

S U M M A R Y .

THE law of evidence is the most important branch of adjective law. It is to legal practice what logic is to all reasoning. Without it, trials might be infinitely prolonged to the great detriment of the public and the vexation and expense of suitors. It is by this that the Judge separates the wheat from the chaff among the mass of acts that are brought before him, decides upon their just and mutual bearing, learns to draw correct inferences from circumstances, and to weigh the value of direct testimony. It is by this guide that he is able to tread his way with comparative safety among the burning ploughshares of perjury, forgery, and fraud that beset his footsteps, and to rest his judgment on a basis of probabilities at least comparatively satisfactory to his own mind.¹

The Indian Evidence Act has codified the rules of English law of evidence with such modifications as are rendered necessary by the peculiar circumstances of this country. But the Act is not exhaustive, and cases do arise for the solution of which principles of common law are resorted to. The Code, though chiefly drawn upon the lines of the English law of evidence, was not intended to be a servile copy of it.

The object of codification is that, on any point specifically dealt with by an Act, the law should be ascertained by interpreting its language, instead of, as before, roaming over a vast number of authorities to discover what the law is, and extracting it by a critical examination of the prior decisions.²

One great object of the Evidence Act was to prevent laxity in the admissibility of evidence, and to introduce a more correct and uniform rule of practice than was previously in vogue. The Evidence Act is not intended to do more than prescribe rules for the admissibility or otherwise of evidence on the issue as to which the Courts have to record findings.

The main principles which underlie the law of evidence are—

- ✓(1) evidence must be confined to the matters in issue,
- ✓(2) hearsay evidence must not be admitted, and
- ✓(3) the best evidence must be given in all cases.

The following tabular scheme³ sufficiently explains the general arrangement of the Indian Evidence Act—

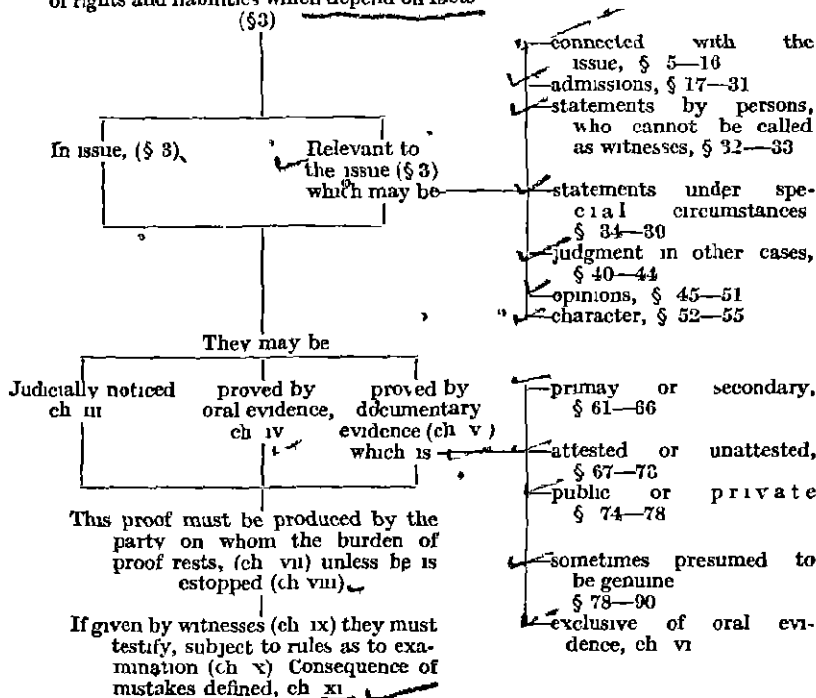
¹ Norton

² *Bank of England v Vaghano Bros*,

³ [1891] A C 107

Stephen's Introduction, p 12.

The object of legal proceedings is the determination of rights and liabilities which depend on facts



The Evidence Act is divided into three Parts comprising eleven Chapters. Part I consists of two Chapters dealing with definitions and relevancy of facts. Part II comprises Chapters III to V which provide for proof of facts by oral or documentary evidence. Part III embodies Chapters VI to XI which contain rules for the production of evidence in Court and the duties of the Court in dealing with the evidence produced before it.

PART I

RELEVANCY OF FACTS

Chapter I deals with definitions of various terms.

'Evidence' means and includes—

(1) Oral evidence, i.e., all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry

(2) Documentary evidence, i.e., all documents produced for the inspection of the Court

Evidence may be given in any suit or proceeding

- (1) of every fact in issue, and
- (2) of relevant facts (s 3) ✓

(1) 'Fact'—It means and includes—

(i) any thing, state of things, or relation of things, capable of being perceived by the senses;

(ii) any mental condition of which any person is conscious (s 3)

The expression 'facts in issue' means and includes any fact from which, either by itself or in connection with other facts, the existence, non-existence, nature or extent of any right, liability, or disability asserted or denied in any suit or proceeding, necessarily follows (s 3)

(2) **Relevant fact**—One fact is said to be relevant to another when the one is connected with the other in any of the ways relating to the relevancy of facts (s 3).

Presumptions—The topic of 'presumptions' has been referred to in s. 4. A presumption means a rule of law that Courts and Judges shall draw a particular inference from a particular fact, or from particular evidence, unless and until the truth of such inference is disproved. Presumptions are divided into presumptions of fact ("may presume" of the Evidence Act) and presumptions of law. Presumptions of law are again sub-divided into presumptions of law *absolute* or *conclusive* ("conclusive proof" of the Evidence Act), and presumptions of law *disputable* or *rebuttable* ("shall presume" of the Evidence Act).

Whenever it is provided by the Evidence Act that the Court—

'may presume' a fact, it may either regard such facts as proved unless and until it is disproved, or may call for proof of it

'shall presume' a fact, it must regard such fact as proved, unless and until it is disproved

When one fact is declared by this Act to be 'conclusive proof' of another, the Court shall, on proof of the one fact, regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it (s 4)

★ **Chapter II**—Evidence may be given (1) of the existence or non-existence of every fact in issue, and (2) of such other facts as are declared to be relevant, and of no others (s 5). No evidence can be given of a fact which a person is disentitled to prove under the Civil Procedure Code (*ibid*). There is a difference between relevancy of evidence and admissibility of evidence.

What facts are relevant—The following facts are relevant—

1 Facts so connected with a fact in issue as to form part of the same transaction (s 6)

2 Facts which are the occasion, cause, or effect, of relevant facts or facts in issue (s 7)

3 Facts showing a motive or preparation for, or previous or subsequent conduct in relation to, any fact in issue or relevant fact (s 8)

4 Facts (i) necessary to explain or introduce a fact in issue or relevant fact, or (ii) which support or rebut an inference suggested by such a fact, or (iii) which establish the identity of any thing or person

whose identity is relevant, or (iv) which fix the time or place at which any fact in issue or relevant fact happened, or (v) which show the relation of parties by whom any such fact was transacted (s 9).

5 Anything said, done, or written, by a conspirator in reference to the common intention of all the conspirators (s 10)

6 Facts (i) that are inconsistent with any fact in issue or relevant fact, or (ii) which make the existence or non-existence of any fact in issue or relevant fact highly probable or improbable (s 11)

7 Facts which will enable the Court to determine the amount of damages which ought to be awarded (s 12)

8 Where the question is as to the existence of any right or custom (i) any transaction by which the right or custom in question was created, claimed, modified, recognised, asserted or denied, or which was inconsistent with its existence, (ii) particular instances in which the right or custom was (a) claimed, recognised or exercised, or (b) disputed, asserted, or departed from (s 13)

9 Facts showing the existence of any state of (1) mind (e.g., intention, knowledge, good faith, negligence, rashness, ill-will, good-will), or (2) body; or (3) bodily feeling, when such state of mind or body is relevant (s 14)

10 When the question is whether an act was accidental or intentional—the fact that it formed part of a series of similar occurrences (s 15)

11 Existence of any course of business according to which an act regarding which there is a question would have been done (s 16).

Relevancy admissibility—The word 'relevant' is not co-extensive with the word 'admissible'. A relevant fact is a fact that has a certain degree of probative force. Relevancy is fully defined in ss 6-11 of the Evidence Act. Certain facts are relevant under ss 5-53, but all such facts are not admissible in evidence. There may arise restrictions as to their admissibility under ss 91-99, 115 117, and 121-130. All admissible evidence is therefore relevant, but all relevant evidence is not admissible.

Sections 17-53 deal with statements which are relevant under certain circumstances. These include—

- I Admissions
- II Confessions
- III Statements by persons who cannot be called as witnesses
- IV Statements under special circumstances
- V Judgments of Courts
- VI Opinions of third persons
- VII Character of parties ✓

I Admissions—The Indian Evidence Act deals with admissions as follows —

1 An admission is a statement, oral or documentary, which suggests any inference, as to any fact in issue or relevant fact, and which is made by—

- (i) a party to the proceedings,
- (ii) an agent authorised by such party,
- (iii) a party suing or sued in a representative character making admissions while holding such character,
- (iv) a person who has a proprietary or pecuniary interest in the subject-matter of the suit during the continuance of such interest;
- (v) a person from whom the parties to the suit have derived their interest in the subject-matter of the suit during the continuance of such interest (s 18);
- (vi) a person whose position it is necessary to prove in a suit, if such statements would be relevant in a suit brought by or against himself (s 19)
- (vii) a person to whom a party to the suit has expressly referred for information in reference to a matter in dispute (s 20),

2 An admission is relevant and may be proved as against the person who makes it or his representative in interest. It cannot be proved by or on behalf of the person who makes it or by his representative, except in three cases—

- (1) when it is of such a nature that, if the person making it were dead, it would be relevant as between third persons under s 32,
- (2) when it consists of a statement of the existence of any state of mind or body made at or about the time when such state of mind or body existed and is accompanied by conduct rendering its falsehood improbable,
- (3) if it is relevant otherwise than as an admission (s 21)

3 Oral admissions as to contents of a document are not relevant unless

- (1) the party proposing to prove them shows that he is entitled to give secondary evidence of the contents of such documents, or
 - (2) the genuineness of the document produced is in question (s 22)
- According to English law such admissions may be used as proof

4 An admission is not relevant in a *civil* case if it is made

- (1) upon an express condition that evidence of it is not to be given, or
- (2) under circumstances from which the Court can infer that the parties agreed together that evidence of it should not be given (s 23)

A barrister, pleader, attorney, or vakil, is not exempted from giving evidence of any matter of which he may be compelled to give evidence under s 126 (s 23, Explan)

5 An admission is not a conclusive proof of the matter admitted, but it may operate as estoppel (s 31)

II. Confessions—A 'confession' is an admission made at any time by any person charged with a crime stating or suggesting an inference that he committed that crime. The law of confession is laid down as follows—

- 1 A confession is irrelevant

- (1) if it is obtained by any (a) inducement, (b) threat, or (c), promise,
 (2) such inducement, etc, must have reference to the charge,
 (3) such inducement, etc, must proceed from a person in authority;
 (4) such inducement, etc, must be sufficient to give the accused grounds for supposing that by making it he would gain an advantage or avoid an evil of a temporal nature in reference to the proceedings against him (s 24).

But a confession made after the removal of the impression caused by such inducement, threat, or promise, is relevant (s 28)

- 2 A confession made to a police officer is not admissible (s 25)
 3 A confession made by a person in police custody is not admissible, unless it is made in the presence of a Magistrate (s 26)

But when any fact is discovered in consequence of information received from such person, so much of the information as relates to the facts discovered is admissible (s 27)

- 4 A confession does not become irrelevant if it is made
 (i) under a promise of secrecy, or
 (ii) in consequence of a deception practised on the accused, or
 (iii) when the accused was drunk, or
 (iv) in answer to questions which the accused need not have answered, or
 (v) when the accused was not warned that he was not bound to make it (s 29)

5 When more persons than one are tried jointly for an offence, and one of them makes a confession affecting himself and some other of such persons, the confession may be taken into consideration against such other person as well as against the person making it (s 30)

As to the difference between an 'admission' and a 'confession', see p 68

III Statements by a witness who cannot be produced —
 A statement of relevant fact made by a person—

- (i) who is dead,
 (ii) who cannot be found,
 (iii) who has become incapable of giving evidence,
 (iv) whose attendance cannot be procured without unreasonable delay or expense

is relevant under the following circumstances —

- (1) When it relates to the cause of his death
 (2) When it is made in the course of business, such as entry in books, or acknowledgment of the receipt of any property or date of a document

(3) When it is against the pecuniary or proprietary interest of the person making it or when it would have exposed him to a criminal prosecution

- (4) When it gives opinion as to a public right or custom or matters of general interest and it was made before any controversy as to such

right or custom had arisen

✓(5) When it relates to the existence of any relationship between persons as to whose relationship the maker had special means of knowledge and was made before the question in dispute arose.

✓(6) When it relates to the existence of any relationship between persons deceased and is made in any will or deed or family pedigree, or upon any tombstone or family-portrait, and was made before the question in dispute arose

✓(7) When it is contained in any deed, will or other document

✓(8) When it is made by a number of persons and expresses feelings relevant to the matter in question (s. 32)

Admissibility of depositions in former trials in subsequent trials—Evidence given by a witness ✓(i) in a judicial proceeding, or ✓(ii) before any person authorised by law to take it, is relevant in a subsequent judicial proceeding or a later stage of the same proceeding—

✓(i) when the witness is dead,

✓(ii) when he cannot be found,

✓(iii) when he is incapable of giving evidence,

✓(iv) when he is kept out of the way by the adverse party, and

✓(v) when his presence cannot be obtained without an amount of delay or expense which the Court considers unreasonable

Such evidence will only be admissible—

✓(1) if the proceeding was between the same parties, or their representatives in interest,

✓(2) if the adverse party in the first proceeding had the right and opportunity to cross-examine, and

✓(3) if the question in issue were substantially the same in the first as in the second proceeding (s. 33)

✓Evidence given on a different occasion is also admissible to contradict a witness (s. 155) or to corroborate him (s. 157)

IV. Statements made under special circumstances—^{*}There are statements which are relevant under special circumstances. These are—

✓1 Entries in books of account regularly kept in the course of business. Such entries are not alone sufficient evidence to charge any person with liability (s. 34)

✓2 Entries in public or official books or records made by a public servant or by a person enjoined by law in the discharge of his duty (s. 35)

✓3 Statements made in maps or charts offered for public sale or in maps or plans made under the authority of the Central Government or any Provincial Government (s. 36)

✓4 Statements of facts of public nature made in

(1) an Act of Parliament,

(2) an Act of the Central Legislature or any other legislative authority in Province, and

✓(3) Notifications in the *Official Gazette* or the *Government Gazette*

of any Dominion or Colony or possession of His Majesty or the *London Gazette* (s 37)

- ✓ 5. Statements of the law of any country contained in
 ✓ (1) a book published under the authority of the Government of that country, and
 ✓ (2) published reports of rulings of the Courts of such country
 (s 38)

Opinions of persons skilled in foreign laws may be invited by the Court (s 45)

When the evidence to be given forms part of a statement, conversation, document, book, or series of letters or papers, so much of the statement, etc., as the Court considers necessary to the full understanding of the nature and effect of the statement, shall only be given (s 39)

V. Judgments—Judgments are relevant facts of great importance. Judgments in civil cases do not preclude any one but parties to the suit or their representatives from contesting the subject-matter upon which they are pronounced. There are four exceptions to this principle

1 The existence of a judgment, decree or order is a relevant fact if by law it has the effect of preventing any Court from taking cognizance of a suit, or holding a trial (s 40)

2. A final judgment of a Court exercising (1) probate, (2) matrimonial, (3) admiralty, or (4) insolvency jurisdiction which

(i) confers upon or takes away from any person any legal character or,

(ii) declares any person to be entitled to (a) any such character, or (b) any specific thing absolutely,

is *relevant* when (a) the existence of any such legal character, or (b) the title of any such person to any such thing, is relevant

Such judgment is *conclusive proof*

(1) that any legal character, which it confers, accrued at the time when such judgment came into operation,

(2) that any legal character to which it declares any person to be entitled accrued at the time mentioned in the judgment,

