  
1972, s. 37 (1)  
(b).

\* \* \* \* \*

Para. (e)  
inserted by 72,  
1969, s. 4;  
struck out by 54,  
1972, s. 37 (1)  
(c).

## PART VI

## PART VI

## TELEGRAPHIC MESSAGES

53. (1) Any party to any legal proceedings may at any time after the commencement thereof give notice to any other party that he proposes to adduce in evidence at the trial or hearing any telegraphic message that has been sent by electric telegraph from any station in the Commonwealth to any other station within the Commonwealth: Provided that the time between the giving of such notice and the day on which such evidence shall be tendered shall not in any case be less than two days.

Party may give  
notice of  
intention to  
adduce  
telegraphic  
message in  
evidence.  
3, 1873, s. 1.  
1669, 1925, s. 5.  
Subsec. (1)  
amended by 53,  
1972, s. 11.

(2) Every such notice shall specify the names of the sender and receiver of the message, the subject matter thereof, and the date as nearly as may be.

54. When such a notice has been given the production of any telegraphic message described in the notice, and purporting to have been sent by any person, together with evidence that the same was duly received from a telegraph station, shall be *prima facie* evidence that such message was signed and sent by the person so purporting to be the sender thereof to the person to whom the same shall be addressed without any further proof of the identity of the sender; but the party against whom any such message shall be given in evidence shall be at liberty, nevertheless, to prove that the same was not in fact sent by the person by whom it purports to have been sent.

And thereupon  
may produce  
message  
received with  
evidence that  
same received  
from telegraph  
station.  
3, 1873, s. 2.  
1669, 1925, s. 5.

After notice, sending a message may be proved by production of copy message and evidence of payment of fees for transmission.  
3, 1873, s. 3.  
1669, 1925, s. 5.  
S. 55 amended by 53, 1972, s. 12.

55. In any legal proceedings, the production of any telegraphic message, or of a machine copy or press copy thereof, or a copy thereof verified on oath together with evidence that such message was duly taken to a telegraph station, and that the fees (if any) for the transmission thereof were duly paid, shall be *prima facie* evidence that such message was duly delivered to the person named therein as the person to whom the same was to be transmitted; and the burden of proving that such message was not in fact received, shall be upon the person against whom such message shall be given in evidence: Provided that the party adducing the same in evidence shall give notice to the other party of his intention so to do in such manner and at such time as the practice of the court requires with respect to a notice to produce documents at the trial or hearing.

Certain documents may be transmitted by electric telegraph under restriction.  
3, 1873, s. 4.  
Subsec. (1) amended by 72, 1969, s. 5; 54, 1972, s. 37 (1) (d).

56. (1) The Governor, any Minister of the Crown, the President of the Legislative Council, the Speaker of the House of Assembly, a Judge of the Supreme Court, a Local Court Judge, or District Criminal Court Judge, the Judge in Insolvency, any special magistrate, and any principal officer of Government, or solicitor, may cause to be transmitted by electric telegraph the contents of any writ, warrant, rule, order, authority, or other communication requiring signature or seal subject to the provisions following, that is to say—

- I. The original document shall be delivered at the telegraph station in the presence and under the inspection of some justice of the peace or notary public:
- II. The person to whom the contents of any such document shall be so sent shall, forthwith and in the presence and under the supervision of a justice of the peace or notary public, cause to be sent back by electric telegraph, a copy of the message received by him; and in the event of any error appearing therein, the process shall be repeated under the like supervision, until it appears that a true copy of such document has been received by the person to whom it has been sent:
- III. When it appears that such true copy has been so received, such first-mentioned justice, or notary public, shall endorse upon the original document a certificate that a true copy thereof has been sent, under the provisions of this Act, to the person to whom the same has been so sent; and shall forthwith, by electric telegraph, inform such person that such certificate has been so endorsed:
- IV. The person so receiving such true copy shall, upon receiving information of such certificate, endorse upon the copy of the original document received by him a certificate that the same has been duly received, under the provisions of this Act, which certificate shall be signed by him and by the justice or notary public so supervising the receipt of such copy as hereinbefore provided.

3, 1873, s. 11 (part).  
Subsec. (2) amended by 53, 1972, s. 13 (a), (b).

