

EVIDENCE ACT

CHAPTER 116

Interpretation

1. In this Act “Lieutenant Governor” and “Lieutenant Governor in Council”, when referring to other provinces than British Columbia, have the meaning applied to them by the *Interpretation Act* (Canada).

RS1960-134-2.

Application to extent of legislative jurisdiction

2. This Act applies to all proceedings and other matters for which the Legislature has jurisdiction in this behalf.

RS1960-134-3.

Competency unaffected by interest or crime

3. A person is not incompetent to give evidence by reason only of interest or crime.

RS1960-134-4.

Privilege

4. (1) A witness shall not be excused from answering a question or producing a document on the ground that the answer or the document may tend to criminate him or any other person, or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person or to a prosecution under any Act of the Legislature.

(2) If with respect to any question a witness objects to answer on any of the grounds set out in subsection (1), and if, but for this section or any Act of Canada, he would have been excused from answering the question, then, although the witness is by reason of this section or by reason of any Act of Canada compelled to answer, the answer given shall not be used or receivable in evidence against him in any civil proceeding or in any proceeding under any Act of the Legislature.

(3) In this section “witness” includes any person who testifies in the course of any proceedings authorized by law.

RS1960-134-5.

Evidence of child of tender years

5. In any legal proceeding where a child of tender years is tendered as a witness, and the child does not, in the opinion of the judge, justice or other presiding officer, understand the nature of an oath, the evidence of the child may be received, though not given on oath, if in the opinion of the judge, justice or other presiding officer, as the case may be, the child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth; but no case shall be decided on that evidence alone, and that evidence shall be corroborated by some other material evidence.

RS1960-134-6.

Person charged and spouse competent

6. Every person charged with an offence, and the wife or husband of the person charged, is a competent witness whether the person charged is charged solely or jointly with any other person.

RS1960-134-7.

Parties to civil causes and their spouses may be witnesses

7. (1) The parties to any action, suit, petition or other matter of a civil nature in any of the courts of the Province, and their wives and husbands, are, except as hereinafter excepted, competent as witnesses, and compellable to attend and give evidence in the same manner as they would be if not parties to the proceedings, or wives or husbands of the parties, but no plaintiff in any action for breach of promise of marriage shall recover a verdict unless his or her testimony is corroborated by some other material evidence in support of the promise.

(2) Notwithstanding any rule to the contrary, a husband or wife may in proceedings in court give evidence that he or she did or did not have sexual intercourse with the other party to the marriage at any time or within any period of time before or during the marriage.

RS1960-134-8.

Communications made during marriage need not be disclosed

8. No husband is compellable to disclose any communication made to him by his wife during the marriage, and no wife is compellable to disclose any communication made to her by her husband during the marriage.

RS1960-134-9.

In actions by or against mentally disordered persons

9. In an action or proceeding by or against a person found to be of unsound mind, or being a patient in a Provincial or other mental health facility, an opposite or interested party shall not obtain a verdict, judgment or decision, on his own evidence, unless that evidence is corroborated by some other material evidence.

RS1960-134-10.

Evidence of experts

10. (1) In this section “proceeding” includes any judicial, quasi-judicial or administrative hearing or inquiry.

(2) A statement in writing setting out the opinion of an expert is admissible in evidence in a proceeding without proof of the expert’s signature if a copy of the written statement is furnished to every party to the proceeding who is adverse in interest to the party tendering the statement at least 14 days before the statement is given in evidence.

(3) Where the expert is a person entitled to practice under the *Medical Act*, the statement need not set out his qualifications.

(4) The assertion of qualifications as an expert in a written statement is proof of the qualifications.

(5) Where the written statement of an expert is given in evidence in a proceeding, any party to the proceeding may require the expert to be called as a witness.

(6) Where an expert has been required to give evidence under subsection (5), and the judge or other person presiding at the hearing is of the opinion that the evidence obtained does not materially add to the information in the statement furnished under subsection (2), he may order the party that required the attendance of the expert to pay, as costs, a sum the judge or other person presiding at the hearing considers appropriate.

1976-33-86.