(3) that any legal character which it takes away from any person ceased at the time mentioned in the judgment,

(4) that any thing to which it declares a person to be entitled was that person's property at the time at which the judgment declares to be his (s 41)

There are two other sections dealing with conclusive proof

(1) birth during marriage is conclusive proof of legitimacy (s 112),

(2) notification in the Gazette that a portion of British territory is ceded to an Indian State before the commencement of Part III of the Government of India Act, 1935, is conclusive proof of cession of that territory (s 113)

3 Judgments relating to matters of a public nature are relevant though such judgments are not conclusive proof of that which they state (s 42)

4 Judgments, the existence of which is a fact in issue or is relevant under some other provision of the Evidence Act (s 43)

Any party to a suit may show that a judgment which is relevant was delivered by a Court not competent to deliver it or was obtained by fraud (s 44)

VI. Opinions—The Court has often to form an opinion on technical matters and extraneous assistance is necessary. The Act allows such opinion in the following cases—

1 Opinion of experts, i.e., persons skilled in (i) foreign law, (ii) science, (iii) art, (iv) handwriting, and (v) finger impressions (s 45)

2 Any fact which supports or is inconsistent with the opinion of experts (s 46)

3 Opinion of a person acquainted with the handwriting of the person by whom a document is written when the Court has to form an opinion as to the person by whom it was written (s 47)

A person is said to be acquainted with the handwriting of another person when

(i) he has seen that person write,

(ii) he has received documents purporting to be written by that person in answer to documents written by himself or under his authority and addressed to that person,

(iii) in the ordinary course of business, documents purporting to be written by that person have been habitually submitted to him (s 47)

4 Opinion as to the existence of a right or custom of a person who knows of its existence (s 48)

5 Opinions of persons having special means of knowledge regarding

(i) usages and tenets of a body of men or family,

(ii) the constitution and government of any religious or charitable foundation,

(iii) the meaning of words or terms used in particular districts or by particular classes of people (s 49)

6 Opinion, as to the relationship of one person to another, of a person, expressed by his conduct, who as a member of the family has special means of knowledge on the subject (s 50)

Whenever the opinion of a person is relevant, the grounds on which such opinion is based are also relevant (s 51)

VII. Character.—‘Character’ includes both reputation and disposition. Relevancy of character may arise either in (1) civil, or (2) criminal cases

(1) In civil cases the fact that the character of any person is such as to render probable or improbable any conduct imputed to him

is irrelevant, except in so far as such character appears from facts otherwise relevant (s 52)

But the fact that the character of any person is such as to affect the amount of damages which he ought to receive is relevant (s 55)

(2) In criminal cases the fact that the accused is of *good character* is relevant (s 53) But the fact that he is of *bad character* is irrelevant unless—

(i) evidence has been given that he has a good character (s 54),
or

(ii) the bad character is itself a fact in issue (s 54, Explan 1)

A previous conviction is relevant as evidence of bad character (*ibid*, Explan 2)

PART II

ON PROOF

Chapter III.—Facts which need not be proved—These are —

1 Facts of which the Court will take judicial notice (s 56).
Section 57 enumerates thirteen facts of which the Court is bound to take judicial notice

2 Facts which the parties or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which, by any rule of pleading, they are deemed to have admitted by their pleadings (s 58)

Chapter IV.—Oral evidence—All facts, except the contents of documents, may be proved by oral evidence (s. 59) Oral evidence must be direct, that is to say,

(1) if it refers to a fact which could be seen, it must be the evidence of a witness, who says he saw it,

(2) if it refers to a fact which could be heard, it must be the evidence of a witness, who says he heard it,

(3) if it refers to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived it by that sense or in that manner,

(4) if it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds (s 60)

'Circumstantial evidence' is opposed to 'direct evidence' It means a fact from which some other fact is inferred 'Direct evidence' means testimony given by a man as to what he has himself perceived by his own senses It is the testimony of a witness to the existence or non-existence of the fact or fact in issue As regards admissibility, direct and circumstantial evidences stand on the same footing

Opinion of an expert expressed in a book commonly offered for sale may be proved by the production of such book, if the author

(1) is dead, or

(2) cannot be found, or

(3) has become incapable of giving evidence, or

(4) cannot be called as a witness without an amount of delay or expense, which the Court regards as unreasonable (*ibid*)

Chapter V —Documentary evidence—The contents of documents may be proved either by (1) primary evidence, or (2) secondary evidence (s 61)

(1) **Primary evidence** means the document itself produced for the inspection of the Court (s 62)

Where a document is executed in several parts, each part is primary evidence. Where a document is executed in counterpart, each counterpart is primary evidence as against the parties executing it (*ibid* , Expln 1)

Where a number of documents are made by uniform process, such as printing, lithography, or photography, each one is primary evidence of the contents of all the rest

(2) **Secondary evidence** means and includes—

(i) certified copies given under the provisions of this Act,
(ii) copies made from the original by mechanical processes, which in themselves ensure accuracy of the copy and, copies compared with such copies,

(iii) copies made from or compared with the original,
(iv) counterparts of documents, as against the parties who did not execute them,

(v) oral account of the contents of a document, given by some person who has himself seen it (s 63)

Documents must be proved by primary evidence (s 64)

Secondary evidence may be given of the existence, condition or contents of a document in the following cases —

(1) When the document is in the possession of
(i) the person against whom it is to be proved, or
(ii) any person out of the reach of, or not subject to, the process of the Court, or
(iii) any person who is legally bound to produce it does not produce it after notice to produce the same

(2) When the existence or contents of the original have been proved to have been admitted in writing by the person against whom it is to be proved or his representative. In such a case the written admission is admissible

(3) When the original has been destroyed or lost or when the party offering evidence of its contents cannot, for any other reason, not arising from his own neglect or default, produce it in reasonable time. In such a case any secondary evidence of its contents is admissible

(4) When the original is of such a nature as not to be easily movable. In such a case any secondary evidence of its contents is admissible

(5) When the original is a public document

(6) When the original is a document of which a certified copy is permitted by this Act or any law in force in India. A certified copy is admissible.

(7) When the original consists of numerous accounts or other documents which cannot conveniently be examined in Court, and the fact to be proved is the general result of the whole collection. Such result may be proved by the evidence of any person skilled in the examination of such documents (s. 65).

When notice to produce a document is not required—Notice under s. 65 to produce a document is not required—

- (1) when the document to be proved is itself a notice,
- (2) when, from the nature of the case, the adverse party must know that he will be required to produce it,
- (3) when the adverse party has obtained possession of the original by fraud or force,
- (4) when the adverse party, or his agent, has the original in Court,
- (5) when the adverse party, or his agent, has admitted the loss of the document,
- (6) when the person in possession of the document is out of reach of, or not subject to, the process of the Court (s. 66).

Signature and handwriting—If a document is alleged to be signed or to have been written by any person, the signature or handwriting of so much of the document, as is alleged to be in that person's writing, must be proved to be in his handwriting (s. 67).

Handwriting can be proved in the following ways

- (1) By the evidence of the writer himself—
- (2) By the opinion of experts who can compare handwritings (s. 46)
- (3) By the evidence of a person who is acquainted with the handwriting of a person by whom the writing in question is supposed to have been written and signed (s. 47)
- (4) By the Court comparing the writing or signature in question with any others proved to the satisfaction of the Court to be genuine (s. 73)
- (5) The Court may direct any person present to write any words or figures to enable the Court to compare them with any words or figures alleged to have been written by him (*ibid*)

Documents requiring attestation—Documents required by law to be attested are used in evidence as follows —

1. One attesting witness at least must be called for proving its execution, if such witness is

- (i) alive,
- (ii) subject to the process of the Court, and
- (iii) capable of giving evidence (s. 68)

But, if the document is a registered one and is not a will, then it

is not necessary to call an attesting witness, unless its execution is denied by the person who has executed it (*ibid*, proviso)

2 If such witness cannot be found, or if the document is executed in the United Kingdom, it must be proved—

(i) that the attestation of a witness is in his handwriting, and
(ii) that the signature of the person executing the document is in the handwriting of that person (s. 69)

3 The admission of a party to an attested document of its execution by himself is sufficient proof of its execution as against him (s. 70).

4 If the attesting witness denies or does not recollect the execution of the document, the execution may be proved by other evidence (s. 71), i.e., it may be proved under ss. 69 and 70

An attested document, not required by law to be attested, may be proved as if it was unattested (s. 72)

In order to ascertain whether a signature, writing or seal is that of the person by whom it purports to have been written or made, any signature, writing or seal, proved to have been written or made by that person, may be compared with the one which is to be proved (s. 78)

Public documents—These are (1) documents forming the acts or records of the acts—

(i) of the sovereign authority,
(ii) of official bodies and tribunals, and
(iii) of public officers, legislative, judicial and executive, whether in India or other portions of His Majesty's Dominions, or a foreign country

(2) Public records kept in India of private documents (s. 74)

All other documents are private (s. 75)

Certified copies of public documents will be given by every public officer having the custody of them on payment of legal fees (s. 76) Such copies may be produced in proof of the contents of the public documents of which they purport to be copies (s. 77) Certain public documents are proved in special ways, and not by certified copies These are Acts or Notifications of the Central Government or of the Crown Representative, or of any Provincial Government, proceedings of the Legislatures, proclamations issued by His Majesty or by the Privy Council, Acts or proceedings of the Legislatures of a foreign country As to how they are to be proved see s. 78

Presumption as to documents—Sections 79-85 and s. 89 provide for cases in which the Court *shall* presume to be genuine certain facts about documents, that is, the Court is bound to accept those facts as proved until they are disproved

1 As to a certified copy or other document which is declared by law to be admissible as proof of any fact, and which purports to be certified by an officer of the Central Government or Provincial Government or by an officer in an Acceding State or other Indian State who is duly authorised by the Central Government or by any authorized officer in any Indian State

The Court shall presume that it is genuine. It shall also presume that the officer who signed or certified it held at the time the official character which he claims in it (s. 79)

2 As to (1) a record of evidence in a judicial proceeding, or
(2) a confession taken in accordance with law and purporting to be signed by a Judge or Magistrate or other officer authorized by law

The Court shall presume (i) that the document is genuine,
(ii) that any statement as to the circumstances under which it was taken is true, and

(iii) such evidence or confession was duly taken (s. 80)

3 As to the London Gazette, or any official Gazette or the Government Gazette of any colony, dependency or possession of the British Crown or a newspaper, or a private Act of Parliament printed by the King's Printer, or a document coming from proper authority, the Court shall presume that it is genuine (s. 81)

4. As to a document which would be admissible in an English or Irish Court without proof of (a) its seal or stamp or signature, or

(b) the official character of the person signing it,

the Court shall presume (i) that the seal, etc., is genuine, and

(ii) that the person signing it held that official position which he claims in it (s. 82)

5 As to maps or plans purporting to be made by the authority of Central Government or Provincial Government

the Court shall presume that they were so made and are accurate (s. 83)

6 As to (1) authorized law-books containing laws of any country and

(2) books purporting to contain reports of decisions of Courts of such country,

the Court shall presume that they are genuine (s. 84)

7 As to powers-of-attorney executed before, and authenticated by, a notary public, or any Court, Judge, Magistrate, British Consul or representative of the Central Government,

the Court shall presume that they were so executed and authenticated (s. 85)

8 As to a document called for and not produced after notice to produce,

the Court shall presume that it was duly attested, stamped and executed (s. 89)

Sections 86-88 and 90 provide for cases in which the Court *may* presume certain facts about documents, that is, the Court is at liberty to accept those facts as proved until they are disproved, or to call for proof of them in the first instance

1 As to a certified copy of any judicial record of a foreign country, certified by a representative of, Her Majesty or of the Central Government,

the Court may presume that it is genuine and accurate (s 86)

2 As to (1) any book to which the Court may refer on a matter of public or general interest, and

(2) any published chart or map produced for its inspection, the Court may presume that it was written and published by the person, and at the time and place, by whom or at which it purports to have been written or published (s 87)

3 As to a message forwarded from a telegraph office, the Court may presume that it corresponds with the message for transmission at the office from which it purports to be sent

But it shall not make any presumption as to the person by whom such message was delivered for transmission (s 88)

4 As to a document proved to be thirty years old and produced from proper custody, the Court may presume

(i) that the signature and every other part of such document, which purports to be in the handwriting of any particular person, is in that person's handwriting, and

(ii) that it was duly executed and attested by the person by whom it purports to be executed and attested (s 90)

Documents are in proper custody if they are (i) in the place in which, and (ii) under the care of the person with whom, they would naturally be (*ibid*)

Chapter VI —Exclusion of oral by documentary evidence — When (i) the terms of a contract, grant, or other disposition of property have been reduced to the form of a document, or

(ii) any matter is required by law to be in the form of a document—

(I) no evidence shall be given of the terms of (a) such contract, grant, or disposition of property, or (b) of such matter, except (i) the document itself or

(ii) secondary evidence of its contents in cases in which secondary evidence would be admissible (s 91),

(II) no evidence of any oral agreement or statement shall be admitted, as between the parties to any such instrument or their representatives in interest, for the purpose of (i) contradicting, (ii) varying, (iii) adding to, or (iv) subtracting from, its terms (s 92)

To rule (I) there are two exceptions —

(1) When a public officer is required by law to be appointed in writing, and when it is shown that any particular person has acted as such officer, the writing by which he is appointed need not be proved (s 91, Excep 1)

(2) Wills admitted to probate in British India may be proved by the probate (s 91, Excep 2)

The statement, in any document, of a fact other than the terms of a contract, grant or disposition of property, or which is not required by law to be in writing, does not preclude proof of such fact by any other means (*Ibid*, Explan 3)

To rule (II) there are six exceptions Oral evidence is admissible in the following cases —

(1) Any fact which would (1) invalidate any document, or (2) entitle any person to any decree or order relating thereto, may be proved, i.e., fraud, intimidation, illegality, failure of consideration, mistake in fact or law

(2) Any separate oral agreement as to any matter on which the document is silent, and which is not inconsistent with its terms, may be proved

(3) Any separate oral agreement, constituting a condition precedent to the attaching of any obligation under the document, may be proved

(4) A subsequent oral agreement to rescind or modify any such contract, grant or disposition of property, may be proved, except where such contract or grant is required to be in writing, or has been registered

(5) Any usage or custom by which incidents not expressly mentioned in any contract are usually annexed to such contracts, may be proved if they are not inconsistent with its express terms

(6) Any fact which shows in what manner the language of the document is related to existing facts may be proved

Persons who are not parties to a document or their representatives in interest may give evidence of facts tending to show a contemporaneous agreement varying the terms of the document (s 99)

Construction of documents—Latent and patent ambiguities—Sections 90-100 embody the rules as to the admissibility of extraneous evidence to interpret documents Such evidence is inadmissible in the following cases—

1 When the language is, on its face, ambiguous or defective, evidence cannot be given of facts which would show its meaning or supply its defects (s 93)

2 When the language is plain in itself, and when it applies accurately to existing facts, evidence cannot be given to show that it was not meant to apply to such facts (s 94)

Such evidence is admissible in the following cases —

1 When the language is plain in itself, but is unmeaning in reference to existing facts, evidence may be given to show that it was used in a peculiar sense (s 95)

2 When the language is meant to apply to any one, but not to more than one, of several persons or things, evidence may be given to show to which of those persons or things it was intended to apply (s 96)

3 When the language applies partly to one set of facts and partly to another, but the whole of it does not apply correctly to either, evidence may be given to show to which of the two it was meant to apply (s 97)

4 Evidence may be given as to the meaning of illegible, foreign, obsolete, technical, local and provincial expressions, abbreviations and words used in a peculiar sense (s 98)

PART III

PRODUCTION AND EFFECT OF EVIDENCE

This Part deals with the production and effect of evidence It comprises—

- (a) the question of burden of proof,
- (b) the rules as to who is to give evidence and under what circumstances,
- (c) the rules as to examination of witnesses, and
- (d) the effect of improper reception or rejection of evidence

Chapter VII—Burden of proof—Whoever desires any Court to give judgment as to any legal right or liability dependent on facts, which he asserts, must prove that those facts exist The burden of proof lies on that person who is bound to prove any fact (s 101) The burden of proof in a suit or proceeding lies on that person who would fail if no evidence were given on either side (s 102)