(2) In this section “any principal officer of Government” includes the Auditor-General, the Under Secretary, the Under Treasurer, the Solicitor-General, the Crown Solicitor, and the secretary to any department presided over by a Minister of the Crown, the Clerk of the Legislative Council, the Clerk of the House of Assembly, the Surveyor-General, the Registrar-General, the Sheriff, the Master of the Supreme Court, the Commissioner of Police, inspectors of police, the Returning Officer for the State<sup>1</sup>; and for the purposes

<sup>1</sup> By s. 6f of the Electoral Act, 1929-1973, it was provided, *inter alia*, that where in any other Act a reference is made to the Returning Officer for the State that reference shall on and after the commencement of the Electoral Act Amendment Act (No. 2), 1973, be read as a reference to the Electoral Commissioner.

of returns to writs of election, but not otherwise, also includes any returning officer or deputy returning officer of an electoral district.

57. (1) Every copy so endorsed and certified as aforesaid shall be as valid to all intents and purposes as the original, whereof it purports to be a copy, would have been, and shall be admissible in evidence in any case in which the original would have been so admissible; and any person by whom such copy has been received, or who is thereby authorized, instructed, or commanded, or who is lawfully charged with any duty in respect thereof, shall have and become liable to the same rights and duties in respect thereof as if he had received the original document duly signed and sealed, or signed or sealed, as the case may be.

Copies so transmitted to be as valid and effectual as originals.  
3, 1873, s. 5.

(2) In the case of any document intended to be served, or the efficacy or use whereof depends upon service, every such copy shall for the purpose of such service be deemed to be the original document whereof it purports to be a copy.

58. Any justice or notary public who wilfully and falsely endorses upon any original document, delivered at a telegraph station for the purpose of being transmitted under the provisions of this Act, a certificate that a true copy thereof has been sent under this Act, or who by telegraph wilfully and falsely informs any person to whom such has been so sent that a certificate under the provisions of this Act has been endorsed thereon, shall forfeit a sum not exceeding two hundred dollars<sup>1</sup>, which may be sued for and recovered by the first person who shall, for his own benefit and without collusion, sue for the same.

Penalty for false certificate of sending message.  
3, 1873, s. 9.

59. Any person by this Part of this Act required to sign a certificate upon any copy of a document that such copy has been duly received under the provisions of this Act, who shall wilfully sign such certificate, knowing the same to be false, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years.

Signing false certificate upon copy to be a felony.  
3, 1873, s. 10.

## PART VIA

### COMPUTER EVIDENCE

## PART VIA

Part VIA and Heading enacted by 53, 1972, s. 14.

59a. In this Part, unless the contrary intention appears—

Interpretation.  
S. 59a enacted by 53, 1972, s. 14.

“computer” means a device that is by electronic, electro-mechanical, mechanical or other means capable of recording and processing data according to mathematical and logical rules and of reproducing that data or mathematical or logical consequences thereof:

“computer output” or “output” means a statement or representation (whether in written, pictorial, graphical or other form) purporting to be a statement or representation of fact—

(a) produced by a computer;

or

(b) accurately translated from a statement or representation so produced:

<sup>1</sup> Pursuant to s. 8 of the Acts Reproduction Act, 1967, as amended, references to amounts of money expressed in decimal currency have been substituted for references to amounts of money expressed in the old currency.

“data” means a statement or representation of fact that has been transcribed by methods, the accuracy of which is verifiable, into the form appropriate to the computer into which it is, or is to be, introduced.

Admissibility of  
computer  
output.  
S. 59b enacted  
by 53, 1972,  
s. 14.

**59b.** (1) Subject to this section, computer output shall be admissible as evidence in any civil proceedings.

(2) The court must be satisfied—

- (a) that the computer is correctly programmed and regularly used to produce output of the same kind as that tendered in evidence pursuant to this section;
- (b) that the data from which the output is produced by the computer is systematically prepared upon the basis of information that would normally be acceptable in a court of law as evidence of the statements or representations contained in or constituted by the output;
- (c) that, in the case of the output tendered in evidence, there is, upon the evidence before the court, no reasonable cause to suspect any departure from the system, or any error in the preparation of the data;
- (d) that the computer has not, during a period extending from the time of the introduction of the data to that of the production of the output, been subject to a malfunction that might reasonably be expected to affect the accuracy of the output;
- (e) that during that period there have been no alterations to the mechanism or processes of the computer that might reasonably be expected adversely to affect the accuracy of the output;
- (f) that records have been kept by a responsible person in charge of the computer of alterations to the mechanism and processes of the computer during that period;

and

- (g) that there is no reasonable cause to believe that the accuracy or validity of the output has been adversely affected by the use of any improper process or procedure or by inadequate safeguards in the use of the computer.