Testimony of experts

11. (1) Except by leave of the judge or other person presiding at the hearing, no expert shall give, within the scope of his expertise, evidence of his opinion at the hearing unless a statement in writing of his opinion and the facts on which the opinion is formed has been furnished to every party who is adverse in interest to the party tendering the evidence of the expert, at least 14 days before he testifies.

(2) For the purpose of proving that a copy of a written statement was furnished to any party to a proceeding, the judge or other person presiding at the hearing may accept an affidavit made by the person who furnished the statement.

1976-33-86.

S. 11 confined to civil proceedings

12. Section 11 does not apply in proceedings to enforce a law in which punishment by fine, penalty or imprisonment may be imposed.

1977-31-8.

Cross examination of witnesses as to previous statements in writing

13. A witness may be cross examined as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the proceedings, without the writing being shown to him; but if it is intended to contradict the witness by the writing, his attention must, before the contradictory proof can be given, be called to those parts of the writing which are to be used for contradicting him; and the judge, or other person presiding over the proceedings, at any time during the proceedings, may require the production of the writing for his inspection, and he may after that make use of it for the proceedings as he thinks fit.

RS1960-134-16.

Witness must be asked if he made statement

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

RS1960-134-17.

Interrogation of witness as to conviction and proof of conviction

15. (1) Subject to subsection (3), a witness may be questioned as to whether he has been convicted of an offence, indictable or not, and on being questioned, if he either denies the fact or refuses to answer, the opposite party may prove the conviction. A certificate containing the substance and effect only, omitting the formal part, of the

indictment and conviction for the offence, purporting to be signed by the registrar or clerk of the court, or other officer having the custody of the records of the court at which the offender was convicted, or by the deputy of the registrar, clerk or officer, is, on proof of the identity of the witness as the convict, sufficient evidence of his conviction, without proof of the signature or of the official character of the person appearing to have signed the certificate.

(2) For the certificate a fee of \$1 may be taken.

(3) Subsection (1) does not apply to the questioning of a witness in a civil proceeding conducted before a jury, where the judge is of opinion that the questioning of that witness would unduly influence the jury.

RS1960-134-18, 1977-70-1

Impeachment and contradiction of witness

16. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but in case the witness, in the opinion of the judge or other person presiding over the proceedings, proves adverse, that party may contradict him by other evidence, or, by leave of the judge or other person, may prove that the witness made at other times a statement inconsistent with his present testimony; but before the last mentioned proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, shall be mentioned to the witness, and he shall be asked whether or not he did make the statement.

RS1960-134-19

Mute person

17. A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible.

RS1960-134-22

Record of Provincial Court

18. (1) A court stenographer or court recorder may be appointed to report or record the evidence and proceedings in the Provincial Court or before a justice and the notes taken or recording made at any proceeding by the stenographer or recorder shall be considered the record of the evidence offered in the court or before the justice.

(2) A court stenographer or court recorder shall take the following oath before the Provincial Court and the oath shall be filed in the office of the court clerk or with the court:

I, _____, swear that I will faithfully and accurately, to the best of my skill and ability, report or record the proceedings in each case or matter in which it is my duty to act as reporter or recorder and will transcribe or have transcribed, my notes, or the record of them, should that be required. So help me God

(3) No further oath shall be required to be administered to a court stenographer or court recorder for proceedings in the court or before a justice.

1969-35-7

Sound recording apparatus

19. The Lieutenant Governor in Council may

(a) make regulations for the use of sound recording apparatus in the recording of evidence and statements in the courts of the Province;

- (b) authorize the use of any type or make or model of apparatus; and
- (c) make different regulations to be applicable in cases under different statutes, either of the Province or of Canada.

1961-16-2.

Interpretation of section 21

20. The words “court” and “presiding judge” in section 21 shall be deemed to include any person having by law authority to administer an oath for the taking of evidence.

RS1960-134-24(3); 1968-16-3.

Affirmation of witness instead of oath

21. (1) If, in a court or in any proceeding,

- (a) a person called to give evidence objects to taking an oath, or is objected to as incompetent to take an oath, and the presiding judge is satisfied of the sincerity of the objection of the witness from conscientious motives to be sworn or that the taking of an oath would have no binding effect on his conscience; or
- (b) the presiding judge is satisfied that the form of oath which a person called to give evidence declares to have a binding effect on his conscience is not such that it can be taken in the court or other place where the proceedings are being held, or that it is not fitting to do so, and the presiding judge directs,

the person shall, instead of taking an oath, make the following affirmation:

I solemnly promise, affirm and declare that the evidence given by me to the court [*or as the case may be*] shall be the truth, the whole truth and nothing but the truth.