Sections 103-113 lay down the rules as to burden of proof—

1 The burden of proof as to any particular fact lies on that person who wishes the Court to believe it unless the law has provided that its proof shall lie on any particular person (s 103)

2 The burden of proving any fact in order to enable any person to give evidence of any other fact is on the person who wishes to give such evidence (s 104)

3 When a person is accused of an offence, the burden of proving that his case falls within any exception in the Penal Code or any other law lies on him (s 105)

4 When a fact is especially within the knowledge of any person, the burden of proving it lies on him (s 106)

5 When it is shown that a man was alive within thirty years, the burden of proving that he is dead is on the person who affirms it (s 107)

6 When it is proved that a man has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive lies on the person who affirms it (s 108)

7 When persons have acted as partners, or as landlord and tenant, or as principal and agent, the burden of proving that such relationship has ceased lies on the person who affirms it (s 109)

8 When a person is in possession of any thing as owner, the burden of proving that he is not the owner is on the person who affirms that he is not the owner (s 110)

9 When a person stands towards another in a position of active confidence, the burden of proving the good faith of any transaction between them lies on the person in active confidence (s 111)

10 The fact that a person is born during a valid marriage between his mother and any man, or within 280 days after its dissolution, the mother remaining unmarried, then unless non-access is proved, it shall be conclusive proof of his legitimacy (s 112)

11 A notification in the *Gazette of India* of a cession of British territory before the commencement of Part III of the Government of India Act, 1935, to any Indian State is conclusive proof that a valid cession took place at the date mentioned in the notification (s 113)

Three sections deal with 'conclusive proof' as defined in s 4, viz., ss 41, 112, and 113

Section 114 lays down certain cases in which the Court may presume the existence of any fact which it thinks likely to have happened, regard being had (i) to the common course of natural events, (ii) human conduct, and (iii) public and private business, in their relation to the facts of the particular case (s 114) See the section as to those cases

Chapter VIII—Estoppel—When one person has by his (a) declaration, (b) act, or (c) omission,

(1) intentionally caused or permitted another person to believe a thing to be true, and

(2) to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing

The Evidence Act specially provides for the following estoppels—

1 A tenant of immovable property or person claiming through such tenant cannot, during the continuance of the tenancy, deny that the landlord had, at the beginning of the tenancy, a title to such property (s 116)

2 A person, who came upon immovable property by the license of the person in possession thereof, cannot deny that the person so in possession had a title at the time when such license was given (*ibid*)

3 An acceptor of a bill of exchange cannot deny that the drawer had authority to draw or endorse (s 117)

But the acceptor of a bill of exchange may deny that the bill was really drawn by the person by whom it purports to have been drawn (*ibid*, Expln 1)

4 A bailee or licensee cannot deny that his bailor or licensor had, when the bailment or license commenced, authority to make such bailment or grant such license (*ibid*) But if a bailee delivers the goods bailed to a person other than the bailor, he may prove that such person had a right to them as against the bailor if he is sued by the bailor (*ibid*, Expln 2)

Difference between estoppel and admission—(1) Estoppel binds only parties and privies thereto It cannot be taken advantage of by strangers (2) Estoppel being a rule of evidence, an action cannot be founded on it An action may be founded on an admission.

Difference between estoppel and res judicata—(1) Estoppel is part of the law of evidence and proceeds upon the equitable principle of altered situation, *res judicata* belongs to procedure and is based on the principle that there must be an end to litigation

(2) Estoppel prohibits a party from proving anything which contradicts the previous declarations or acts, to the prejudice of a party who, relying upon them, altered his position, *res judicata* prohibits the Court from enquiring into a matter already adjudicated

(3) Estoppel shuts the mouth of a party, *res judicata* ousts the jurisdiction of the Court

Difference between estoppel and presumption—An estoppel is a personal disqualification laid upon a person peculiarly circumstanced from proving particular facts, whereas a presumption is a rule that particular inferences shall be drawn from particular facts, whoever proves them. Estoppel is that species of presumption where the fact presumed is taken to be true, not as against all the world, but as against a particular party, and that only by reason of some act done

Chapter IX—Witnesses—All persons are competent to testify unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, (a) by tender years, (b) extreme old age, or (c) disease (s 118) No particular number of witnesses is required for the proof of any fact (s 125)

Dumb witnesses—A witness who is unable to speak may give his evidence in any manner in which he can make it intelligible, e.g., by writing or signs. Such writing must be written and the signs made in open Court (s 119)

Husband and wife—Husband or wife (i) of any party to a civil suit, or (ii) of the accused in criminal proceedings, is a competent witness (s 120)

Privileged communications—Certain witnesses cannot be compelled to disclose certain facts. The law excludes this evidence on the ground of public policy

1 **Judge and Magistrate**—A Judge or Magistrate cannot, except on the special order of some Court to which he is subordinate, be compelled to answer any question,

(i) as to his own conduct, or

(ii) as to anything which came to his knowledge, as such Judge or Magistrate

He may be examined as to matters which occurred in his presence while he was so acting (s. 121)

2 **Communications during marriage**—A person cannot be compelled to disclose any communications made to him or her during marriage by any person to whom he or she is or has been married. He will not be permitted to disclose any such communication unless the person who made it or his representative in interest consents—except

(i) in suits between married persons, or
 (ii) in proceedings in which one married person is prosecuted for a crime against the other (s 122)

3. *Affairs of State*—No person can give evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned (s 123)

4. *Official communications*—No public officer can be compelled to disclose communications made to him in official confidence, if public interest would suffer by the disclosure (s 124)

5. *Information as to crime*—A Magistrate or a police or revenue officer cannot be compelled to say whence he got any information as to the commission of an offence (s 125)

6. *Professional communications*—A barrister, attorney, pleader, or vakil, cannot disclose, without the client's consent,

(i) any communication made to him in the course and for the purpose of his employment,

(ii) the contents or condition of any document with which he became acquainted in the course and for the purpose of his employment, or

(iii) any advice given by him to his client (s 126)

Such protection from disclosure does not extend to—

(i) any communication made in furtherance of any illegal purpose,

(ii) any fact observed by a barrister, attorney, pleader, or vakil in the course of his employment, showing that a crime or fraud has been committed, since the commencement of his employment

The principle of non-disclosure of professional communications applies to the clerks or servants of barristers, attorneys, pleaders, or vakils (s 127)

If a party to a suit gives evidence *at his own instance* he is not to be deemed thereby to have consented to a disclosure of professional communications by his legal adviser, and if he calls any barrister, attorney, pleader, or vakil, as a witness he is only deemed to have consented to such disclosure if he questions him regarding it (s 128) A person cannot be compelled to disclose any confidential communication which has taken place between him and his legal adviser unless he offers himself as a witness, in which case he may be compelled to disclose any such communications as the Court thinks necessary, in order to explain any evidence he has given (s 129)

Production of documents by witness—A witness who is not a party to a suit cannot be compelled to produce

(1) his title-deeds or any documents which might tend to criminate him unless he has agreed in writing to produce them (s 130),

(2) documents in his possession which any other person would be entitled to refuse to produce if they were in his possession (s 131)

Criminating questions to a witness—A witness cannot be excused from answering any relevant question upon the ground that the answer will tend (i) to criminate him, or

(ii) to expose him to a penalty of forfeiture. But such answer cannot

(a) subject him to arrest or prosecution, or

(b) be proved against him in any criminal proceedings except a prosecution for giving false evidence (s 132)

Accomplice—Illustration (b) to s 114 says that an accomplice is unworthy of credit unless he is corroborated in material particulars. Section 133 provides that an accomplice shall be a competent witness against an accused and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice (s 133). See Comment on p 263 on this topic.

Chapter X.—Examination of witnesses—The order of production and examination of witnesses is regulated by the Civil and Criminal Procedure Codes or by the discretion of the Court (s 135). The Judge may ask how a particular fact is relevant and admit the evidence if he thinks the fact would be relevant. If the relevancy of a fact depends on proof of some other fact, such latter fact must be proved first unless the party undertakes to prove it subsequently and the Court is satisfied with such undertaking (s 136).

The examination of a witness by the party who calls him is called examination-in-chief.

The examination of a witness by the adverse party is called cross-examination.

The examination of a witness subsequent to the cross examination by the party who called him, is called re-examination (s 137).

Witnesses are first examined-in-chief, then cross-examined, and then re-examined. The examination and cross-examination must relate to relevant facts, but the cross-examination need not be confined to the facts to which the witness testified on his examination-in-chief. The re-examination must be directed to the explanation of matters referred to in cross-examination. If new matter is introduced in re-examination, the adverse party may further cross-examine upon that matter (s 138).

A person summoned to produce a document does not become a witness and cannot be cross-examined unless he is called as a witness (s 139).

Witnesses to character may be cross-examined and re-examined (s 140).

The Court may permit the person who calls a witness to put any questions to him, which might be put in cross-examination by the adverse party (s 154). This is only allowed if the witness proves to be a 'hostile witness', i.e., one who from the manner in which he gives evidence shows that he is not desirous of telling the truth to the Court.

Leading questions—Any question suggesting the answer which the person putting it wishes or expects to receive is called a leading question (s 141). Such questions must not, if objected to by the adverse party, be asked in an examination-in-chief or in a re-examination, except with the permission of the Court (s 142).

The Court will permit such questions—

- (1) as to matters which are (i) introductory, or (ii) undisputed, or (iii) already sufficiently proved (s 142), or
- (2) in cross-examination (s 143)

Evidence as to matters in writing—Section 14 enables the parties to put in force the provisions of ss 91 and 92. Any witness may be asked whether any (a) contract, (b) grant, or (c) other disposition of property, as to which he is giving evidence, was not in writing, and if he says that it was, the adverse party may object to such evidence being given until the document is produced or facts proved for the admission of secondary evidence. The same principle applies if a witness is about to make any statement as to the contents of a document, which, in the opinion of the Court, ought to be produced (s 144).

A witness may be cross-examined as to previous statements made by him and reduced into writing, without such writing being shown to him or proved, but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him (s 145).

Questions lawful in cross-examination—When a witness is cross-examined he may be asked any questions which tend—

- (1) to test his veracity,
- (2) to discover who he is and what is his position in life, or
- (3) to shake his credit by injuring his character, although the answer to such questions might criminate him or expose him to a penalty or forfeiture (s 146).

Questions as to character—If a question in cross-examination is irrelevant, except in so far as it affects the credit of the witness by injuring his character, the Court may compel the witness to answer it or warn him that he is not obliged to answer it. The Court in deciding whether a particular question is proper or not will have regard to the following considerations—

(1) Such questions are *proper* if the imputation conveyed by them would seriously affect the opinion of the Court as to the credibility of the witness.

(2) Such questions are *improper*—

- (i) if the imputation which they convey relates to matters so remote in time, or of such character, that it would not affect, or affect in a slight degree, the opinion of the Court as to the credibility of the witness,

(ii) if there is a great disproportion between the importance of the imputation made against the witness's character and the importance of his evidence (s 148)

Such questions ought not to be asked unless the person asking it has reasonable grounds for thinking that the imputation which it conveys is well founded (s 149). If the Court thinks that any question was asked without reasonable grounds, it may, if it was asked by any barrister, attorney, pleader, or vakil, report his conduct to the High Court or other authority to which he is subordinate (s 150).

The Court may draw, from the witness's refusal to answer, the inference that the answer if given would be unfavourable (s 148).

Questions that will be forbidden by the Court.—The Court will forbid

(1) any question which it regards as indecent or scandalous unless it refers to facts in issue or to matters necessary to be known in order to determine the facts in issue (s 151),

(2) any question which appears to the Court (i) to be intended to insult or annoy, or (ii) to be offensive in form (s 152).

Answer to questions as to character cannot be contradicted.—When a witness answers any question which is relevant in so far as it shakes his credit, no evidence can be given to contradict him, but if he answers falsely he may be charged with giving false evidence (s 153). Evidence, however, may be given (i) of previous conviction if a witness denies it, or (ii) of facts tending to impeach his impartiality if he denies them (s 153, Expln).

Impeaching the credit of witness.—The credit of a witness may be impeached by the adverse party, or, with the consent of the Court, by the party who calls him, in the following ways—

(1) By the evidence of persons who testify that they believe him to be unworthy of credit.

(2) By proof that the witness has been bribed or has accepted the offer of a bribe, or has received any other corrupt inducement to give evidence.

(3) By proof of former statements inconsistent with any part of his evidence which is liable to be contradicted.

(4) When a man is prosecuted for rape or attempt to ravish, it may be shown that the prosecutrix was of generally immoral character (s 155).

Evidence in corroboration.—When a witness whom it is intended to corroborate gives evidence of a relevant fact—

(i) he may be questioned as to the circumstances which he observed at or near to the time or place at which such relevant fact occurred (s 156)

(ii) any former statement made by such witness relating to the

same fact at or about the time when the fact took place, or before any authority competent to investigate the fact, may be proved (s 157)

When a statement relevant under s 32 or 33 is proved, evidence may be given

- (1) to contradict or corroborate it, or
- (2) to impeach or confirm the credit of the person by whom it was made, as if he had been called as a witness and had denied upon cross-examination the truth of the matter suggested (s 158)

Refreshing memory—A witness may refresh his memory by referring to

- (1) any writing made by himself
 - (a) at the time of the transaction concerning which he is questioned, or
 - (ii) so soon afterwards that the transaction was fresh in his memory,
- (2) any such writing made by another person and read by the witness and known by him to be correct, while his memory, was still fresh
- (3) professional treatises if he is an expert

A witness may, with the Court's permission, refer to a copy of any document to which he might refer if it were produced, provided there is sufficient reason for the non-production of the original (s 159). He may also testify to facts mentioned in any such document, although he has no recollection of them, if he is sure that the facts were correctly recorded in the document (s 160). Any document to refresh memory must be shown to the adverse party, who may, if he pleases, cross-examine the witness upon it (s 161).

Production of document by witness—A witness summoned to produce a document must, if it is in his possession or power, bring it to Court, notwithstanding any objection which there may be to its production or admissibility. The validity of such objection will be decided by the Court. The Court may inspect the document unless it refers to matters of State or take evidence to determine on its admissibility (s 162)

Notice to produce document—Notice to produce a document is necessary, except in the six cases provided in s 66, in order to make secondary evidence of its contents admissible. When a party gives notice to produce a document, and it is produced and inspected by the party calling for its production, he is bound to give it as evidence if the party producing it requires him to do so (s 163). If a party refuses to produce a document after notice, he cannot use it as evidence (i) without the consent of the other party, or (ii) the order of the Court (s 164)

Court's power to put questions—The Judge may, in order to ascertain relevant facts,

(1) ask any question (a) at any time, (b) of any witness or parties, (c) about relevant or irrelevant facts—though the judgment must be based on relevant facts only,

(2) order the production of any document or thing

The parties cannot object to this course, nor can they cross-examine a witness upon any answer given in reply

The Judge, however, cannot .

(1) compel a witness to answer a question or produce a document which such witness would be entitled to refuse to answer to produce under ss 121 to 132 at the instance of the adverse party,

(2) ask any question as to credit which it would be improper for any other person to ask under s 148 or 149,

(3) dispense with primary evidence of any document, except where secondary evidence is admissible (s 165)

✓ **Power of jury to put questions** — A juror or assessor may put any question to a witness, through or by leave of the Judge, which the Judge might put and which he considers proper (s 166)

Chapter XI — Improper admission or rejection of evidence —

The improper admission or rejection of evidence is not a ground

(1) for a reversal of the judgment, or

(2) for a new trial of the case,

if the Court thinks .

(i) that independently of the evidence admitted, there was sufficient evidence to justify the decision, or

(ii) that if the rejected evidence had been received it ought not to have varied the decision (s 167)

APPENDIX.