(3) Where two or more computers have been involved, in combination or succession, in the recording of data and the production of output derived therefrom and tendered in evidence under this section, the court must be satisfied that the requirements of subsection (2) of this section have been satisfied in relation to each computer so far as those requirements are relevant in relation to that computer to the accuracy or validity of the output, and that the use of more than one computer has not introduced any factor that might reasonably be expected adversely to affect the accuracy or validity of the output.

(4) A certificate under the hand of a person having prescribed qualifications in computer system analysis and operation or a person responsible for the management or operation of the computer system as to all or any of the matters referred to in subsection (2) or (3) of this section shall, subject to subsection (6) of this section, be accepted in any legal proceedings, in the absence of contrary evidence, as proof of the matters certified.

(5) An apparently genuine document purporting to be a record kept in accordance with subsection (2) of this section, or purporting to be a certificate under subsection (4) of this section shall, in any legal proceedings, be accepted as such in the absence of contrary evidence.

(6) The court may, if it thinks fit, require that oral evidence be given of any matters comprised in a certificate under this section, or that a person by whom such a certificate has been given attend for examination or cross-examination upon any of the matters comprised in the certificate.

**59c.** The Governor may make such regulations as he deems necessary or expedient for the purposes of this Part, and without limiting the generality of the foregoing those regulations may—

Regulations.  
S. 59c enacted  
by 53, 1972,  
s. 14.

(a) make any provision for the purposes of this Part with respect to the preparation, auditing or verification of data, or the methods by which it is prepared;

and

(b) prescribe the qualifications of a person by whom a certificate may be given, or a translation made, under this Part.

## PART VIB

### RECIPROCAL PROCEDURES FOR OBTAINING EVIDENCE

## PART VIB

Part VIB and  
Heading enacted  
by 71, 1974,  
s. 4.

**59d.** (1) In this Part, unless the contrary intention appears—

Interpretation.  
S. 59d enacted  
by 71, 1974,  
s. 4.

“authorized South Australian court” means any court, or person acting judicially in this State, declared by instrument under the hand of the Attorney-General, and published in the *Gazette*, to be a court entitled to exercise the powers conferred by this Part:

“corresponding court” in relation to an authorized South Australian Court means a court or person acting judicially in a prescribed country or State that is declared by instrument in writing under the hand of the Attorney-General, and published in the *Gazette*, to be a court in a prescribed country or State that corresponds to the authorized South Australian court:

“prescribed country or State” means—

(a) any State or Territory of the Commonwealth;

(b) New Zealand;

and

(c) any other country, State or Territory that is declared by instrument under the hand of the Attorney-General, and published in the *Gazette*, to be a country, State or Territory to which this Part applies.

(2) Subject to subsection (3) of this section, this Part applies in respect of both civil and criminal proceedings.

(3) No deposition or document shall be tendered, in pursuance of this Part, in proceedings that are being tried in this State before a jury unless all parties to the proceedings agree.



## PART VI B

Power of authorized South Australian court to request corresponding court to take evidence for use in this State.  
S. 59e enacted by 71, 1974, s. 4.

**59e.** (1) Where, in the opinion of an authorized South Australian court, it is necessary or expedient that evidence be taken in a prescribed country or State relating to proceedings before the authorized South Australian court, the court may, on the application of the person who desires to introduce the evidence, request the corresponding court in that prescribed country or State to examine, or order the examination of, a witness or to order the production of documents by any person.

(2) Subject to any just exception—

(a) any depositions received from a corresponding court may be put in as evidence at the hearing of the proceedings to which they relate;

and

(b) any documents received from a corresponding court may be put in at the hearing of the proceedings to which they relate as if produced at the hearing by the person who produced them pursuant to the order of the corresponding court.

(3) An authorized South Australian court shall be entitled to presume that any documents purporting to be depositions received from a corresponding court, or any documents purporting to have been produced in pursuance of an order of a corresponding court, are in fact depositions taken before that court or in pursuance of an order of that court, or documents produced in pursuance of an order of that court, as the case may require.

Power to take evidence on request from corresponding court.  
S. 59f enacted by 71, 1974, s. 4.