(2) In those cases, on the person making the affirmation, his evidence shall be taken in the court or proceeding, and the affirmation is of the same force and effect as if the person had taken an oath in the usual form.

RS1960-134-24(1,2); 1968-16-3.

Validity of oath not affected by absence or difference of religious belief

22. Where a person has taken an oath, the fact that the person had, at the time, no religious belief, or that the form of oath customary for persons of his religious belief differs from the oath taken, does not affect the validity of the oath.

1968-16-4.

Oath may be administered with uplifted hand

23. If any person to whom an oath is administered desires to swear with uplifted hand, in the form and manner in which an oath is usually administered in Scotland, he shall be permitted to do so, and the oath shall be administered to him in that form and manner without further question.

RS1960-134-25.

Power to administer oaths

24. Every court and judge, and every person having by law or consent of parties authority to hear and receive evidence, may administer an oath to every witness who is legally called to give evidence before that court, judge or person.

RS1960-134-26.

Interpretation of section 26

25. In section 26 “Imperial Parliament” means the Parliament of the United Kingdom of Great Britain and Northern Ireland, or any former kingdom which included England, whether known as the United Kingdom of Great Britain and Ireland or otherwise.

RS1960-134-27(1).

Judicial notice of statutes

- 26.** (1) Judicial notice shall be taken of all
- (a) Acts of the Imperial Parliament;
 - (b) Acts of the Parliament of Canada;
 - (c) ordinances made by the Governor in Council of Canada;
 - (d) ordinances made by the Governor in Council, Lieutenant Governor in Council or Commissioner in Council of any province, colony or territory which, or some portion of which, forms part of Canada, and all Acts and ordinances of the Legislature of, or other legislative body or authority competent to make laws for, the province, colony or territory;
 - (e) Acts and ordinances of the Legislature of, or other legislative body or authority competent to make laws for, any dominion, empire, commonwealth, state, province, colony, territory, possession or protectorate of Her Majesty;
 - (f) regulations published in the Gazette.

(2) This section applies to all dominions, empires, commonwealths, states, provinces, colonies, territories, possessions and protectorates at any time heretofore constituted, as well as those now existing, and also applies to ordinances and Acts made or enacted before as well as to those made or enacted after the enactment of this section.

RS1960-134-27(2,3); 1976-2-20.

Interpretation of section 28

- 27.** (1) In section 28
- “British possession” means any dominion of Her Majesty exclusive of the United Kingdom of Great Britain and Northern Ireland, and Canada;
 - “dominion” includes kingdom, empire, republic, commonwealth, state, province, territory, colony, possession and protectorate; and, where parts of a dominion are under both a central and a local legislature, includes both all parts under the central legislature and each part under a local legislature;
 - “federal”, as applied to state documents, means of or pertaining to Canada;
 - “foreign state” includes every dominion other than the United Kingdom of Great Britain and Northern Ireland, Canada or a British possession;
 - “imperial”, as applied to state documents, means of or pertaining to the United Kingdom of Great Britain and Northern Ireland, or any former kingdom which included England, whether known as the United Kingdom of Great Britain and Ireland or otherwise;
 - “legislature” includes any legislative body or authority competent to make laws for a dominion;
 - “provincial”, as applied to state documents, means of or pertaining to any province, colony or territory which, or some portion of which, forms part of Canada; and

“province”, when used in respect of federal or provincial state documents, shall have a corresponding meaning;

“Queen’s Printer” includes the government printer or other official printer;

“state document” includes any Act or ordinance enacted or made or purporting to have been enacted or made by a legislature, and any order, regulation, notice, appointment, warrant, licence, certificate, letters patent, official record, rule of court or other instrument issued or made or purporting to have been issued or made under any Act or ordinance so enacted or made or purporting to have been enacted or made, and any official gazette, journal, proclamation, treaty or other public document or act of state issued or made or purporting to have been issued or made.