QUESTIONS

PART I

CHAPTER I—PRELIMINARY

1 Explain briefly the structure of the Indian Evidence Act. What do you understand by Lord Brougham's observation "that the law of evidence is the *ex fori* which governs the Court"? See Comment on s 1, p 3

2 Write a short note on the necessity and utility of rules of judicial evidence. See Summary, p 308

3 "Rules of evidence are fetters on justice" Comment on this

4 To what extent are the provisions of the Indian Evidence Act applicable to (a) affidavits presented to any Court, (j) proceedings before an arbitrator, (c) proceedings before a Court-martial? See s 1, and Comment thereon

5 State some of the more important provisions of the law of evidence which are peculiar to criminal trials and inapplicable to the trial of civil cases

See sections relating to confessions and character

6 Is there any difference as to the effect of evidence in civil and criminal proceedings? See Comment, p 9

7 "The rules of evidence are in general the same in civil and criminal proceedings" Mention any three exceptions to the above statement

Ans.—The provisions relating to confession, dying declaration, character, and incompetency of parties as witnesses in certain cases, are peculiar to criminal law. The rules of evidence may be relaxed by consent of parties in civil matters, but not in criminal. In civil proceedings, facts in issue are proved by preponderance of evidence. In criminal proceedings they must be proved beyond doubt. See Comment, p 9

8 Define 'Court', 'Fact', 'Relevant fact', 'Fact in issue', 'Issue of fact', 'Document', 'Evidence', 'Proved', 'Disproved'. See s 3

9 When is a fact said to be 'proved', and when is it said to be 'disproved'?

10 Distinguish between a 'relevant fact' and a 'fact in issue'

11 Distinguish between evidence and proof. See Comment, p 7

12 When is a fact said to be relevant to another?

13 What is meant by the expression 'relevancy' as referring to the admissibility of evidence in judicial inquiries? See Comment, p 5

14 What do you mean by presumption? See s 4

What do you understand by 'may presume', 'shall presume', and 'conclusive proof'? See s 4

15 Is there any difference between presumption of law and presumption of fact? See Comment, p 11

16 What do you understand by conclusive proof? Give some illustrations when one fact is conclusive proof of another. See ss 4, 41, 112 and 113

CHAPTER II —RELEVANCY OF FACTS

- 17 What is a "relevant fact"? See s. 6
- 18 Write a short note on *res gestæ*. See Comment on s. 6
- 19 Under how many and what headings are 'relevant facts' arranged in the Act? See the tabular statement on p. 309
- 20 When, and to what extent, is the conduct of a party to a proceeding relevant? See s. 8
- 21 Discuss the law of conspiracy as laid down in the Evidence Act. See s. 10
- 22 When do facts not otherwise relevant become relevant? Give illustration. See s. 11
- 23 Explain how evidence of *alibi* becomes relevant. See Comment on s. 11
- 24 Give two illustrations of facts which may be relevant under s. 11 only and not under any other section of the Evidence Act. See ills. to s. 11
- 25 What is the necessity for s. 11 of the Evidence Act? Does it not apparently make all facts relevant? See Comment on s. 11, p. 26
- 26 "Evidence must be confined to the matters in issue." State briefly the exceptions to this rule. Sections 6 to 11 are the exceptions.
- 27 What facts are relevant in a suit in which damages are claimed? See s. 12
- 28 What facts are relevant when the existence of a right or custom is in question? See s. 13
- 29 Discuss whether a judgment not *inter partes* is admissible against a third party. See Comment, p. 32
- 30 Discuss—"Evidence of the accused having committed crimes other than that with which he is charged is not admitted." See Comment on s. 14
- 31 The fact of a person having once or many times in his life done a particular act in a particular way does not make it more probable that he has done the same thing in the same way upon another and different occasion. See Comment on s. 14
- 32 State when facts showing the existence of any state of mind or of body or bodily feeling are relevant evidence. Give apt examples to illustrate your answer. See s. 14 and its illustrations
- 33 When is the previous conviction of an accused relevant? See s. 14, Explan. 2
- 34 What facts are relevant when the question is whether an act was accidental or intentional? See s. 15
- 35 State the principal classes of facts which are declared to be relevant by the Evidence Act. See Summary, p. 310
- 36 "Relevancy and admissibility are not co-extensive terms." Give instances of and reasons for this rule. See Summary, p. 311
- 37 Define a *statement* and an *admission*. Under what circumstances, and for what purposes, are statements and admissions made by persons (whether parties to the suit or not), who are not called as witnesses admissible in evidence? See ss. 17-21
- 38 What are "admissions"? Who can make them, and when can they be used by and on behalf of persons making them? What is the evidentiary value of an admission? See ss. 17, 18, 21 and 31
- 39 Comment on the following—"Admissions cannot be proved by or on behalf of the person who makes them." See s. 21, Exceptions

- 40 Comment on the following —“Oral admission as to contents of a document are not relevant” See s 22
- 41 When are oral admissions as to contents of documents relevant? See s 22
- 42 Under what circumstances is an admission in a civil case irrelevant? See s 23
- 43 When can documents marked “without prejudice” be admissible in evidence? See Comment on s 23
- 44 State the provisions of the Indian Evidence Act as to confessions See ss 24 30
- 45 Distinguish between an ‘admission’ and a ‘confession’ and state the rules regarding the admissibility and probative value of each See Comment on s 24, p 56
- 46 What are the provisions embodied in the Evidence Act regarding confessions? See ss 24, 25, 26, 27, 28, 29, 30
- 47 What confessions cannot be proved against an accused person? See ss 24, 25, 26
- 48 Discuss the safeguards which the Legislature has provided in order to make a confession admissible See ss 24, 25, 26
- 49 Can a confession made to a police-officer be proved as against an accused person? See s 25
- 50 When and to what extent are statements made by the accused to a police-officer admissible? See ss 26, 27
- 51 What evidentiary value will you assign to retracted confessions? See Comment, p 80
- 52 In what cases, if any can the confession of an accused person be used against a co-accused? See s 30
- 53 How far such confession may be taken into consideration in convicting the accused? See Comment, p 75
- 54 State the law regarding the relevancy or otherwise of confessions against the person making them See s 30
- 55 Comment on the following —“Admissions are not conclusive proof of the matters admitted, but they may operate as estoppel” See s 31
- 56 State the cases in which statements of persons who cannot be called as witnesses are relevant See s 32
- 57 “Evidence may be given of statements made by a person who is not actually called before the Court” Give two illustrations See s 32
- 58 What is a dying declaration? Enumerate the grounds on which dying declarations are admitted in evidence If a person making a dying declaration happens to live, can the declaration be admitted in evidence? See Comment on s 32(1)
- 59 What is the difference between the English law and the Indian law on the subject of dying declaration? See Comment, p 89
- 60 Give illustration of cases in which statements made by deceased persons are allowed to be received in evidence See s 32, cl (1)
- 61 Are entries in books of account alone sufficient to charge any person with liability? When do they require corroboration as a matter of law, and when not? See s 32, Comment, p 91
- 62 In what cases and under what conditions is a verbal statement of opinion by a deceased person admissible as relevant to prove an allegation of a public right or custom? See s 32, cl (4)

63 Enumerate the cases in which evidence not taken by the Court trying the case can be put in? See s 33

64 When is evidence given by a witness in judicial proceeding relevant in a subsequent judicial proceeding? See s 33

65 Under what circumstances is a deposition of an absent witness admissible? See s 33

66 Give some exceptions to the rule excluding hearsay evidence See ss 32 and 33

67 What are the conditions under which an entry in an official book or register stating a fact in issue becomes a relevant fact? What is the evidentiary value of the entry in a man's account-book in support of his claim? See ss 34, 35

68 Are entries in books of account alone sufficient to charge any person with liability? When do they require corroboration as a matter of law and when not? See Comment on s 34

69 State briefly the provision of the Evidence Act with reference to (a) maps, plans or charts, and (b) finger impressions. See ss 36, 45, and 83

70 *Nemo debet bis vexari pro una et eadem causa* How is the principle expressed by this maxim discussed in the Indian Evidence Act? See s 40

71 How far, under what circumstances, and for what purposes, can previous judgments, orders and decrees be deemed relevant? See ss 40-43

72 *Res inter alios actæ* are generally irrelevant State the exceptions to the rule See ss 11, 14, 40-43

73 In what cases are judgments not *inter partes* admissible in evidence? See ss 41-43

74 Describe and distinguish the legal effect of judgments declared to be conclusive in subsequent trials by the Evidence Act See s 41

75 Distinguish between a "judgment *in rem*" and a "judgment *in personam*" for the purposes of the Indian Evidence Act Discuss the admissibility and effect of such judgments respectively as evidence See Comment on s 41

76 Which judgments alone are to have a conclusive character? See s 41

77 Is the judgment of a Court refusing probate a judgment *in rem*? If so, why? If not, why not? See s 41.

78 State in what cases, if any, and under what provisions of the Evidence Act, are judgments relevant, when such judgments are neither judgments *in rem* nor admissible under the rule of *res judicata* What is the probative value of such judgments? See s 42 and Comment thereon

79 In what cases are the acts of third persons admitted as evidence of a transaction? Give instances See ss 10, 32, 41-43

80 Can transactions between third parties ever be relevant for or against parties to a suit? If so, when? Illustrate your answer by an example State the general law on the subject See ss 13, 14 and 42

81 State the cases in which previous convictions of an accused are admitted in evidence See ss 8, 14 and 43

82 State upon what subjects the opinions of witnesses are admissible in evidence See ss 45-51

83 State the exceptions to the rule that opinion evidence is not admissible in evidence See ss 45-51

84 How is a fact in reference to such opinion relevant when it is not otherwise relevant? See s 46

85 Distinguish between —(a) expert evidence and ordinary evidence

(b) ambiguity and inaccuracy See (a) s 45, (b) s 93

86 When are the opinions of persons who are strangers to a proceeding relevant under the Evidence Act? What is the probative value of such evidence? See ss 45 and 51

87 How is a fact in reference to expert opinion relevant when it is not otherwise relevant? See s 46

88 What facts are relevant when any right or custom is in question? See s 48

89 What qualifications must a witness, speaking as to relationship, possess? See s 50

90 What are the rules with regard to the reception of evidence of character of (1) a witness, and (2) a party? See ss 52-55 and 32, cl (5)

91 How far is 'character' relevant and admissible in evidence in (a) civil suits, (b) criminal cases See ss 52-55 Does the term 'character' in the Evidence Act differ from that given in English law? See Comment on s 55

92 Discuss "In criminal proceedings, the fact that the accused person has a bad character is irrelevant" See s 53

PART II—ON PROOF

CHAPTER III—FACTS WHICH NEED NOT BE PROVED

93 Are there any facts which though relevant need not be proved? See s 56, 58

94 Classify the facts of which judicial notice is taken without formal proof See s 57

95 What is meant by "the rule of the road on land or at sea"?

Ans.—This means the rule that horses and vehicles of all descriptions should keep to the left side of the road At sea, the rule is that ships and steam-boats, on meeting, should port their helms, so as to pass on the (port) left side of each other, steam boats should keep out of the way of sailing ships, and every vessel overtaking another should keep out of its way

CHAPTER IV—ORAL EVIDENCE

96 Explain fully the rule that oral evidence must, in all cases, be direct. Is there any exception to the rule? Illustrate your answer by concrete examples. See s 60

97 State how opinions of experts may be ascertained See s 60, cl (4)

98 "In determining the admissibility of evidence, the production of the best evidence should be exacted" Discuss the above proposition See s 60

99 What is the meaning of 'hearsay evidence'? What are the reasons for not admitting 'hearsay' as evidence? See Comment on s 60, p 137

CHAPTER V—DOCUMENTARY EVIDENCE

100 What is meant by proving a document? See s 61

101 What is 'primary evidence'? See s 62

102 Comment on the following—"Where a document is executed in counterparts each counte 'part' is primary evidence as against the parties executing it" See Comment on s 62

103 How may the contents of a document be proved? What is meant by

secondary 'evidence'? State the general rules governing its admissibility See ss 61, 63

104 When is a copy of a copy secondary evidence? See Comment on cl (3) of s 63

105 Mention all the cases in which secondary evidence of the existence, condition or contents of a document may be given See s 65

106 When is a party entitled to give secondary evidence of a document without calling on the party in possession of the same to produce it? See s 66

State the cases in which notice to produce need not be given to render secondary evidence of the contents of a document admissible^a See s 66

107 What is meant by an attesting witness? See Comment on s 68

108 How will you use in evidence a document required by law to be attested? See s 68

109 How is such document to be proved if the attesting witness is dead or denies attestation? See s 71

110 When the genuineness of a letter is in dispute what are the various kinds of evidence that may be laid before the Court to prove the handwriting? See ss 45, 47, 67 and 73

111 What are 'public documents' and what are 'private documents' according to the Indian Evidence Act? See ss 74, 75

How are 'public documents' proved? See s 78

How may the judgment of a foreign tribunal be proved in British India? See s 74(b)

112 Give five instances of (a) rebuttable, (b) irrebuttable presumptions from the Indian Evidence Act See ss 79 85

113 Give a brief analysis of the documents which the Court is bound to presume to be genuine or accurate See ss 79, 85 and 89

114 What facts can the Court presume with regard to a document produced before a Court purporting to be a confession made by an accused person and signed by a Magistrate? See s 80

115 What facts can a Court presume with regard to a map or plan purporting to be made by the authority of Government? See s 83

What facts can a Court presume without proof with regard to any published map or chart, the statements of which are relevant facts and which are produced for the Court's inspection? See s 87

116 State the provisions of the Evidence Act with reference to telegraphic message See s 88

117 What is the nature of presumption as to a document called for and not produced without sufficient cause after notice to produce it? See s 89

118 How should ancient documents be proved? See s 90

119 "Documents thirty years old are said to prove themselves" Explain its meaning and application See s 90

120 Explain 'ancient document', 'proper custody' See Comment on s 90

CHAPTER VI—EXCLUSION OF ORAL BY DOCUMENTARY EVIDENCE

121 Discuss—"What is in writing shall only be proved by the writing itself" Are there any exceptions to this rule? See s 91

122 What are the provisions to the general rule enacted by the Evidence Act excluding evidence of oral agreements or statements in the case of written contracts, grants, and dispositions of property, and matters required by law to be

reduced to the form of a document? See ss 91 and 92

123 State the exceptions to the rule that no evidence of any oral agreement or statement shall be admitted for the purpose of contradicting, varying, adding to, or subtracting from, the terms of a written instrument See ss 92 and 99

124 When the terms of a contract have been reduced to writing, can oral evidence be given for construing the contract or ascertaining the intention of the parties to it? Give reasons for your answer See Comment on s 92

125 How far is evidence of intention and subsequent conduct admissible to prove that a document in the form of a sale-deed is in reality a deed of mortgage? See Comment on s 92, p 182

126 State the rules as to the exclusion and admission of evidence to explain or amend ambiguous documents Explain and illustrate the maxim *falsa demonstratio non nocet* See ss 93-98

127 In what cases is oral evidence admissible to explain the contents of a document? See ss 93-98

128 Explain the distinction between 'patent ambiguity' and 'latent ambiguity' in a document See Comment on s 93

PART III—PRODUCTION AND EFFECT OF EVIDENCE

CHAPTER VII—BURDEN, OF PROOF

129 What is "burden of proof"? Give the rules by which it is regulated See ss 101-111

130 What are the general principles regulating the burden of proof? Illustrate your answer by examples See ss 101-111

131 Upon whom does the burden of proof as a general rule lie? What are its exceptions? See ss 102-111

132 Enumerate the instances in which the burden of proof is determined in particular cases not by the relation of the parties but by presumptions See ss 107-111

133 Discuss the rule of presumption as given in the Evidence Act when the question is as to the death of a person known to have been alive within thirty years and also of a person who has not been heard of for seven years See ss 107 and 108

134 State shortly the rules of the Indian Evidence Act, as to burden of proof, in the following matters—(a) Whether a man is alive or dead, (b) partnership, (c) tenancy, (d) principal and agent, (e) ownership, (f) legitimacy See ss 107 8, 109, 110 and 112

135 State the nature of the evidence which can be led, under the Indian Evidence Act, to show that a person born during the continuance of a valid marriage between his parents is not legitimate See s 112