**59f.** (1) Where a corresponding court requests an authorized South Australian court to take evidence in this State for the purpose of proceedings before that corresponding court the South Australian court may summon any person to appear before it for the purpose of giving evidence or for the purpose of producing documents.

(2) A witness summoned to appear before an authorized South Australian court under this section may be examined, cross-examined or re-examined before that court.

(3) Subject to this Part, the South Australian court in taking evidence under this section shall have the same powers as if the proceedings originated in that court.

(4) If, while any person is being examined before an authorized South Australian court, objection is taken to any question, or to answering any question, the ground of the objection and the answer (if any) to the question shall be set out in the deposition of that person.

(5) Subject to subsection (6) of this section, the validity of the ground of any such objection shall not be determined by the authorized South Australian court but by the corresponding court at whose request the examination is being conducted.

(6) The authorized South Australian court may permit a witness to decline to answer a question where in the opinion of the court the answer to that question might incriminate him or where it would in the opinion of the court be unfair to the witness, or to any other person, that the answer should be given and recorded.

**59g.** Where pursuant to this Part—

- (a) a witness has given evidence before an authorized South Australian court, his deposition shall be signed by him and by the person presiding over the court;

or

- (b) a document has been produced before an authorized South Australian court, the person presiding over the court shall attach to that document a certificate signed by him stating the name of the person by whom the document was produced.

Depositions to be signed.  
S. 59g enacted by 71, 1974, s. 4.

**59h.** Where an authorized South Australian court receives a request from a corresponding court for the examination of a witness, or the production of documents, and it appears to the court that the witness or person by whom the evidence is to be given, or the documents produced, is not in South Australia and is not proceeding to South Australia, but is in, or proceeding to, any other prescribed country or State, the South Australian court—

Power of South Australian court to transmit request to other places.  
S. 59h enacted by 71, 1974, s. 4.

- (a) may transmit the request to a corresponding court in that other prescribed country or State together with such information as it possesses concerning the whereabouts of that person;

and

- (b) shall give notice to the corresponding court from which it received the request of the fact that the request has been so transmitted.

**59i.** (1) Nothing in this Part limits the power of a court to require a witness to attend in person before the court.

Saving provision.  
S. 59i enacted by 71, 1974, s. 4.

(2) The provisions of this Part are supplementary to, and do not derogate from, the provisions of any other Act or law.

## PART VII

## PART VII

## GENERAL PROVISIONS

**60.** In any action, suit, or other proceeding in any court of justice in which notice of action is required, such notice shall be deemed sufficient if, in the opinion of the judge, commissioner, stipendiary or special magistrate, or justice of the peace presiding, such notice shall have given the defendant reasonable notice of the cause of such action, and the sufficiency of such notice shall be a question of fact and not of law; and no notice of action shall be held insufficient merely for want of form.

Sufficiency of notice of action.  
435, 1888, s. 8.

**61.** (1) Whenever in a court of summary jurisdiction it becomes proper to inquire as to any previous conviction of the defendant, and the defendant does not appear in person, the court may—

Proceedings to facilitate or dispense with proof of identity in cases of previous conviction in courts of summary jurisdiction.  
1669, 1925, s. 10.

- (a) allow evidence to be given of the previous conviction of any person, alleged by the prosecution to be identical with the defendant; and
- (b) (such evidence having been given) adjourn the further consideration of the case to a time and place specified by the court in order to enable the defendant to attend in person for the purpose of answering such allegation.

(2) If at the time and place so specified—

(a) it is proved that the defendant has been personally served with notice in writing, requiring him to attend accordingly, and informing him of the purpose for which his personal attendance is required; and

(b) the defendant fails to appear in person; and

(c) no sufficient reason to the contrary is shown to the satisfaction of the court,

the allegation of the identity of the defendant with the person so convicted as aforesaid, shall be deemed to have been proved, and the court shall proceed accordingly: Provided that service of the notice aforesaid shall not be required if the defendant has been represented at the original hearing by any counsel or solicitor who has waived such service.

(3) The further hearing or consideration of the case may be adjourned from time to time as aforesaid to enable the defendant—

(a) to be served as aforesaid; or

(b) to attend in person if the court is satisfied that he intends to do so.

Proof of  
"public place"  
in certain cases.  
1669, 1925,  
s. 11.