(2) The definitions in subsection (1) apply to all dominions, kingdoms, empires, republics, commonwealths, states, provinces, territories, colonies, possessions and protectorates at any time heretofore existing or hereafter constituted as well as those now existing.

RS1960-134-28(1,2).

Proof of state documents

28. (1) The existence and the whole or any part of the contents of any imperial state document may be proved

- (a) in the same manner as they may be provable in a court in England;
- (b) by the production of a copy of the Canada Gazette or a volume of the Acts of the Parliament of Canada purporting to contain a copy of or an extract from it or a notice of it;
- (c) by the production of a copy of it or an extract from it purporting to be printed by, or for, or by authority of, the Queen’s Printer for Canada or for a province of Canada;
- (d) by the production of a copy of it or an extract from it purporting to be certified as a true copy or extract by the minister or head, or by the deputy minister or deputy head, of any ministry or department of the imperial government or purporting to be an exemplification of it under the imperial Great Seal;
- (e) by the production of a copy of it or an extract from it purporting to be certified as a true copy or extract by the custodian of the original document or the public records from which the copy or extract purports to be made.

(2) The existence and the whole or any part of the contents of any federal or provincial state document may be proved by the production of a copy

- (a) of the Canada Gazette or of the official gazette for a province or of a volume of the Acts of the Parliament of Canada or of the legislature of a province purporting to contain a copy of the state document or an extract from it or a notice of it;
- (b) of it or an extract from it purporting to be printed by, or for, or by authority of, the Queen’s Printer for Canada or for a province;
- (c) of it or an extract from it, whether printed or not, purporting to be certified as a true copy or extract by the minister or head, or the deputy minister or deputy head, of any ministry or department of government of Canada or of a province, or by the custodian of the original document or

the public records from which the copy or extract purports to be made, or purporting to be an exemplification of the state document under the Great Seal of Canada or of a province;

and the federal or provincial state document proved shall be judicially noticed.

(3) The existence and the whole or any part of the contents of any state document of a British possession or foreign state may be proved by the production of a copy of it or an extract from it,

- (a) purporting to be printed by, or for, or by the authority of, the legislature, government, Queen's Printer, government printer or other official printer of the British possession or of the foreign state;
- (b) whether printed or not, purporting to be certified as a true copy or extract by the minister or head, or the deputy minister or deputy head, of any department of government of the British possession or of the foreign state, or by the custodian of the original document or the public records from which the copy or extract purports to be made, or purporting to be an exemplification of the state documents under the Great Seal or other state seal of the British possession or of the foreign state.

(4) It is not necessary to prove the signature or official position of the person by whom any copy or extract which is tendered in evidence under this section purports to be certified, or to prove that the original document or the public records from which the copy or extract purports to be made were deposited or kept in the custody of the person certifying.

(5) Where a copy or extract which is tendered in evidence under this section purports to be printed by, or for, or under the authority of a legislature or government, or of a Queen's Printer, government printer or other official printer, it is not necessary to prove the authority, status or official position of the legislature or government, or of the Queen's Printer, government printer or other official printer.

RS1960-134-28(3 to 7); 1975-4-6; 1977-75-9.

Evidence of proceedings in courts in Canada, the British Empire and foreign countries

29. Evidence of any proceeding or record whatsoever of, in or before any court in the United Kingdom, or the Supreme or Federal Courts of Canada, or any court, or justice or coroner, in any province of Canada, or any court in any British Colony or possession, or any court of record of the United States, or of any state of the United States, or of any other foreign country, may be given in any action or proceeding by an exemplification or certified copy of it, purporting to be under the seal of the court, or under the hand or seal of the justice or coroner, as the case may be, without any proof of the authenticity of the seal or of the signature of the justice or coroner, or other proof; and if a court, justice or coroner has no seal, and so certifies, then by a copy purporting to be certified under the signature of a judge or presiding magistrate of the court, or of the justice or coroner, without any proof of the authenticity of the signature or other proof.

RS1960-134-29.

Proof of judge's signature

30. A document purporting to bear the signature of a judge of a court in this Province, either in his capacity as a judge or as a persona designata, is admissible in

evidence without proof of the signature, authority or official capacity of the judge appearing to have signed the document.

1976-2-20.