136 Give instances of facts which are declared by law to be conclusive proof. See ss 41, 112 and 113

137 State fully the subject of presumptions as dealt with in the Indian Evidence Act See ss 79-90 and 112 and 113

138 Comment on the following—"A notification in the Gazette of India that any portion of British territory has been ceded to any Native State, Prince or Ruler, shall be conclusive proof that a valid cession of such territory took place at the date mentioned in such notification" See Comment on s 113

139 Mention the principal presumptions, derived from the common course

of things, and give illustrations to show how such presumptions may be explained away in particular cases. See s 114 and illustrations

CHAPTER VIII—ESTOPPEL

140 Explain the doctrine of estoppel. What cases of estoppel by conduct are provided by the Evidence Act? See s 115, and Comment on p 220

141 Discuss the principle upon which the rule of estoppel as laid down in the Evidence Act rests. See Comment, p 229

142 Is intention a necessary element in order that a person should be estopped? See Comment, p 235

143 What are the three classes of estoppel according to English law, and how many kinds of these are recognised in the Indian Evidence Act? See Comment on p 231

144 Distinguish 'estoppel' from 'presumption' and from 'admission'. See p 230

145 Distinguish between 'estoppel' and *res judicata*. See Comment, p 230

146 Does the doctrine of estoppel apply to minors? If so, under what circumstances and subject to what limitation? See Comment on p 234

147 How far is representation relating to a promise in future binding as an estoppel? See Comment on p 235

148 Can mere silence ever amount to an estoppel? See Comment on p 232

149 Discuss "A fraudulent intention is by no means necessary to create an estoppel." See Comment on p 236

150 How far and under what circumstances are tenants, bailees, and licensees permitted to deny the title of their landlord or licensor as the case may be? See ss 116 and 117

Can a tenant prove that his landlord's title has ceased? See Comment p 243

CHAPTER IX—WITNESSES

151 State the law relating to competency and compellability of witnesses. See ss 118, 120 and 133

152 What constitutes incompetency to give evidence? See s 118

153 Can a lunatic and a dumb person be a competent witness? See ss 118, Explan., and 119

154 When can a witness be allowed to answer questions in writing? See s 119

155 What are privileged communications? State the circumstances under which the privilege can be claimed. See ss 120-131

156 State in detail the circumstances under which the Indian Evidence Act excuses witnesses from answering questions put to them in Court. See ss 121-130

157 What communications are witnesses not permitted or compelled to disclose? Compare the English and Indian law as to the admissibility of wife's evidence for or against her husband in civil and criminal cases. See s 122 and Comment thereon

158 May a wife be compelled to give evidence against her husband in a civil or criminal case? See ss 120 and 122

159 What professional communications between a party and his legal adviser are protected from disclosure? See s 123

160 When are professional communications not protected? See s 126, provisos (1) and (2)

161 When is a party said to have waived privilege? See s 128

162 What privileges, if any, can be claimed by the following persons if called as witnesses—(1) Judges, (2) married persons, (3) policemen, (4) public officers and (5) legal advisers? See ss 121, 122, 124, 125 and 126

163 What questions would a witness (neither professional nor official) be justified in refusing to answer? See ss 122, 130 132 and 148

164 Section 133 of the Evidence Act says "A conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice"

Illustration (b) to sec 114 of the Evidence Act states

"A Court may presume that an accomplice is unworthy of credit unless he is corroborated in material particulars"

Reconcile the above two propositions See Comment on these two sections.

165 State the Indian and English law in respect of legality of convicting an accused person on the uncorroborated testimony of an accomplice Cite cases illustrating the principles laid down by the Bombay High Court on the subject See Comment on ss 114 and 133

166 Compare the confession of a co-accused with the testimony of an accomplice See Comment on pp 79 and 263

167 State the provision of the Evidence Act with reference to production of title deeds by a witness See ss 130, 131

168 Can a witness be excused from answering any question upon the ground that the answers will criminate him? See s 132

169 Discuss the question of the quantity of evidence required for judicial decision in India in civil and criminal cases and compare the provision made in the Evidence Act with the English law on the subject See s 134 and Comment thereon

CHAPTER X—EXAMINATION OF WITNESSES

170 Explain 'examination in-chief', 'cross-examination', and re-examination' See s 137

171 What are the principal rules regarding the kinds of question that may be asked in examination-in-chief, cross-examination, and re-examination? See s 138

172 What is a 'Leading Question'? What difference is observed and allowed regarding the right of parties to a suit about putting 'leading questions' to a witness? See ss 141-143

173 What course should you, as a pleader, adopt, if you wished to discredit a witness, by showing that he had made a contradictory deposition in another suit? See ss 145, 155, cl (3)

174 What questions affecting the credit of a witness by injuring his character are respectively proper and improper? See s 148

175 Is it open to a party to discredit his own witnesses, or to put leading questions to them? See ss 142, 143, 154 and 155

176 State the rules regarding cross-examination of a witness by his previous statement See s 145

177 For what purposes and at whose instance are former statements of a witness under examination admissible under the Evidence Act? See ss 145, 157, 160 and 161

- 178 What questions can be put in cross examination? See ss 146, 148
- 179 Write a short note on cross-examination as to credit See ss 146, 147, 148, 149
- 180 In what ways may the credit of a witness be impeached? See ss 146, 153 and 155
- 181 When can the Court compel a witness to answer the question intended to affect his credit by injuring his character? See s 147
- 182 When a witness is under examination, (a) what questions and inquiries may be forbidden, and (b) what questions must be forbidden by the Court? See ss 148-152.
- 183 In a civil case are there restrictions on the question which may be asked in cross-examination? Has the Judge power to exclude any question? If so, in what cases? See ss 149-150
- 184 Under what circumstances can the Court interfere with the cross-examination of a witness? See ss 148-152
- 185 What provision is made in the Evidence Act to prevent an abuse of the privilege granted to a counsel to put discrediting questions to a witness in cross-examination? See ss 149-150
- 186 What evidence of a witness is liable to contradiction? See s 153
- 187 How far is it permissible to give evidence to contradict answers given by a witness to questions to test his veracity? See s 153
- 188 When may a party cross-examine his own witness? Explain 'hostile witness' See s 154 and Comment thereon
- 189 Who can impeach the credit of a witness, and how? See s 155
- 190 Enumerate the circumstances under which expert opinion is relevant, and state how such opinion may be ascertained See ss 45, 46 and 159
- 191 When may the previous statement of a witness be proved in order to corroborate his testimony? See s 157
- 192 Is there any, and what means of discrediting the deposition of a witness in a prior judicial proceeding? See s 158
- 193 What is meant by a witness 'refreshing his memory'? What documents may be used for this purpose? What is the right of the adverse party as to any writing used to refresh memory? See ss 159-161
- 194 What are the powers of a Judge to put questions to a witness or order production of any document? See s 165
- 195 What is the object of the Legislature in so empowering the Judge? See Comment on s 165

CHAPTER XI — IMPROPER ADMISSION AND REJECTION OF EVIDENCE

- 196 Comment on the following — 'The improper admission or rejection of evidence shall not be ground of itself for a new trial' See s 167
- 197 When can a Judge order a new trial on the ground that the provisions of the Indian Evidence Act have not been followed? See s 167

INDEX.

Abbreviations—

evidence to show meaning of, s 98, p 198

Ability—

of witness, cross examination directed to test, s 146, p 282 ,

Absence—

of circumstances, burden of proving, s 105, p 204

presumption of death from, s 107, p 206

Acceptor—

of bill of exchange, estoppel of, s 117, p 245

Access—

between married persons bearing on legitimacy, s 112, p 214

Accession—

of Sovereign of United Kingdom, judicially noticed, s 57(5), p 133

to offices, etc , of Indian public office, judicially noticed, s 57 (7), p 133

Accident—

facts showing, s 15, p 39

Accomplice—

evidence of, s 114, ill (b), p 218 , s 133, p 262

Account-books—

entries in, p 91

relevancy of, s 31, p 104

Accused—

conduct of, relevant, s 8, ill (e), p 17

confession by, when irrelevant, s 24, p 54

refusing to answer questions s 114, ill (b), pp 218, 228

Acts—

accidental, s 15, p 39

of conspirators, how far relevant, s 10, p 23

Indian Legislature relevancy of, s 37, p 108

Parliament, how proved, s 37, p 108

when judicially noticed, s 57(2), p 133

presumption as to copies of private, s 81, p 161

statements made in recitals of, s 37, p 108

proof of, s 78, p 157

Admiralty jurisdiction—

relevancy of certain judgments in, s 41, p 111

Admissibility of evidence—

Judge to decide, s 130, p 268

Admission—

- by co-defendants, s 18, p 46
- counsel pleader or attorney, p 45
- guardian *ad litem*, s 18, p 46
- partner, s 18, p 46
- party in representative character, s 18, p 46
- party to proceedings or his agent, s 18, p 45
- person interested in subject-matter of proceedings, s 18, p 47
- person from whom interest derived, s 18, p 47
- principal and surety, s 18, p 46
- Crown bound by, p 43
- definition of, s 17, p 43
- improper, of evidence, s 167, p 305
- facts admitted need not be proved, s 58, p 135
- made without prejudice, p 53
- not allowed, when there is condition that its evidence shall not be given, s 23, p 53
- not conclusive proof, but may estop, s 31, p 83
- of execution by party to attested document, s 70, p 152
- proof of, against persons making it, s 21, p 49
- by or on behalf of persons making it, s 21, p 49

Admitted facts—

- need not be proved, s 58, p 135
- not conclusive proof, but may estop, s 31, p 83
- of execution by party to attested document, s 70, p 152
- proof of, against persons making them, s 21, p 49
- by or on behalf of persons making them, s 21, p 49

Adoption—

- statement as to existence, s 32(6), pp 85, 97

Advocates—

- names of, judicial notice of, s 57(12), p 132

Affairs of State—

- admissibility of evidence of, s 123, p 252

Affidavits—

- whether receivable in evidence, p 3

Affirms—

- he who, must prove, s 101, p 200

Agent—

- admission by, s 18, p 45
- burden of proof as to relationship of, s 109, p 208
- conduct of, s 8, p 16
- production of document by, s 131, p 260

Agreement—

- contemporaneous, varying document, s 99, p 198
- oral evidence to vary written, s 92, p 178

Ambiguous document—

exclusion of evidence to explain, s 93, p 195

Amount of damages—

relevancy of facts in, s 12, p 29

Ancient documents—

presumption as to, s 90, p 165

secondary evidence of, p 167

Annoying questions—

Court to forbid, s 152, p 287

Appointments—

evidence of, s 91, Excep 1, p 169

to public offices, judicial notice of, s 57(7), p 133

Arbitrators—

Act not applicable to proceedings before, s 1, p 3

Art—

opinions of experts on points of, s 45, p 120

Articles of War—

judicially noticed, s 57(3), p 132

Assessors—

right of, to put questions, s 166, p 305

Attested documents—

admission of execution by party, s 70, p 152

presumption as to, s 89, p 164

proof of, not required by law to be attested, s 72, p 153.

required by law to be attested, s 68, p 148, s 70, p 152

Attesting witness—

denying execution of document, s 71, p 153

when need not be called, s 69, p 152

Attorney—

admissions of fact by, p 45

communications to, when privileged, s 126, p 256

insulting questions put by, s 150, p 286

name of, judicial notice of, s 57(12), p 133

notice to produce documents, s 66, p 146

Authentication—

of power of attorney, s 85, p 163

Bad character—

not relevant in criminal proceedings, except in reply, s 54, p 129

Bailee—

estoppel of, s 117, p 245

Barristers—

communications to, when disclosable, s 126, proviso, p 256

privileged, s 126, p 256

insulting questions put by, without reasonable grounds, may be reported to

High Court, s 150, p 286

Benami transactions—

proof of, p 180

Bill of exchange—

estoppel of acceptor of, s 117, p 245

presumption as to, s 114, ill (c), pp 218, 224

Birth—

during marriage, conclusive proof of legitimacy, s 112, p 214

Bodily feeling—

facts showing existence of, s 14, p 34

Books—

entries in, of account when relevant, s 34, p 104

presumption as to, general, s 87, p 164

of law, s 84, p 162

reference to, by Courts, for judicial notice, s 57, p 133

experts, s 150, p 297

Bribe—

credit of witness impeached by showing, s 155(2), p 290

British Consul—

certified copies by, s 78, p 157

British territories—

judicially noticed, s 57(10), p 133

proof of cession of, s 113, p 218

Burden of proof—

as to benami transaction, p 180

death or otherwise of absent persons, ss 107, 108, pp 206, 207

fact especially within knowledge, s 106, p 205

fact to be proved to make evidence admissible, s 104, p 203

good faith of transaction between persons in fiduciary relation, s 111,
p 212

landlord and tenant, s 109, p 208

ownership, s 110, p 209

particular facts, s 103, p 203

partners, s 109, p 208

principal and agent, s 109, p 208

he who affirms must prove, s 101 p 200

on whom lies the general, s 102 p 201

that case of accused is within exception of the Penal Code, s 105, p 201

what is, s 101 p 200

Business—

entries in books kept in course of, s 34, p 104

existence of course of, s 16, p 42

statement made in course of, s 32, cl (2), pp 84, 90

Bystanders—

statement of, p 15

Capacity—

want of, invalidating document, s 92, proviso 1, pp 178, 185

Caricature—

- a document, s 3, ill p 6
- libel expressed in, s 32, ill (a), pp 86, 99

Certified copies—

- of foreign judicial records, s 86, p 163
- public documents, s 65, p 142, s 76, p 157
- presumption as to genuineness of, s 79, p 158
- proof of documents, s 77, p 157
- secondary evidence, s 63, p 140
- what are, s 76, p 157

Cession of territory—

- conclusive proof of, s 113, p 218

Character—

- as affecting damages, s. 552 q, 130
- cross examination and re-examination of witnesses to, s 140, p 276.
- definition of, s 55, Explan, p 130
- evidence of, in civil cases, s 52, p 127
- criminal cases, s 53, p 128
- previous bad character not relevant, s 54, p 129

Charitable foundation—

- opinion as to constitution of, s 49, p 128

Charts—

- presumption as to, s 87, p 164
- relevancy of statements in, s 36, p 108

Child—

- estoppel not to affect, p 234
- evidence of, s 118, p 246

Clerk—

- communication to, of legal practitioners, s 127, p 259

Clergymen—

- statement by, as to marriage, s 32, ill (f), p 85

Client—

- when compellable to disclose confidential communications, s 128, p 259.
- not so compellable, s 129, p 259

Co-accused—

- confessions of, s 30, p 74

Co-defendants—

- admissions by, p 46

Collusion—

- in obtaining judgment, s 44, p 117

Comparison—

- of handwriting, signature, etc, s 73, p 164

Competency of witnesses—

- s 118, p 246

Complainant—

conduct of, how far relevant, s 8, p 16

Compulsion of witnesses—

incriminating documents, s 130, p 260

title deeds, s 130, p 260

to give criminating replies, ss 147, 148, p 283

make criminating statements, s 132, p 261

produce documents of others, s 131, p 260

Conclusive proof—

admissions are not, s 31, p 83

judgments, how far, s 41, p 111

meaning of, s 4, p 11

of cession of territory, s 113, p 218

legitimacy, s 112, p 214

Conduct—

accompanying admissions as to bodily state, s 21, p 49

definition of, s 8, Explan 1, pp 16, 19

evidence of, for construing writing, p 182

how far material in construction of documents, p 19

relevant, s 8, p 16

Confessions—

caused by inducement, threat or promise, s 24, p 54

definition of, p 55

distinction between admission and, p 56

judicial and extra-judicial, p 55

made after removal of impression caused by inducement, threat or promise,

s 28, p 72

made while in custody of police-officers, s 26, p 67

to police-officers, s 25, p 60

of co-accused, s 30, p 74

presumption as to, s 80, p 159

retracted, p 60

under promise of secrecy, s 29, p 73

Confidence—

burden of proving good faith in cases of active, s 111, p 212

Confidential communications—

barristers attorneys, vakils, pleaders, s 126, p 256

clerks of legal advisers, s 127, p 259

husband and wife during coverture, s 122, p 251

interpreters, s 127, p 259

judges, magistrates, s 121, p 259

mukhtars, p 258

or professional communications as to affairs of State, s 123, p 252

Consideration—

want of failure of, invalidating document, s 92, proviso 1, pp 178, 185

Conspiracy—

- agreement, but not direct meeting, necessary, p 25
- what constitutes, p 24

Conspirators—

- acts of, s 10, p 23

Construction of documents—

- acts of parties how far relevant, p 20

Consul—

- certificate of British, s 78, p 157

Contemporaneous agreement—

- varying document, s 99, p 198

Contemporaneous statements—

- forming part of the same transaction, s 6, p 14

Contents of documents—

- how proved, s 61, p 138
- in what cases secondary evidence admissible, s 83, p 140
- relevancy of oral admissions as to, s 22, p 52

Continuance—

- presumption in favour of, s 109, p 208

Contracts—

- grants, or other dispositions of property, evidence of terms of s 91, p 169.
- exclusion of evidence of oral agreement, s 92, p 178

Contradiction—

- of answers referring to credit, s 153, Explan, p 291
- testing veracity, s 153, p 287
- relevant facts, s 158, p 296
- witness by a writing, s 145, p 278

Conversation—

- statement forming part of, s 39, p 109.