**62.** Whenever in any proceedings before justices, in respect of any offence, it is an essential ingredient of the offence that the place (where any fact or matter occurred or was done) should be a public place, an allegation, in the complaint or information, that the place (specified as that in which the fact or matter charged occurred or was done) was a public place, shall be *prima facie* evidence of that fact. but the court may, if it thinks fit, and at any stage of the proceedings, permit evidence to be called with respect to the said fact.

Proof of place  
being within  
municipality,  
etc.  
S. 62a enacted  
by 36, 1957,  
s. 5.

**62a.** (1) In any complaint or information an allegation that any place is within a municipality, district council district, town or township, shall be *prima facie* evidence of the fact so alleged.

(2) In this section the word "place" shall include any place, public or private, however described in the complaint or information, including any street road or other thoroughfare, or part thereof, and any building or structure or part thereof.

Proof of foreign  
law.  
1669, 1925,  
s. 21.

**63.** Printed books purporting to contain statutes, ordinances or other written laws in force in any country, although not purporting to have been printed or published by authority, and books purporting to contain reports of decisions of courts or judges in such country, and text books treating of the laws of such country, may be referred to by all courts for the purpose of ascertaining the laws in force in such country; but such courts shall not be bound to accept or act on the statements in any such books as evidence of such laws.

Evidence as to  
foreign law.  
S. 63a enacted  
by 53, 1972,  
s. 15.

**63a.** Where upon trial of any proceedings by judge and jury it is necessary to ascertain the law of any other country or state applicable to the proceedings, any question as to the effect of evidence given with respect to that law shall, instead of being submitted to the jury, be decided by the judge.

Proof of  
matters of  
history, science,  
etc.  
1669, 1925,  
s. 22.

**64.** All courts may, in matters of public history, literature, science, or art, refer, for the purposes of evidence, to such published books, calendars, maps, or charts as such courts consider to be of authority on the subjects to which they respectively relate: Provided that nothing herein contained shall be

deemed to require any such court to accept or act upon any such evidence when tendered, unless it thinks fit.

65. In any matter relating to—

- (a) the ordinary course of the post between any place within the Commonwealth and any other place, whether within or without the Commonwealth, or to the public business and transactions of the Post and Telegraph Department; or
- (b) the territorial limits of the area controlled by any municipal or district council or other local governing body, or of any other area designated or proclaimed or appointed by or under any statute or to the inclusion in any such area or the exclusion therefrom of any particular place; or
- (c) the distance between any two places in the State;

Reference by court to books, etc., or official certificates in certain matters relating to post and telegraph, locality and distance.  
1669, 1925, s. 23.

every court may refer to—

- (i) any such published book, map, chart, or document as the court considers to be of authority upon the subject to which it relates; or
- (ii) any certificate purporting to be signed by some person occupying any official position which, in the opinion of the court, qualifies him to certify to the fact in question:

Provided that nothing herein contained shall be deemed to require any such court to accept or act upon any such evidence when tendered unless it thinks fit.

66. (1) Any oath or affidavit required for the purpose of any court or matter in the State may be taken or made, in any place out of the State, before—

- (a) a commissioner for taking affidavits in the Supreme Court empowered and authorized to act in that place; or
- (b) a British diplomatic or consular agent exercising his function in that place; or
- (b1) any person appointed to hold or act in any of the following offices of the Commonwealth in that place:—
  - (i) ambassador:
  - (ii) high commissioner:
  - (iii) minister:
  - (iv) head of mission:
  - (v) commissioner:
  - (vi) charge d'affaires:
  - (vii) counsellor or secretary at an embassy, high commissioner's office, legation or other post:
  - (viii) consul-general:
  - (ix) consul:
  - (x) vice-consul:
  - (xi) trade commissioner:
  - (xii) consular agent; or

Taking of affidavits out of the State.  
1669, 1925, s. 24.  
Subsec. (1) amended by 5, 1947, s. 3; 26, 1955, s. 5.

Para. (b) amended by 5, 1947, s. 3; 26, 1955, s. 5 (a).

Para. (b1) inserted by 26, 1955, s. 5 (b).

(c) any person having authority to administer an oath in that place.

(2) Judicial and official notice may be taken—

Para. (a)  
amended by 26,  
1955, s. 5 (c).

(a) of the signature or seal of any such commissioner or agent or of any person appointed as aforesaid, or of any person having authority as aforesaid if he purports to have such authority, otherwise than by the law of a foreign country not under the dominion of His Majesty; and

(b) of the fact that any particular place is under the dominion of His Majesty.