Evidence of documents and proceedings of corporations

31. In every case in which the original record could be received in evidence, a copy of a document, bylaw, rule, regulation or proceeding, or a copy of any entry in any register or other book of any municipal or other corporation created by charter or by or under any statute of Canada or a province, purporting to be certified under the seal of the corporation, and the hand of the presiding officer, clerk or secretary of it, is receivable in evidence without proof of the seal of the corporation, or of the signature or of the official character of the person appearing to have signed the same, and without further proof of it.

RS1960-134-30.

Evidence of public books and documents

32. (1) Where a book or other document is of so public a nature as to be admissible in evidence on its mere production from the proper custody, and no other statute exists which renders its contents provable by means of a copy, a copy of it or extract from it is admissible in evidence in any court, or before a person having, by law or by consent of parties, authority to hear, receive and examine evidence, if it is proved that it is a copy or extract purporting to be certified to be true by the officer to whose custody the original has been entrusted.

(2) The officer shall furnish the certified copy or extract to any person applying for it at a reasonable time, on paying for it a sum not exceeding 10¢ for every folio of 100 words.

RS1960-134-31.

No proof of signature or official position

33. (1) Proof shall not be required of the handwriting or official position of a person certifying, under this Act, to the truth of a copy of or extract from a proclamation, order, register, bylaw, rule, regulation, appointment, book or other document; and a copy or extract may be in print or in writing, or partly in print and partly in writing.

(2) Proof shall not be required of the handwriting, authority or official position of a person whose signature is on a document kept or issued under the authority of an enactment of this Province.

RS1960-134-32; 1975-4-6.

Orders signed by Secretary of State

34. An order in writing, signed by the Secretary of State for Canada, and purporting to be written by command of the Governor General, shall be received in evidence as the order of the Governor General.

RS1960-134-33.

Copies in Gazette evidence

35. All copies of official and other notices, advertisements and documents printed in The Canada Gazette or in The British Columbia Gazette are evidence of the originals, and of the contents of them.

RS1960-134-34.

Evidence of entries in departmental books of governments of Canada and the Province

36. A copy of an entry in a book kept in a department of the government of Canada, or of the government of British Columbia, shall be received as evidence of the entry, and of the matters, transactions and accounts recorded in it, if it is proved by the oath or affidavit of an officer of the department that the

- (a) book was, at the time of the making of the entry, one of the ordinary books kept in the department;
- (b) entry was made in the usual and ordinary course of business of the department; and
- (c) copy is a true copy of it.

RS1960-134-35.

Interpretation of s. 38

37. In section 38

“court” means the court, judge, arbitrator, person or persons before whom a legal proceeding is held or taken;

“financial institution” means the Bank of Canada, the Federal Business Development Bank and a ministry, department or agency of the Province or of Canada, or an institution incorporated in Canada, that accepts deposits of money from its members or the public, and includes a branch, agency or office of that bank, ministry, department, agency or institution;

“legal proceeding” means a civil proceeding or inquiry in which evidence is or may be given, and includes an arbitration.

RS1960-134-36(1); 1975-4-6; 1977-75-41.

Financial institution records

38. (1) Subject to this section, a copy of an entry in a book or record kept in a financial institution, in all legal proceedings to which the financial institution is not a party, shall be received as evidence of the entry, and of the matters, transactions and accounts recorded in it.

(2) A copy of an entry in that book or record shall not be received in evidence under this section unless it is first proved that

- (a) the book or record was, at the time of the making of the entry, one of the ordinary books or records of the financial institution;
- (b) the entry was made in the usual and ordinary course of business;
- (c) the book or record is in the custody or control of the financial institution or its successor; and
- (d) the copy is a true copy.

The proof may be given by the manager or accountant or a former manager or accountant of the financial institution or its successor, and may be given orally or by affidavit.

(3) A financial institution or officer of a financial institution, in legal proceedings to which the financial institution is not a party, is not compellable to produce a book or record, the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts recorded in it, unless by order of the court made for special cause.

(4) On the application of a party to a legal proceeding, the court may order that the party be at liberty to inspect and take copies of entries in the books or records of the financial institution for the purposes of the proceeding. The person whose account is to be inspected shall be notified of the application at least 2 clear days before the hearing of it, and, if it is shown to the satisfaction of the court that the person cannot be notified personally, the notice may be given by addressing it to the financial institution.