Copies—

- of foreign judicial records, presumption as to, s 86, p 163

Copy—

- of document, for refreshing memory, s 159, p 297
- private Act, presumption as to, s 81, p 161

Corroboration—

- of accomplice, s 114, 41 (b), pp 218, 223, s 133, p 262
- complainant in rape cases, p 201
- evidence of relevant facts, s 156, p 293
- relevant facts, s 158, p 296
- testimony, by proof of former statements, s 157, p 293

Corrupt inducement—

- offered to witness, s 155(2), p 290

Counsel—

admissions by, p 45

Counterpart—

documents executed in, s 62, p 139

Course of business—

existence of, s 16, p 42

facts showing statements made in, s 32, pp 84, 90,

Course of proceedings—

of Legislative Councils, judicial notice of, s 57(4), p 133

Parliament, judicial notice of, s 57(4), p 133

Court—

discretion of, as to order of witnesses, s 135, p 267

meaning of, s 3, p 3

proof of incompetency of, s 44, p 117

to forbid indecent questions, s 151, p 286

insulting questions, s 152, p 287

what fact, takes judicial notice of, s 57, p 132

questions may be put by, s 165, p 302

Court-martial—

application of Act to judicial proceedings before a, s 1, p 2

Coverture—

privilege of statements during, s 122, p 251.

Credit of witness—

contradictory evidence, use of, to attack, s 153, p 237

cross examination as to, s 146, p 282

impeaching of, ways of, s 155, p 290

proof of corroborative or contradictory evidence tending to impeach, s 158,
p 296

Criminating answer—

witness not excused from answering on ground of, s 132, p 261

Cross-examination—

as to character, s 146, p 282.

previous written statements, s 145, p 278

by a party of his own witnesses, s 154, p 288

compulsion to answer questions, ss 147, 148, p 283

leading questions allowed in, s 143, p 276

meaning of, s 137, p 270

must relate to relevant facts, s 138, p 270

not allowed of a witness producing document, s 139, p 275

confined to facts in examination-in chief, s 138, p 270

on new matters introduced in re examination, s 138, p 270.

to discover status of witness, s 146, p 282

share credit by injuring character, s 147, p 283

test veracity, s 146, p 282

upon answer to judge's question, s 165, p 302

writing with which memory is refreshed, s 161, p 299

- Crowd—**
 statements made by, s 9, ill (b), p 22
- Crown—**
 bound by admission, p 43
- Crown Representative—**
 acts of—how proved, s 78, p 157
- Custody of accused—**
 by police, confessions made during, s 26, p 63
- Custody of documents—**
 presumption as to, s 90, p 165
- Custom—**
 proof of, varying written contract, s 92, proviso (5), pp 178, 193
 relevancy of opinion as to existence of general, s 48, p 124
 statement as to the existence of, s 32(4), pp 84, 94
 what facts are deemed relevant in proving existence of, s 13, p 29
 is a, pp 30, 125
- Customary incidents—**
 evidence to annex, s 92, proviso (5) pp 178, 193
- Damages—**
 character as affecting, s 55, p 130
 relevancy of facts in suits for, s 12, p 29
- Death—**
 dying declaration as to cause of, s 32(1), pp 84, 87
 presumption of, from seven years' absence, s 108 p 207
 statement by deceased as to cause of death, s 21, p 49, s 32, p 84
- Deceased person—**
 statements by, when relevant, s 32, p 84
- Deception—**
 confession caused by, s 29, p 73
- Declarations—**
 against interest, s 21, p 49
- Decree—**
 relevancy of, s 40, p 110
- Deed—**
 statements made in, s 32(7), pp 85, 98
- Defective document—**
 exclusion of evidence to explain, s 93, p 195
- Delay—**
 statement of persons who cannot be called without, s 32, p 84
- Diaries—**
 special, of police officers, s 161, p 299
 for refreshing memory, p 299
- Diplomatic agent—**
 certified copies by s 78, p 157

Discretion of Court—

as to order of witnesses, s 135 p 267

Discovery of fact—

validates confession, s 27, p 65

Disproved—

meaning of, s 3, p 10

Document—

definitions of, s 3, ill, p 6
judge to order production of, s 165, p 302

Documentary evidence—

exclusion of oral evidence by, ss 91, 92, pp 169, 178

Document—

admissibility of, p 13
ambiguous, meaning of, s 93, p 195
called for and examined, must be put in evidence, s 163, p 301
caricature is a, s 3, ill, p 6
certified copies of, s 77, p 157
contents of, when proved, by oral evidence, s 22, p 52, s 63(5), p 140, s 141, p 277
construction of, acts of parties, not to affect, p 20
executed in counterpart, s 62, p 139
map is a, s 3, ill, p 6
meaning of, p 6
not proved by oral evidence, s 60, p 136
presumptions as to, s 73, p 159
primary evidence of, s 62, p 139
private, s 75, p 157
production of certified copies of, s 77, p 157
documents, s 181, p 260
with objection, s 162, p 300
title-deeds, s 130, p 260
proof of, required by law to be attested, s 68, 118, s 70, 152
proved by primary or secondary evidence, s 134, p 138, s 64 p 142
public, s 74, p 155
secondary evidence of, s 65, p 142, s 66, p 146
statements made in, s 37(7), pp 83, 99
thirty years' old, s 90, p 165

Drunken person—

confession by, s 29, p 73

Dumb witness—

mode of giving evidence by, s 119, p 240

Dying declaration—

as to cause of death, s 32(1), pp 84, 87
for refreshing memory, p 298

Enactments—

repeal of, s 2, p 4

Entries—

- in books of account, when relevant, s 34, p 104
- public or official books, s 35, p 106

Estoppel—

- admissions may operate as, s 31, p 83
- by attestation, p 238
 - election, p. 238
 - recital in a deed, p 237
 - remaining silent, p 237
- constructive, p 238
- created by cheque, p 238
 - crediting cheque, p 238
- definition of, s 115, p 228
- difference between, and presumption, p 230
 - and *res judicata*, p 230
 - and waiver, p 231
- equitable estoppel, p 231
- family arrangement, p 239
- feeding the, p 239
- fraudulent intention not necessary, p 236
- future promise does not create an, p 235
- in adoption, p 241
- kinds of, p 231
 - by deed p 231
 - record p 231
 - in pais*, p 232
- must be unambiguous, p 236
- not affecting minors, p 234
 - against statutes, p 237
- of acceptor of bill of exchange, s 117, p 245
 - bailee, s 117, p 246
 - licence s 116, p 241, s 117, p 246
 - mortgagees, pp 240, 244
 - tenants, s 116, p 241
- on a point of law, p 236
- true facts known to both parties p 235

Evidence—

- definition of, s 3, p 6
- difference between, in civil and criminal proceedings, p 9
- of *res gestæ*, p 14

Examination-in-chief—

- leading questions not allowed in, s 142, p 276
 - when allowed in, s 142, p 276
- meaning of, s 137, p 270
- must relate to relevant facts, s 139, p 270

Exceptions—

- burden of proving, s 105, p 204

Discretion of Court—

as to order of witnesses, s 155, p 267

Discovery of fact—

validates confession, s 27 p 65

Disproved—

meaning of, s 3, p 10

Document—

definitions of, s 3, ill, p 6

judge to order production of, s 165, p 302

Documentary evidence—

exclusion of oral evidence by, ss 91, 92, pp 169, 178

Document—

admissibility of, p 13

ambiguous, meaning of, s 93, p 195

called for and examined, must be put in evidence, s 163, p 301

caricature is a, s 3, ill, p 6

certified copies of, s 77, p 157

contents of, when proved, by oral evidence, s 22, p 52, s 63(6), p 140, s 141, p 277

construction of, acts of parties, not to affect, p 20

executed in counterpart, s 62, p 139

map is a, s 3, ill, p 6

meaning of, p 6

not proved by oral evidence, s 60, p 136

presumptions as to, s 73, p 158

primary evidence of, s 62, p 139

private, s 75, p 157

production of, certified copies of, s 77, p 157

documents, s 181, p 260

with objection, s 162, p 300

title-deeds, s 180, p 260

proof of, required by law to be attested, s 68, p 148, s 70, 152

proved by primary or secondary evidence, s 61, p 138, s 64 p 142.

public, s 74, p 155

secondary evidence of, s 65, p 142, s 66, p 146

statements made in, s 32(7), pp 85, 98

thirty years' old, s 90, p 165

Drunken person—

confession by, s 29, p 73

Dumb witness—

mode of giving evidence by, s 119, p 240

Dying declaration—

as to cause of death, s 32(1), pp 84, 87

for refreshing memory, p 298

Enactments—

repeal of, s 2, p 8

Entries—

- in books of account, when relevant, s 34, p 104
- public or official books, s 35, p 106

Estoppel—

- admissions may operate as, s 31, p 83
- by attestation, p 238
 - election, p 238
 - recital in a deed, p 237
 - remaining silent, p 237
- constructive, p 238
- created by cheque, p 238
 - crediting cheque, p 238
- definition of, s 115, p 228
- difference between, and presumption, p 230
 - and *res judicata*, p 230
 - and waiver, p 231
- equitable estoppel, p 233
- family arrangement, p 230
- feeding the, p 239
- fraudulent intention not necessary, p 236
- future promise does not create an, p 235,
- in adoption, p 241
- kinds of, p 231
 - by deed, p 231
 - record p 231
 - in pais*, p 232
- must be unambiguous, p 236
- not affecting minors, p 234.
 - against statutes, p 237
- of acceptor of bill of exchange, s 117, p 245
 - bailee, s 117, p 246
 - licensee, s 116, p 241, s 117, p 240
 - mortgagees, pp 240, 244
 - tenants, s 116, p 241
- on a point of law, p 236
- true facts known to both parties, p 235

Evidence—

- definition of, s 3, p 6
- difference between, in civil and criminal proceedings, p 9
- of *res gestæ*, p 14

Examination-in-chief—

- leading questions not allowed in, s 142, p 276
 - when allowed in, s 142, p 276
- meaning of, s 137, p 270
- must relate to relevant facts, s 138, p 270

Exceptions—

- burden of proving, s 105, p 204

Exchange—

bill of, estoppel of acceptor of, s 117, p 245

Exclusion of evidence—

- against application of document to existing facts, s 94, p 190
- of oral agreement varying terms of a contract, s 91, p 169
- to explain ambiguous defective document, s 93, p 195

Existence—

of fact made probable to how relevancy, s 11, p 26

Expert—

- definition of, s 45, p 120
- experiments by, s 51, *ibid.*, p 127
- facts bearing on opinion of, s 46, p 122
- may give ground of opinion, s 51, p 127
 - refresh memory by reference to professional treatises, s 159, p 297
- opinions, when relevant, s 45, p 120.
 - ascertained from books, s 60, p 136

Explanatory facts—

relevancy of, s 9, p 22, s 93, p 195

Fact—

- burden of proof, as to particular, s 103, p 203
- definition of, s 3, p 4
- disproof of, s 3, p 10
- not proved, s 3, p 10
- proof of, s 3, p 8
- relevancy of, s 3, p 4

Facts—

- admitted, need not be proved, s 53, p 135
- bearing on opinion of experts, s 45, p 120
- burden of proof as to, s 103, p 203
- forming part of same transaction, s 6, p 14
- in issue, definition of, s 3, p 5
 - evidence of, s 5, p 12
- judicially noticed, need not be proved, s 56, p 132
- necessary to explain or introduce relevant facts, s 9, p 22
- not requiring proof, pp 132-135
- presumption as to existence of, s 114, p 218
- proof of, by oral evidence, s 50, p 136
- relevancy of, s 3, p 4
- which are occasion, cause or effect of relevant facts, s 7, p 15

Family pedigree—

to show relationship, s 32(6), pp 85, 97

Family portrait—

to show relationship, s 32(6), pp 85, 97

Fasts—

judicial notice of, s 57(9), p 133

Festivals—

judicial notice of, s 57(9), p 133

- Fiduciary relation—**
 - burden of proof when parties stand in, s 111, p 212
- Finger impressions—**
 - comparison of, with those admitted, s 73, p 154
 - opinion of experts as to, s 45, p 120
- First information report—**
 - evidentiary value of, p 295
- Flag—**
 - of foreign State, judicial notice of, s 57(8), p 133.
- Foreign country—**
 - public documents of, s 78(6), p 158
- Foreign expressions—**
 - evidence to show meaning of, s 93, p 193
 - judicial records, presumption as to certified copies of, s 86, p 103
 - law, opinion of experts as to, s 45, p 120
 - sovereigns and states, judicial notice of, s 57(8), p 133
- Forfeiture—**
 - answer exposing witness to, s 132, p 267
- Former proceedings—**
 - evidence given in, when admissible, s 33, p 99
- Fraud—**
 - in obtaining judgment may be proved, s 44, p 117
 - secretary original document, s 66(3), p 146
 - invalidating a document, s 92, proviso (1), pp 178, 185
- Gazette—**
 - presumption as to genuineness of, s 81, p 161
 - statement made in, s 37, p 108
- Genealogical table—**
 - how far evidence, s 32(6), pp 85, 97
- General custom—**
 - or right defined, s 48, Explan, p 124
- Geographical divisions—**
 - judicial notice of, s 57(9), p 133
- Good faith—**
 - burden of proof as to, s 111, p 212
 - relevancy of facts showing, s 14, p 34
- Good will—**
 - facts showing existence of, s 14, p 34
- Government—**
 - Acts, orders, notifications, proof of, s 78, p 157
- Government Gazette—**
 - presumption as to genuineness of, s 81, p 161.