Subsec. (3)  
amended by 26,  
1955, s. 5 (d).

(3) In the case of a person purporting to have such authority by the law of a foreign country not under the dominion of His Majesty, such authority may be verified by any of the persons mentioned in paragraphs (a), (b) and (b1) of subsection (1) hereof, or by the certificate of the superior court of such place, and if such authority purports to be so verified the oath or affidavit may be admitted or received without further proof of the signature or seal, or of the judicial, official, or other character of such first mentioned person.

(4) In this section—

“oath” includes affirmation and declaration:

“affidavit” includes any statutory or other declaration, acknowledgment, or examination:

“diplomatic agent” means ambassador, envoy, minister, charge d’affaires, or secretary of embassy or legation:

“consular agent” means consul-general, consul, vice-consul, or consular agent, or acting consul-general, acting consul, acting vice-consul, or acting consular agent.

Taking of  
affidavits out of  
the State by  
sailors, soldiers  
and airmen.  
S. 66a enacted  
by 27, 1941,  
s. 3.  
Subsec. (1)  
amended by 42,  
1952, s. 3 (2nd  
Sched.).

**66a.** (1) Any oath or affidavit required to be made by any member of a fighting force, for the purpose of any court or matter in the State, may be taken or made in any place out of the State before any officer of any naval, military or air force of any part of His Majesty’s dominions who holds a rank not below the following, namely:—

(a) in the case of a naval officer, lieutenant:

(b) in the case of a military officer, captain:

(c) in the case of an officer of an air force, flight-lieutenant,

or before any person having authority to administer an oath in the State.

(2) An officer administering an oath or taking an affidavit by virtue of the powers conferred by this section shall state in the jurat or attestation to the oath or affidavit the following matters, namely:—

(a) the date on which the oath or affidavit is taken or sworn;

(b) the full name and rank of the officer.

(3) An apparently genuine signature purporting to be the signature of a person administering an oath or taking an affidavit, and purporting to be the signature of an officer of a naval, military or air force of any part of His Majesty’s dominions who holds a rank not below that specified in subsection (1) of this section, may be deemed to be the signature of such an officer unless the contrary is shown.

\* \* \* \* \*

Subsec. (4)  
struck out by 42,  
1952, s. 3 (2nd  
Sched.).

(5) In this section—

“affidavit” includes any statutory or other declaration, acknowledgment, or examination;

“His Majesty’s dominions” includes the United Kingdom of Great Britain and Northern Ireland, and all self-governing dominions, dependencies, colonies, protectorates, protected states, and mandated territories of His Majesty;

“member of a fighting force” includes any man or woman who is a member of a naval, military or air force of any country, and any person who, as a representative or employee of any charitable, religious or other organization for promoting the welfare of members of any such force, is attached to any such force;

“oath” includes affirmation and declaration.

67. (1) The provisions of section 66 and 66a shall, as far as applicable, extend to every attestation, verification, acknowledgment, or signature in relation to any document required, authorized, or permitted by or under any statute or by custom or otherwise to be attested, verified, acknowledged, or signed, and to the doing of all notarial acts as if such provisions had been re-enacted in this section, excluding words relating to the administration of oaths and the taking of affidavits and substituting therefor words relating to attestation, verification, acknowledgment, or signature, as the case may be.

Extension of  
provisions  
relating to  
affidavits to  
attestation, etc.,  
of other  
documents.  
1669, 1925,  
s. 25.  
Subsec. (1)  
amended by 27,  
1941, s. 4.

(1a) Notwithstanding the provisions of section 66 of this Act as affected by subsection (1) of this section, judicial and official notice may be taken of the signature or seal of a person who, in connection with any of the matters to which those provisions so extend, appears to have signed that signature or affixed that seal while acting in the capacity of a notary public under the law for the time being in force in any country state or territory that is declared by proclamation to be a place within the Commonwealth of Nations to which this subsection applies, whether or not his authority for so acting has been verified in accordance with the provisions of subsection (3) of section 66 as so extended.

Subsec. (1a)  
inserted by 25,  
1960, s. 3.

(1b) A proclamation referred to in subsection (1a) of this section may be made, and may be varied or cancelled by subsequent proclamation, as the Governor thinks fit.

Subsec. (1b)  
inserted by 25,  
1960, s. 3.