(5) The costs of an application to a court under this section, and the costs of anything done or to be done under an order of a court made under this section, shall be in the discretion of the court, which may order them or part of them to be paid to any party by the financial institution where they have been occasioned by default or delay on the part of the financial institution. An order against a financial institution may be enforced as if the financial institution were a party to the legal proceeding.

(6) Holidays shall be excluded from the computation of time under this section.

(7) Where a cheque has been drawn on a financial institution by a person, a sworn affidavit of the manager or accountant of the financial institution, setting out that he is the manager or accountant, that he has made a careful examination and search of the books and records to ascertain whether or not the person has an account with the financial institution, and that he has been unable to find an account, shall be received in evidence as proof that the person has no account in the financial institution.

RS1960-134-36; 1975-4-6; 1977-75-41.

Interpretation of s. 40

39. In section 40

“person” includes

- (a) the government of Canada and of a province of Canada, and a ministry or department, commission, board or branch of that government;
- (b) a corporation; and
- (c) the heirs, executors, administrators or other legal representatives of a person;

“photograph” includes photographic film, prints, reductions and enlargements, microphotographic film and photocopies.

RS1960-134-37(1); 1976-33-86; 1977-75-9.

Admissibility of photographic film

40. (1) Where a bill of exchange, promissory note, cheque, receipt, instrument, agreement, document, plan or a record or book or entry in it kept or held by a person is photographed in the course of an established practice in order to keep a permanent record, a photograph is admissible in evidence in all cases and for all purposes for which the object photographed would have been admissible.

(2) Where the court is of the opinion that it is in the interests of justice, it may refuse to admit a photograph in evidence under this section.

(3) Where a photograph is tendered by

- (a) a government;
- (b) the Bank of Canada;
- (c) the registrar of a land title office;
- (d) a regional district or an improvement district as defined in the *Municipal Act*;
- (e) a municipality;

(f) a school district as defined in the *School Act*; or
(g) a regional hospital district as defined in the *Hospital District Act*,
subsection (3) does not apply.

(4) Proof of compliance with conditions required by this section may be given orally or by affidavit by a person having knowledge of the facts.

RS1960-134-37(2 to 5), 1963-42-7, 1972-19-1, 1976-33-86, 1978-25-334

**Evidence of notarial acts or instruments made or
filed in Province of Quebec**

41. (1) A document purporting to be a copy of a notarial act or instrument made, filed or registered in the Province of Quebec, and to be certified by a notary or prothonotary to be a true copy of the original in his possession as a notary or prothonotary, shall be received in evidence in the place and stead of the original, and has the same force and effect as the original would have if produced and proved; but that it may be proved in rebuttal that there is no original, or that the copy is not a true copy of the original in some material particular, or that the original is not an instrument of the nature as may by the law of the Province of Quebec be taken before a notary or be filed, enrolled or registered by a notary in that province.

(2) No copy of a book or other document, as provided in subsection (1), shall be received in evidence at trial unless the party intending to produce it has, before the trial, given to the party against whom it is intended to be produced reasonable notice of the intention. The reasonableness of the notice shall be determined by the court, but the notice shall not in any case be less than 10 days.

RS1960-134-38

**Procedure for proving will by production of
probate or stamped copy**

42. (1) In an action where it is necessary to produce and prove an original will in order to establish a devise or other testamentary disposition of or affecting land, the party intending to establish in proof the devise or other testamentary disposition may give notice to the opposite party, 10 days at least before the trial or other proceeding in which the proof is intended to be adduced, that he intends at the trial or other proceeding to give in evidence, as proof of the devise or other testamentary disposition, the probate of the will, or letters of administration with the will annexed, or a copy thereof, stamped with the seal of the court granting the same.

(2) In those cases the probate or letters of administration, or copy thereof, stamped with the seal of the court granting it, is sufficient evidence of the will, and of its validity and contents, notwithstanding it may not have been proved in solemn form, or have been otherwise declared valid in a contentious cause or matter, unless the party receiving the notice, within 4 days after the receipt, gives notice that he disputes the validity of the devise or other testamentary disposition.