Grants—

and other dispositions of property, reduced to form of document, s 91, p 169
 varying the terms of, by oral evidence, s 92, p 178

Grounds of opinion—

experts may give, s 51, p 127

Guardian—

admissions by, p 40

Handwriting—

comparison of, s 73, p 154
 modes of proving, opinion of expert as to identity of, s 45, p 120
 of attesting witnesses, s 60, p 151
 proof of, when necessary, s 67, p 147
 relevancy of opinion as to, s 47, p 123

Hearsay—

is no evidence, pp 86, 137
 not admissible except in certain cases, p 86

High Court—

certain questions asked by attorney, etc, without reasonable grounds may
 be reported to, s 150, p 286

Holidays—

judicial notice of, s 57(9), p 133

Horoscope—

how far evidence, p 98

Hostile witnesses—

cross examination of, s 154, p 288

Hostilities—

between British Government and other State, judicial notice of, s 57(11), p 133

Husband and wife—

competent witnesses, s 120, p 249
~~may not be witnesses, disallow any communication made to each other during~~
 marriage, s 122, p 251

Identity—

facts establishing, of thing or person, s 9 p 22
 opinion of expert on, of hand writing, s 45, p 120
 questions in cross-examination to discover, of witness, s 146(2), p 282

Illegality—

invalidating a document, s 92, proviso (1), pp 178, 185

Illegible characters—

evidence admissible to show meaning of, s 98, p 108

Ill will—

facts showing existence of, s 14, p 34

Impartiality—

affecting credit of witnesses, s 153, Excep (2), p 287

- Impeaching credit—**
 - of witness, s 155, p 290
- Improper admission—**
 - or rejection of evidence, s 107, p 305
- Incapacity—**
 - to give evidence, s 118, p 246
- Income-tax officers—**
 - statements of assessee before, p 253
- Incompetence—**
 - of Court to deliver judgment may be proved, s 44, p 117
- Incompetent—**
 - what witnesses are, s 118, p 246
- Inconsistency—**
 - of any fact in issue or relevant fact, s 11, p 26
- Inconsistent statement—**
 - made by witness, s 155(3), p 290
 - offered to a witness, s 155(2), p 290
- Incriminating documents—**
 - witness cannot be compelled to produce, s 130, p 260
- Incriminating statements—**
 - witness compelled to make, s 152, p 261
- Indecent questions—**
 - Court to forbid, s 151, p 286
- Independent States—**
 - recognition of, s 57(8), p 133
- Inducement—**
 - confession caused by, s 24, p 54
- Inscription—**
 - on stone or metal plate is document, s 3, ill, p 6
- Insolvency jurisdiction—**
 - relevancy of certain judgments in, s 41, p 111
- Instances—**
 - proving right or custom, s 13, p 20
- Insulting questions—**
 - Court to forbid, s 152, p 287
- Intention—**
 - evidence as to declarations of, s 15, p 39
 - of, to construe writing, p 183
 - facts showing, how far relevant, s 14, p 34
- Interest—**
 - statement against, s 32(3), pp 84, 92

Interpretation-clause—

s 3, p 3

Interpreter—

communication made to, when disclosable, s 127, p 259

Intimidation—

invalidating a document, s 92, prov (1), pp 178, 185

Intoxication—

confession made in, s 29, p 73

Irrelevant—*evidence, rejection of*, p 5**Issue of facts—**

s 3, p 5

Journals—

presumption as to, s 81, p 161

Judge—

must decide on facts relevant and duly proved, s 165, p 302

not compellable to answer certain questions, s 121 p 249

to decide as to admissibility of evidence, s 136, p 268

relevancy of fact, s 136, p 268

forbid indecent question, s 151, p 286

insulting question, s 152, p 287

order production of document, s 165, p 302

put any question, s 165, p 302

Judgment—fraud or collusion in obtaining or incompetency of Court to deliver, may be
proved, s 44, p 117

how far conclusive proof, s 41, p 111

Judgments—*in rem*, s 41, p 111

must be based on facts relevant and duly proved, s 165, p 302

not *inter partes*, how far transactions or particular instances, p 32

relevant, s 43, p 115

when not conclusive proof, s 42, p 114

when relevant, s 40, p 110

Judicial notice—

facts of which Courts must take, ss 56, 57, p 132

Judicial proceedings—

evidence in former, when relevant, presumption as to evidence in, s 80, p 159,

meaning of, p 3

Jury—

questions to witnesses by, s 166, p 303

Jus tertii—

may not be pleaded, when, p 242

- Kaji—**
 register of marriages by a, admissible, p 92
- Knowledge—**
 burden of proof, s 106, p 205
 facts showing, how far relevant, s 14, p 34
 that a witness is unworthy of credit, s 155(1), p 290
- Landlord and tenant—**
 burden of proof as to relationship of, s 109, p 208
 estoppel of tenant denying title of, s 116, p 241
- Language—**
 oral evidence to explain dubious, s 97, p 197
- Latent ambiguity—**
 evidence admitted to explain, p 105
- Law—**
 judicial notice of, s 57(1), p 132
- Law books—**
 presumptions as to, s 84, p 162
 relevancy of statements, in, s 38, p 109
- Law, foreign—**
 opinion of experts as to, s 45, p 120
- Leading questions—**
 allowed in cross-examination, s 143, p 276
 Judge may put, s 165, p 202
 limit of rule with regard to, s 142, p 270
 meaning of, s 141, p 276
 not allowed in examination in chief, s 142, p 270
 re-examination, s 142, p 270
 when allowed in examination in chief, s 142, p 270
- Lease—**
 burden of proving discontinuance of, s 109, p 208
- Legal advisers—**
 rule as to disclosure of confidential communication to, s 126, p 256
- Legislative Councils—**
 course of proceeding of, judicial notice of, s 57 (4), p 133
 proceedings of, proof of, s 78(4), p 158
- Legitimacy—**
 birth during marriage conclusive proof of, s 112, p 214
- Letters—**
 contract contained in, s 39, p 109
 forming part of a transaction, s 6, ill (c), p 14
- Lex fori—**
 law of evidence is, p 3
- Licensee—**
 estoppel of, s 116, p 241, s 117, p 245

Life—

presumption as to continuance of, s 107, p 206

Lithograph—

a document, s 3, p 6

Lithography—

document made by, s 62, Explan 2, p 139

Local expressions—

evidence to show meaning of, s 98, p 198

London Gazette—

presumption as to genuineness of, s 81, p 161

regulations etc, contained in, proof of, s 78(3), p 158

relevancy of statements in, s 37, p 108

Lost document—

proof of contents of, s 60(5), p 146

Lunatic—

when competent as witness, s 118, Explan 2, p 246

Magistrate—

meaning of the term, s 26, Explan, p 63

not compellable to answer certain questions, s 121, p 249

disclose source of information as to commission of offence,
s 123, p 255

Maps—

are 'documents', s 3, ill, p 6

presumption as to, s 83, p 162, s 87, p 164

relevancy of statements in, s 36, p 108

Marriage—

birth during conclusive proof of legitimacy, s 112, p 214

husband and wife may not as witnesses disclose any communications made to
each other during, s 122, p 251

statements as to existence of, s 32(5), pp 84, 95

Matrimonial jurisdiction—

relevancy of certain judgments in, s 41, p 111

Matters of State—

document produced by witness referring to, s 162, p 300

Maxims—

allegans contraria non est audiendus p 229

falsa demonstratio non nocet, p 198

omnia presumuntur rite esse acta, pp 42, 159

qui tacet consentire videtur, p 21

res inter alios acta, p 123

'May presume'—

definition of, s 4, p 11

Mechanical process—

copies made by, secondary evidence, s 63, p 140

- Memorandum of evidence—**
 - presumption as to, s 80, p 159
- Memory—**
 - right of adverse party to see writing used for refreshing, s 161, p 299
 - rules as to witness refreshing, s 159, p 297
- Minors—**
 - whether bound by estoppel, p 234.
- Mob—**
 - crimes of admissible in case of riot, s 9, ill (f), p 22
- Motive—**
 - facts showing, s 8 p 16
- Mortgagee—**
 - estoppel of, pp 239, 244
- Muhammadan—**
 - rules of evidence, repeal of, p 217
- Mukhtears—**
 - professional communications to, p 258
- Municipal body—**
 - proceedings of, s 78(5), p 158
- Native Prince—**
 - cession of territory to, s 113, p 218
- Negligence—**
 - facts showing existence of, s 14, p 34
- New matters—**
 - introduced in re-examination, s 138, p 270
- Newspaper—**
 - presumption as to genuineness of, s 81, p 161
- New trial—**
 - improper reception or rejection of evidence, when no ground for, s 167, p 305
- Notary public—**
 - seal of, judicially noticed, s 78(6), p 158
- Notice—**
 - to produce documents, rules as to, s 66, p 148
- Notifications in Official Gazette—**
 - judicial notice of, s 57(7), p 133
 - of cession of territory, s 113, p 218
 - Government how proved, s 78, p 157
 - statement of fact in Government, s 37, p 108
- Not proved—**
 - when a fact is said to be, s 3, p 10
- Number of witnesses—**
 - no particular, necessary, s 134, p 267

Life—

presumption as to continuance of, s 107, p 206

Lithograph—

a document, s 3, p 6

Lithography—

document made by, s 62, Explan 2, p 139

Local expressions—

evidence to show meaning of, s 98 p 198

London Gazette—

presumption as to genuineness of, s 81, p 161

regulations etc, contained in, proof of, s 78(3), p 158

relevancy of statements in, s 37, p 108

Lost document—

proof of contents of, s 68(5), p 146

Lunatic—

when competent as witness, s 118, Explan p 246

Magistrate—

meaning of the term, s 26 Explan p 63

not compellable to answer certain questions, s 121, p 240

disclose source of information as to commission of offence,
s 125, p 255

Maps—

are 'documents', s 3, ill., p 6

presumption as to, s 83 p 102 s 87, p 104

relevancy of statements in, s 36, p 108

Marriage—

birth during conclusive proof of legitimacy, s 112, p 214

husband and wife may not as witnesses disclose any communications made to
each other during, s 122, p 251

statements as to existence of, s 32(5), pp 84, 95

Administrative jurisdiction—

relevancy of certain judgments in, s 41, p 111

Matters of State—

document produced by witness referring to, s 162, p 300

Maxims—

allegans contraria non est audiendus p 229.

falsa demonstratio non nocet, p 198

omnia presumuntur rite esse acta, pp 42, 159

qui tacet consentire videtur, p 21

res inter alios acta, p 123

'May presume'—

definition of, s 4, p 11

Mechanical process—

copies made by, secondary evidence, s. 63, p 140

- Memorandum of evidence—**
 - presumption as to, s 80, p 159
- Memory—**
 - right of adverse party to see writing used for refreshing, s 161, p 299
 - rules as to witness refreshing, s 150, p 297
- Minors—**
 - whether bound by estoppel, p 234
- Mob—**
 - cries of admissible in case of riot, s 9, ill (f), p 22
- Motive—**
 - facts showing, s 8 p 16
- Mortgagee—**
 - estoppel of, pp 230, 244
- Muhammadian—**
 - rules of evidence, repeal of, p 217
- Mukhtears—**
 - professional communications to, p 258
- Municipal body—**
 - proceedings of, s 78(5), p 158
- Native Prince—**
 - cession of territory to, s 113, p 218
- Negligence—**
 - facts showing existence of s 14, p 34
- New matters—**
 - introduced in re-examination, s 138, p 270
- Newspaper—**
 - presumption as to genuineness of, s 81, p 161
- New trial—**
 - improper reception or rejection of evidence, when no ground for, s 167, p 305
- Notary public—**
 - seal of, judicially noticed, s 78(6), p 158
- Notice—**
 - to produce documents, rules as to, s 66, p 146
- Notifications in Official Gazette—**
 - judicial notice of, s 57(7), p 133
 - of cession of territory, s 113, p 218
 - Government, how proved, s 78, p 157
 - statement of fact in Government, s 37, p 108
- Not proved—**
 - when a fact is said to be, s 3, p 10
- Number of witnesses—**
 - no particular, necessary, s 134, p 267

Obsolete expressions—

evidence to show meaning of, s 98, p 198

Offence—

conspiracy to commit, s 10, p 23

definition of, s 30, Expln, p 74

Magistrate not compellable to disclose source of information as to commission of,
s 125, p 255

Offensive questions—

Court to forbid needlessly, s 152, p 287

Officers of Court—

~~same~~ of, judicial notice of, s 57(12), p 133

Official bodies—

acts of, are public documents, s 74, p 155

Official books—

entries in, s 35, p 106

Official communications—

public officer not compellable to disclose, s 124, p 253

Official Gazette—

Notification in, s 37, p 108, s 57(7), p 133

presumption as to, s 81, p 161

Old age—

incompetency as a witness of a person of extreme, s 118, p 246

Onus—

See BURDEN OF PROOF

Opinion—

expert may give grounds of, s 51, p 127

Opinions—

as to comparison of handwriting, s 73, p 154

constitution of religious foundation, s 40, p 125

~~existence of religious foundations~~ handwriting, s 47, p 123

handwriting, s 47, p 123

meaning of particular words, s 40, p 125

usages, tenets, meaning of terms, etc, s 49, p 125

grounds of, are relevant, s 51, p 127

of experts, facts bearing on, s 46, p 122

on points of science or art, s 45, p 120

third persons, when relevant, p 124

Oral admission—

as to contents of documents, s 22, p 52

Oral agreement—

evidence of, not admissible to vary terms of a written contract, s 92, p 178.

Oral evidence—

definition of, s 3(1), p 6

exclusion of, by documentary evidence, s 92, p 178

Oral Evidence—Contd

- must be direct, s 60, p 136
- of contents of documents, s 22, p 52, s 60, p 136, s 144, p 277
- documents unmeaning in terms, s 95, p 196
- experts when dispensed with, s 60, p 136
- language used in documents, s 96, p 197
- to explain ambiguous documents, s 93, p 195

Order—

- of examination of witnesses, s 138, p 270
- production of witnesses, s 135, p 267
- relevancy of, s 40, p 110

Orders of Government, etc.—

- how proved, s 78, p 157

Originals—

- more than one proof of, s 91, Explan, 2, pp 170, 173

Ownership—

- burden of proof as to, s 110, p 209

Panchanama—

- proof of, p 7

Pardanashin ladies—

- burden of proof of documents of, p 213

Parliament—

- Acts passed by, judicial notice of, s 57(2), p 132
- course of proceeding of, judicial notice of, s 57(4), p 133
- meaning of, s 57(4), Explan, p 133

Parol evidence—

- See ORAL EVIDENCE

Partners—

- admissions by, p 46
- burden of proof as to relationship in case of, s 103, p 208

Party to a suit—

- admission by a, s 19, p 44
- notice to, to produce documents, s 66, p 146

Pedigree—

- how far evidence, p 98
- statement in family, s 32(6), pp 85, 97

Person in authority—

- confession made to a, s 24, p 54

Photograph—

- a document, s 3, ill, p 6

Plans—

- are 'documents', s 3, ill, p 6
- presumption as to, s 83, p 162
- relevancy of statements in, s 36, p 108

Pleaders—

- admissions of fact by, p 45
- confidential communications to, s 126, p 256
- insulting questions put by, s 150, p 286
- names of, judicial notice of, s 57(12), p 133
- notice to, to produce documents, s 66, p 146

Police-officers—

- confession by accused while in custody of, s 26, p 63
- to, s 25 p 60
- diary of, for refreshing memory, p 208
- not compellable to disclose source of information as to commission of offence,
s 125, p 255

Political Agents—

- certificate of, presumption as to, s 86, p 163

Portrait—

- statement made on family, s 32(6), pp 85, 97

Position in life—

- cross examination as to, s 147, p 283

Possession—

- denoting ownership, s 110, p 209

Post-mortem examination—

- reports, for refreshing memory, p 298

Powers-of-attorney—

- presumption as to, s 85, p 163

Prejudice—

- communications, without, s 23, p 53

Preparation—

- facts showing, s 8, p 16

Presumption—

- as to accomplice evidence, s 114, ill (b), pp 218, 223
- bills of exchange, s 114, ill (c), pp 218, 224
- books of law and reports, s 84, p 162
- certified copies, s 79, p 158
 - of foreign judicial records, s 86, p 163
- documents, s 79, p 158
 - admissible in England, s 82, p 162
 - due execution of, s 89, p 164
 - produced as record of evidence, s 80, p 159
 - thirty years' old, s 90, p 165
- existence of certain facts, s 114, p 218
- gazettes, etc, s 81, p 161
- maps and charts, s 87, p 164
 - or plans, s 83, p 162
- powers-of-attorney, s 85, p 163
- recent possession of stolen property, s 114, ill (a), pp 218, 221.
- telegraphic message, s 88, p 164

Presumption—Contd

- conclusive, p 11
- definition of, p 11
- of fact, p 11
- law, p 11

Previous conviction—

- how far a relevant fact, s 14, p 34
- evidence of bad character, s 54, p 129
- when given s 153, exception 1, p 287,

Primary evidence—

- meaning of, s 62, p 139
- proof of document by, s 61, p 138, s 64, p 142

Principal and agent—

- burden of proof as to relationship in case of, s 109, p 208

Principal and surety—

- admission by, p 46

Privilege—

- communications during marriage, s 122, p 251
- information as to commission of offences, s 125, p 255
- judges and magistrates, s 121, p 240
- not waived by volunteering evidence, s 128, p 259
- of affairs of State, s 123, p 252
- clients, s 129, p 259
- official communications, s 124, p 253
- professional communications, s 126, p 256