(2) “Notarial act” includes any act, matter, or thing which in South Australia or elsewhere a notary public can attest or verify or otherwise do by or under any Act of Parliament or custom or otherwise for the purpose of being used in the State.

(3) The provisions of this section apply to documents required, authorized, or permitted by or under The Real Property Act, 1886<sup>1</sup>.

67a. Every document admissible in evidence for any purpose in any court of justice in England or Wales without proof of the seal, or stamp, or signature authenticating the document, or of the judicial or official character of the person appearing to have signed it, shall be admissible in evidence for the like purpose in any court of the State or before any person acting judicially under any law of the State, without proof of the seal, or stamp, or signature

Admissibility of  
documents  
without proof of  
seal, etc.  
S. 67a enacted  
by 36, 1949,  
s. 4.

<sup>1</sup> Now Real Property Act, 1886-1975.

authenticating the document, or of the judicial or official character of the person appearing to have signed it.

PART VIII

PART VIII

PUBLICATION OF EVIDENCE

Interpretation.  
1287, 1917, s. 2.

68. In this Part “court” means the court, judge, or magistrate before whom any legal proceeding is held or taken, and also a justice sitting for the preliminary investigation of any matter, a coroner by or before whom an inquest is held, and any person acting judicially.

Court may  
prohibit  
publication of  
evidence and  
names of parties  
and witnesses.  
1287, 1917, s. 3.

69. (1) Where it appears to any court—

- I. that the publication of any evidence given or used or intended to be given or used, in any proceedings before such court, is likely to offend against public decency; or
- II. that for the furtherance of, or otherwise in the interests of, the administration of justice it is desirable to prohibit the publication of the name of any party or intended party to, or witness or intended witness in, any such proceedings,

the court may, either before or during the course of the proceedings or thereafter, make an order—

- (a) directing that the persons specified (by name or otherwise) by such court, or that all persons except the persons so specified, shall absent themselves from the place wherein such court is being held while such evidence is being given; or
- (b) forbidding the publication of such evidence, or any specified part thereof, or of any report or account of such evidence, or any specified part thereof, either absolutely or subject to such conditions, or in such terms or form, or in such manner, or to such extent, as may be approved by such court; or
- (c) forbidding the publication of the name of such party or witness.

(2) Where the court makes an order under paragraph (c) of subsection (1) hereof, the publication of any reference or allusion to any party or witness the name of whom is by such order forbidden to be published, shall, if such reference or allusion is, in the opinion of the magistrate or justices hearing the complaint for the alleged offence, intended or is sufficient to disclose the identity of such party or witness, be deemed to be a publication of the name of such party or witness.

(3) When the court makes an order under paragraph (b) or paragraph (c) of subsection (1) hereof, forbidding the publication of any evidence or any report or account of any evidence, or the publication of any name, the court shall report the fact to the Attorney-General, and shall embody in its report a statement of—

- (a) the evidence or name (as the case may be) by such order forbidden to be published; and
- (b) the circumstances in which the order was made.

70. Where in the course of any proceedings before any court witnesses are ordered out of court and it appears to the court that for the furtherance or otherwise in the interests of the administration of justice it is desirable to prohibit for any period the publication of any evidence given or used in such proceedings the court may make an order forbidding, for such period as the court thinks fit, the publication of such evidence or any specified part thereof.

Power to temporarily prohibit publication of evidence where witnesses ordered out of court.  
1287, 1917, s. 4.

71. (1) Any person who disobeys any order under paragraph (a) of subsection (1) of section 69 or under section 70, shall be guilty of contempt of court, and shall be punishable accordingly in the same manner as for any other contempt of the court; and if the court has no power to punish for contempt, then the court may punish such contempt in manner provided by section 46 of the Justices Act, 1921<sup>1</sup>, and the provisions of that section shall apply for the purposes of dealing with and punishing such contempt and enforcing the punishment.

Penalty for non-compliance with order.  
1287, 1917, s. 5.

(2) Any person who disobeys any order under paragraph (b) or paragraph (c) of subsection (1) of section 69 shall be liable to a penalty of not more than two hundred dollars<sup>2</sup>, or to be imprisoned for any period not exceeding six months.

72. All proceedings in respect of offences against this Part of this Act shall be disposed of summarily.

Proceedings for offences.