(3) In every case in which in such action the original will is produced and proved, the court before which the evidence is given may direct by which of the parties the costs of it shall be paid.

RS1960-134-39

**Procedure for proving will by production of probate from court of
British possession in which will remains filed**

43. (1) In case of the death of a person in any of Her Majesty's possessions out of the Province, after having made a will sufficient to pass land in the Province, and

by which the estate has been devised, charged or affected, and in case the will has been proved in a court having the proof and issuing probate of wills in any of those possessions, and remains filed in the court, then, in case notice of the intention to produce the probate in the place of the original will is given to the opposite party in the proceeding one month before it is to be used, the production of the probate of the will, with a certificate of the judge, registrar or clerk of the court that the original is filed and remains in the court, and purports to have been executed before 2 witnesses, is, in proceedings in a court in the Province concerning the land, sufficient evidence of the will and the contents of it, and of it having been executed so as to pass land, without the production of the original will; but the probate or certificate shall not be used if, on cause shown before the court, the court finds reason to doubt the sufficiency of the execution of the will to pass the land, and makes a rule or order disallowing the production of the probate.

(2) The production of the certificate mentioned in this section is sufficient evidence of the facts stated in it, and of the authority of the judge, registrar or clerk, without proof of his appointment, authority or signature.

RS1960-134-40

Certified copies of documents in land title, Supreme Court and County Court offices as evidence

44. An exemplification or a certified copy of an instrument or document deposited, filed, kept or registered in a land title office, registry of the Supreme Court or registry of the County Court, under the hand and seal of office of the registrar in whose office it is deposited, filed, kept or registered, shall be received as evidence in every court in the Province of the original of the instrument or document, without proof of the signature or seal of office of the registrar, and without proof that the instrument or document was deposited, filed, kept or registered.

RS1960-134-41, 1978-25-334

Certified copies of documents in gold commissioner's offices as evidence

45. Every copy of or extract from any entry in any of the books kept by a gold commissioner under the *Mineral Act* or *Mining (Placer) Act*, or of a document filed in a gold commissioner's office, certified to be a true copy or extract by the gold commissioner, shall be received in a court in the Province as evidence of the matters contained in it.

RS1960-134-42, 1977-54-66

Production and proof of original documents filed in land title office or County Court

46. (1) In an action where it would be necessary to produce and prove an original instrument or document which has been registered or filed in a land title office or County Court office in order to establish the instrument and the contents of it, the party intending to prove the original instrument may give notice to the opposite party, 10 days at least before the trial or other proceeding in which the proof is intended to be adduced, that he intends at the trial or other proceeding to give in evidence, as proof of the original instrument, a copy of it certified by the registrar of the office where it is filed or registered, under his hand and seal of office.

(2) In those cases the copy so certified is sufficient evidence of the original instrument, and of its validity and contents, unless the party receiving the notice, within 4 days after its receipt, gives notice that he disputes the validity of the original instrument, in which case the costs of producing and proving the original may be ordered by the court to be paid by either of the parties as may be right.

RS1960-134-43; 1978-25-334.

Interpretation of s. 48

47. In section 48

“business” includes every kind of business, profession, occupation, calling, operation or activity, whether carried on for profit or otherwise;

“document” includes any device by means of which information is recorded or stored;

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

1968-16-5.

Admissibility of business records

48. (1) In proceedings where direct oral evidence of a fact would be admissible, a statement of the fact in a document is admissible as evidence of the fact if the document was made or kept in the usual and ordinary course of business and if it was in the usual and ordinary course of the business to record in that document a statement of the fact at the time it occurred or within a reasonable time after that.

(2) Subject to subsection (3), the circumstances of the making of the statement, including lack of personal knowledge by the maker, may be shown to affect its weight, but the circumstances do not affect its admissibility.

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

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

1968-16-5.

Proof of commercial paper

49. (1) In an action or proceeding where telegrams, letters, shipping bills, bills of lading, delivery orders, receipts, accounts and other written instruments used in business and other transactions have to be proved, where it is necessary to prove the original document, the party intending to prove the original may give notice to the opposite party, 5 days at least before the trial or other proceeding in which the proof is intended to be offered, that he intends at the trial or other proceeding to give in evidence, as proof of the contents, an instrument purporting to be a copy of the document.