Privileged communications—

- rules as to, s 126, p 256

Private documents—

- public records of, are public documents, s 74, p 153
- what are, s 75, p 157

Privy Council—

- orders, etc. issued by, proof of s 78(3) p 157

Probability—

- facts showing, of fact in issue, s 11, p 26

Probate—

- in proof of will, s 91, exception 2, pp 170, 173

Probate jurisdiction—

- relevancy of certain judgments in, s 41, p 111

Proceedings—

- evidence given in former, when relevant, s 33, p 90

Proclamations—

- how proved, s 78, p 157

Proctors—

- names of, judicial notice of, s 57(12), p 133

Production—

- of documents, by agent, s 131, p 260
 - called for and examined, s 163, p 301
 - once refused, s 184, p 302
 - under protest, s 162, p 300
- title deeds, by witness, s 130, p 260
- witnesses, s 135, p 267
- writing used by witness to refresh memory, s 161, p 299

Professional communications—

- rules as to, s 126, p 256

Professional treatise—

- expert may refresh memory by reference to, s 159, p 297

Promise—

- confession caused by, s 24, p 54
- of secrecy, does not vitiate confessions, s 29, p 73

Proof—

- admission not conclusive, s 31, p 83
- birth during marriage conclusive, of legitimacy, s 112, p 214
- burden of See BURDEN OF PROOF
- conclusive, meaning of, s 4, p 11
- facts not requiring, chap III, p 132
- of acts, orders, notifications of Government, s 78, p 157
 - of the Executive, s 78(4), p 158
- admission against person making it, s 21, p 49
 - by or on behalf of person making it, s 21, p 49
- admitted fact not necessary, s 85, p 135
- attested documents not required by law to be attested, s 72, p 153
- certain public and official documents, s 74, p 155
- contents of documents, s 61, p 138, s 64, p 142
- execution of document required by law to be attested, s 68, p 148, s 70, p 152
 - when attesting witness cannot be found, s 69, p 151
 - denies execution, s 71, p 153
- facts by oral evidence, s 59, p 136
- handwriting and signature when necessary, s 67, p 147
- proceedings of Legislatures, s 78(2), p 157
 - municipal body, s 78(5), p 158
- proclamation, etc, of Government, s 78(3), p 157
- public document by production of certified copy, s 77, p 157
 - of foreign country, s 78(6), p 156
- statement, how much necessary, s 39, p 109
- will by probate, s 91, exception 2, p 170

Proper custody—

- what is, s 90, Explanation, p 165

Prosecutrix—

- proof of immoral character of, s 155(4), p 290

Proved—

when a fact is said to be, s 3, p 8

Provincial expressions—

evidence to show meaning of, s 98, p 198

Public book—

interest, statements as to matters of, s 32(4), pp 84, 94
register, or record, entry in, s 35, p 106
right, statements as to, s 32(4), pp 84, 94

Public document—

certified copies, s 76, p 157
enumeration of, s 74, p 155

Public festivals—

judicial notice of, s 57(9), p 133

Public nature—

judgments referring to, relevant, s 42, p 114

Public office—

accession, etc, to, judicial notice of, s 57(7), p 133

Public officers—

acts or records of facts of, are public documents, s 74, p 155

Public proceedings—

of Legislative Councils, proof of, s 78(2), p 157

Public proclamations—

of Government, proof of, s 78(3), p 157

Public records—

entries in, s 35, p 106
of private documents, s 74, p 155

Public servant—

entries made by, s 35, p 106

Questions—

asked without reasonable grounds, s 150, p 286
as to credit, s 155, p 290
by party to his own witness, s 154, p 288
indecent or scandalous, s 151, p 286
intended to insult or annoy, s 152, p 287
judge may ask any, s 165, p 302
jury or assessors may ask, s 166, p 305
lawful in cross-examination, s 143, p 276
leading, s 141, p 276
witness must answer, though exonerating, s 132, p 261

Rape—

impeaching credit of prosecutrix for, s 155(4), p 290

Rashness—

facts showing existence of, s 14, p 34

Recitals—

- in Acts or notifications, s 57(6), p 133
- instruments, s 32(7), pp 85, 98

Record of evidence—

- foreign judicial, presumption as to, s 86, p 163
- presumption as to documents purporting to be, s 80, p 159
- relevancy of entry in a, made in performance of duty, s 35 p 106

Re-examination—

- as to character, s 140, p 276
- leading questions not allowed in, s 142, p 276
- meaning of, s 137, p 270
- on new matter introduced by permission of Court, s 138, p 270
- to what directed, s 138, p 270

Reference—

- to books by experts, s 159, p 297

Refreshing memory—

- right of adverse party to see writing used for, s 161, p 290
- rules as to s 159, p 297
- special diary for, s 159, p 298
- want of stamp, s 159, p 298

Refusal—

- secondary evidence on, s 65, p 142
- to produce document, presumption on, s 69, p 164

Register—

- entry in a, s 35, p 106

Regulations of Government—

- proof of, s 78(3), p 157

Rejection—

- improper, of evidence no ground for new trial, s 167, p 305
- of evidence as irrelevant, p 5

Relationship—

- burden of proof as to, s 111, p 212
- made in wills, s 32(4), pp 85, 97
- relevancy of opinion as to, s 50, p 126
- statement as to existence of, s 32(5), pp 84, 95

Relevancy—

- of admission in civil cases s 17, p 43
- bad character in criminal proceedings, s 54, p 129
- character as affecting damages, s 55, p 130
- conduct, in civil cases, s 52, p 127
- criminal cases, s 53, p 128
- confession made after removal of impression caused by inducement, threat, or promise, s 28, p 72
- corroboration of facts, s 156, p 293
- entry in public record, etc, made in performance of duty, s 35, p 106

**Relevancy—*Condit*
of facts—**

- bearing on opinions of experts, s 46, p 122
- questions whether act was accidental or intentional, s 15, p 39
- forming part of the same transaction, s 6, p 14
- in suits for damages, s 12, p 29
- inconsistent with fact in issue or relevant fact, s 11, p 26
- necessary to explain or introduce a fact in issue or relevant fact, s 9, p 22
- of good character in criminal proceeding, s 54, p 129
- showing existence of course of business, s 16, p 42
- state of mind, body, or bodily feeling, s 14, p 34
- where right or custom in question, s 13, p 29
- which are the occasion, etc, of relevant facts or facts in issue, s 7, p 15
- which show a motive or preparation for any fact in issue or relevant fact, s 8, p 16
- grounds of opinion, s 51, p 127
- judgments, etc, to bar second suit or trial, in probate, etc, jurisdiction, s 41, p 111
- in other than probate etc, jurisdiction, s 42, p 114
- judgments, in probate, etc, conclusive proof, s 41, p 111
- judgments, etc, other than above, s 43, p 115
- opinions as to existence of general custom or right, s 48, p 124
 - handwriting, s 47, p 123
 - relationship, s 50, p 126
 - usages, tenets, etc, s 49, p 125
- oral admission as to contents of documents, s 60, p 136
- previous conviction in criminal proceedings, s 14, p 34
- reports, s 38, p 109
- statements as to fact of public nature contained in certain Acts or notifications, s 37, p 108
- in maps, charts, and plans, s 36, p 108
- of act of conspirator, s 10, p 23
- law of country contained in law books, s 38, p 109

Relevant—

- definition of, s 3, p 4

Repeal—

- of enactments, p 4

Reports—

- of decisions, presumption as to genuineness of, s 81, p 162
- relevancy of, s 38, p 109

Reputation—

- evidence of general, s 55, Explanation, p 130

Res gestae—

- evidence of, p 14

Res judicata—

- s 40, p 110

Retracted confession—

s 30, p 80

Revenue officer—

meaning of, s 125, Explanation, p 255

not compelled to give source of information, s 125, p 255.

Right—

opinion as to existence of general, s 48, p 124

relevancy of facts as to existence of, s 13, p 29

term imports corporeal and incorporeal right, p 30

Road—

rule of the, judicially noticed, s 57(13), p 133, 134

Rule—

as to notice to produce documents, s 66, p 146

of the road or sea, judicially noticed, s 57(13), pp 133, 134

Samadaskat book—

entries of payment in, p 92

Scandalous questions—

when Court to forbid, s 151, p 286

Science—

opinions of experts on points of, s 45, p 120

Sea—

judicial notice of the rule of the road, or, s 57(13), p 133, 134

Seal—

comparison of, with admitted or proved, s 73, p 154

presumption as to genuineness of, s 82, p 162

Seals—

list of, judicially noticed, s 57(6), p 133

Secondary evidence—

after notice to produce, s 66, p 146

certified copies, s 76, p 157

meaning of, s 63, p 140

of ancient documents, p 167

existence, condition, or contents of documents, s. 65, p 142

Secrecy—

confession under promise of, s 29, p 73

Series—

of occurrences, relevancy of, s 15, p 39

Seven years—

absence, presumption of death from, s 108, p 207

Shall presume—

defined, s 4, p 11

Sign Manual—

of Sovereign, judicial notice of, s 57(5), p 133

Signature—

- comparison of, with admitted or proved, s 73, p 154
- presumption as to genuineness, of, s 79, p 158
- proof of, when necessary, s 67, p 147
 - not necessary, s 82, p 102

Sovereign—

- accession of, judicial notice of, s 57(5), p 133
- acts or records of acts of, s 74, p 155

Special diary—

- of police officers, s 145, p 230, s 159, p 293

Stamp—

- of a document, presumption as to, s 89, p 164
- want of, refreshing memory, s 159, p 297

State—

- affairs of, admissibility of evidence as to, s 123, p 252

State of body—

- admissions as to, s 21, p 49
- facts showing existence of, s 14, p 34

State of mind—

- admissions as to, s 21, p 49
- facts showing existence of, s 14, p 34

Statements—

- against interest of maker, s 21, p 49, s 32(3), pp 84, 92
- by party to proceeding or agent, s 18, p 44
 - interested in the subject-matter of suit, s 18, p 14
 - persons who cannot be called as witnesses, s 32 p. 84, s 33, p 99.
- how much of, should be proved, s 39, p 109
- made in course of business, s 32(2), pp 84, 90
- presumption as to evidence, s 80, p 159
- regarding conduct, s 8, Expln, 2, pp 16, 21
- relating to cause of death, s 21, p 49, s 32(1), pp 84, 90
- relevancy of, as to facts of public nature, s 32(4), pp 84, 94
 - in maps, charts, etc, s 36, p 108

Status of witness—

- cross-examination as to, s 146, p 282

Strangers—

- admissions by, when relevant, s 19, p 47, s 20, p 48

Sutor—

- admission by, s 18, p 44

Surety—

- admissions by, p 46

Technical expression—

- evidence to show meaning of, s 98, p 198

Telegraph messages—

- presumption as to, s 88, p 164

Tenant—

burden of proof as to relationship of, s 109, p 208
 estoppel of, denying title of landlord, s 116, p 241

Tender years—

incompetency as witness of person of, s 118, p 246

Tenets—

of body of men or family, relevancy of opinion as to, s 40, p 125

Terms—

relevancy of opinion as to meaning of, s 43, p 125

Territories—

British, judicial notice of, s 57(10), p 133

Territory—

cession of, conclusive proof of, s 113, p 218

Testify—

who are competent to, s 118, p 246

Thirty years—

old documents, s 90, p 165
 presumption as to death, s 107, p 206

Threat—

confession caused by, s 24, p 54
 removal of the effect of, s 28, p 72

Time—

judicial notice of, s 57(9), p 133

Title deeds—

of a witness not a party, production of, s 130, p 260

Tombstone—

statement as to relationship made on, s 32(6), p 85, 97

Transaction—

facts forming part of the same, s 6, p 14
 proving right or custom, s 13, p 29
 the import of, p 31

Translation—

of documents produced by a witness, s 162, p 300

Unintelligible terms—

evidence to explain meaning of, s 98, p 198

Usage—

proof of, as varying written contract, s 92, proviso (5), pp 178, 193

Usages—

of body of men, of family, relevancy of opinion as to, s 40, p 125

Vakil—

communication to, privilege of, s 126, p 256
 name of, judicial notice of, s 57(12), p 133
 questions asked by, without reasonable grounds, s 150, p 286

Varying of document—

- by contemporaneous agreement, s 90, p 165
- oral evidence, s 92, p 178

Veracity of witness—

- questions to test, s 146, p 232

Volunteering evidence

- effect of, s 128, p 259

War—

- articles of, judicial notice of, s 57(3), p 132

Warning—

- confession not invalidated by absence of, s 29, p 73.

Wife—

- See HUSBAND AND WIFE

Wills—

- construction of, not affected, s 100, p 199
- proof of, by probate, s 91, exception 2, pp 170, 173
- statement as to custom made in, s 32(7), pp 85, 98
- relationship made in, s 32(6), pp 85, 97

Without prejudice

- statements made, s 23, p 53

Witness—

- accomplice competent, against accused person, s 114, ill (b), p 218, s 133, p 262
- attesting, proof when he cannot be found, s 69, p 151
- attorney as, s 126, p 256
- attorney's clerk or servant as, s 127, p 259
- barrister as, s 126, p 256
- barrister's clerk or servant as, s 127, p 259
- client as, s 129, p 259
- compelled to produce title deeds, s 130, p 260
 - incriminating documents, s 130, p 260
 - documents of others, s 131, p 260
 - make criminating statements, s 132, p 261
- competency of, s 118, p 246
- contradiction of, s 153, p 287
- credit of, confirmation of, s 158, p 296
 - how impeached, s 155, p 290
 - impeachment of, s 153, p 287
 - questions in cross-examination affecting, s 146, p 232
- cross-examination See CROSS EXAMINATION
- dumb, mode of giving evidence by, s 119, p 249
- evidence of, when relevant for proving in subsequent proceeding truth of facts stated, s 33, p 99
- examination of, as to witness, document or contents, s 22, p 52
- examination-~~by~~ chief of See EXAMINATION-IN-CHIEF
- husband or wife of accused competent as, in criminal proceedings, s. 120, p 249.
- interpreter as, s 127, p 259

Witness—*Contd*

- judge or magistrate as, s 121, p 249
- may be cross-examined upon it, s 161, p 299
- not a party, rules as to production of title deeds of, s 130, p 260
- excused from answering on ground that answer would criminate, s 132, p 261
- of document executed in the United Kingdom, s 69, p 151
- oral evidence of, as to statements, by other persons of contents of documents when admissible, s 60, p 136
- order of examination of, s 135, p 267
- party to civil suit, and husband or wife competent, s 120, p 249
- pleader as, s 126, p 256
- pleader's clerk or servant as, s 127, p 259
- power of Judge to examine, s 165, p 302
- production of document by, s 130, p 260, s 139, p 275
- proof of former statement of, to corroborate testimony, s 157, p 293
- public officer as, s 123, p 252
- questions to, by jury or assessors, s 106, p 305
- re-examination of *See RE EXAMINATION*
- refreshing memory by reference to writing, s 159, p 297
- statements by persons who cannot be called as, s 32, p 84
- to character, cross-examination and re-examination of, s 140, p 276
- translation of document produced by, s 162, p 300
- vakil as, s 126, p 256
- vakil's clerk or servant as, s 127, p 259
- when compellable to answer question in cross-examination testing veracity etc, s 147, p 283
- in what case Court to decide, s 148, p 283
- may testify to facts mentioned in document, s 114, p 218
- execution of document must be proved by, s 68, p 148
- wife of accused, competent, in criminal proceedings, s 120, p 240

Witnesses—

- dumb persons as, s 19, p 249
- examination of, s 135, p 267
- no particular number of, necessary to prove fact, s 184, p 267
- order of production and examination of, s 135, p 267, s 188, p 270
- what persons competent, s 118, p 246

Writing—

- comparison of, with admitted or proved writing, s 73, p 154
- dumb witness may give evidence by, s 119, p 249
- is a "document", s 3, ill, p 6
- to refresh witness's memory, adverse party entitled to production of, and may cross-examine upon, s 161, p 299
- when witness may refresh memory by reference to, s 159, p 297

Words—

- meaning of particular, s 49 p 125
- printed, etc, are documents, s 3, ill, p 6
- used in a peculiar sense, evidence as to, s 98, p 198