## SCHEDULES

### FIRST SCHEDULE

Number and Year	Title of Act	Extent of Repeal
Imperial 6 & 7 Vic. c. 85 (adopted by Ordinance 17 of 1846) .....	An Act for Improving the Law of Evidence .....	The whole as the same is adopted and subsisting pursuant to Ordinance 17 of 1846.
3 of 1848 .....	Ordinance to Facilitate the Admission of the unsworn Testimony of the Aboriginal Inhabitants of South Australia and the parts adjacent	The whole.
4 of 1849 .....	Ordinance to amend Ordinance 3 of 1848 .....	The whole.
2 of 1852 .....	An Act to amend the Law of Evidence .....	The whole.
24 of 1855-6 .....	The Supreme Court Procedure Act, 1855 .....	Sections 16 to 21 inclusive.
13 of 1866-7 .....	An Act for amending the Law of Evidence and Practice on Criminal trials	Sections 3 to 8 inclusive.
3 of 1867 .....	Matrimonial Causes Act, 1867 .....	Section 57.
10 of 1869-70 .....	Evidence Further Amendment Act, 1869 .....	The whole.
9 of 1872 .....	An Act for Shortening and Explaining the Language used in Acts of Parliament, and for other purposes	The whole as unrepealed by 1215 of 1915.
3 of 1873 .....	The Telegraphic Messages Act, 1873 .....	The whole.
38 of 1876 .....	The Criminal Law Consolidation Act, 1876 .....	Sections 377 and 378
162 of 1879 .....	The Bankers Books Evidence Act, 1879 .....	The whole.
435 of 1888 .....	Evidence Further Amendment Act, 1888 .....	The whole.
1056 of 1911 .....	The Oaths and Affirmations Act, 1911 .....	The whole.
1287 of 1917 .....	Evidence Publication Act, 1917 .....	The whole.
1669 of 1925 .....	Evidence Amendment Act, 1925 .....	The whole.

\* \* \* \* \*

2nd Sched.  
repealed by 53,  
1972, s. 16.

<sup>1</sup> Now Justices Act, 1921-1975.

<sup>2</sup> Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency have been substituted for references to amounts of money expressed in the old currency.



## Evidence Act, 1929-1974

## THIRD SCHEDULE

## Provisions Referred to in Section 21

Reference to Act	Title of Act	Enactments Referred to
No. 38 of 1876	The Criminal Law Consolidation Act, 1876	Sections 37, 38, 54, 60, 61, 62, 63, 64, 65, 66, 68, 69, 70, 71, 72, 73, 74, and 77.
No. 300 of 1883-4	Married Women's Property Act, 1883-4 .....	Sections 12, 16.
No. 358 of 1885	The Criminal Law Consolidation Amendment Act, 1885	Sections 2, 3, 4, 6, 7, 10, 11.
No. 730 of 1894	The Children's Protection Act, 1899 .....	Sections 4, 10.
No. 931 of 1907	The Suppression of Brothels Act, 1907 .....	Section 3.
No. 1257 of 1916	Police Act, 1916 .....	Section 67 (p).
No. 1334 of 1918	Children's Protection Act Amendment Act, 1918	Section 3.
No. 1442 of 1920	Venereal Diseases Act, 1920 .....	Sections 5, 14, 17, 22.
No. 1780 of 1926	Maintenance Act, 1926 .....	Sections 46, 50, 51, 75, 94, 105, 142, 188.

## FOURTH SCHEDULE

Affidavit of  
identity.  
4th Sched.  
inserted by 40,  
1940, s. 7.

South Australia

[In the Court]

The King v. ....

[or In the matter of a Complaint by .....

against .....

or as the case may be]

I, ..... of .....

a fingerprint expert attached to the Police Department of the State [or Territory] of .....  
.....make oath and say as follows:—

1. I have examined the fingerprint card now produced and shown to me marked "A". The fingerprints on the said card are identical with those on a fingerprint card portion of the records of the said Department, being the fingerprints of one ..... (alias) .....

2. According to the said records, which I believe to be accurate, the said ..... has been convicted in the said State [or Territory] of the offences set out below, namely:—

[Here insert description of offences, the Courts in which the convictions took place and the dates of the convictions]

3. From an examination of the said records I believe that the person referred to as having been convicted, in the document(s) now shown to me and marked respectively "B" ["C", "D", etc.], is identical with the person whose fingerprints are on the said card marked "A".

SWORN at ..... }  
this ..... day of ..... }  
19 .....

Before me

.....  
A person having authority to take affidavits in the State [or Territory] in which the affidavit is sworn.