(2) The copy may then be inspected by the opposite party at some convenient time and place; and the copy is, without further proof, sufficient evidence of the contents of the original document, and shall be accepted and taken in place of the original, unless the party receiving the notice, within 4 days after the time mentioned in it for the inspection, gives notice that he intends to dispute the correctness or genuineness of the copy at the trial or proceeding, and to require proof of the original. The court before

whom the question is raised may direct by which of the parties the costs which attend production or proof of the original document, according to the rules of evidence existing before now, shall be paid.

RS1960-134-44

**Proof of attesting witness not required
where instrument need not be attested**

50. It is not necessary to prove by the attesting witness an instrument to the validity of which attestation is not requisite, and the instrument may be proved by admission or otherwise, as if there had been no attesting witness to it.

RS1960-134-45

**Evidence of disputed writing by comparison with
other writing proved to be genuine**

51. Comparison of disputed writing with writing proved to the satisfaction of the court to be genuine shall be permitted to be made by witnesses and the writing and the evidence of witnesses about it may be submitted to the court and jury as evidence of the genuineness or otherwise of the writing in dispute.

RS1960-134-46

Impounding documents

52. Where a document is received in evidence by virtue of this Act, the court, judge, commissioner or other person acting or officiating judicially, who admits it, may direct it to be impounded and kept in the custody of an officer of the court, or other person, for a period and subject to conditions that the court or person who admits the document thinks proper or until a further order about it has been made either by the court or by the court to which the officer belongs, or by the person acting or officiating judicially, or by the Supreme Court or a County Court, as the case may be, on application made for that purpose.

RS1960-134-47

Filing certified copy as exhibit instead of original

53. (1) Where in a proceeding the registrar of titles, or any district registrar of the Supreme Court, or registrar of any County Court, or a Clerk of the Peace, produces on a subpoena an original document, the original document is not to be deposited in the court except in the case provided for by subsection (2); but if the instrument or a copy is needed for subsequent reference or use by reason of judgment being postponed, or for some other reason, a copy of the document, or of as much of it as the judge thinks necessary, certified under the hand of the officer producing the document or otherwise proved, shall be marked and filed as an exhibit in the place of the original, where but for this Act the original should be marked and filed. The officer shall receive, in addition to ordinary fees, as fees for any certified copy, 25¢ per folio of 100 words before the copy is delivered, marked, or filed, which shall be paid by him into the Provincial treasury for the use of the Province.

(2) Where there is a question as to the genuineness of the instrument, and the judge thinks it necessary for that or any other reason that the original be detained and makes an order to that effect, setting forth the reason, the order shall be delivered to the officer and the exhibit shall be retained in court accordingly and marked and filed.

RS1960-134-48

Proof of insertion of advertisements in newspapers

54. The production of a printed copy of a newspaper in any proceeding or matter to which this Act applies is evidence that a notice or advertisement contained in it was inserted, advertised and published in that newspaper by the person by whom, or on whose behalf, or in whose name the notice or advertisement purports or appears to be inserted, advertised or published.

RS1960-134-49(1).

Leaflet bearing name of printer evidence leaflet printed by him

55. Where a printed or mimeographed leaflet, pamphlet, circular or advertisement on which there appears the name of a person by whom or on whose behalf it purports to have been printed, mimeographed, published, circulated or distributed, the production of one of the leaflets, pamphlets, circulars or advertisements, as the case may be, in any proceeding or matter to which this Act applies is evidence that the leaflet, pamphlet, circular or advertisement was printed, mimeographed, published, circulated or distributed, as the case may be, by or on behalf of the person whose name appears on it as mentioned above.

RS1960-134-49(2).

Proof of death of member of military

56. The production of a certificate in writing signed or purporting to be signed by

- (a) the Adjutant General, Deputy Adjutant General or Officer in Charge of Records, Militia Service, Department of National Defence, in the case of a member of Her Majesty's military forces;
- (b) the Naval Secretary, Naval Service, Department of National Defence, in the case of a member of Her Majesty's naval forces;
- (c) the Officer in Charge of Records, Air Service, Department of National Defence, in the case of a member of Her Majesty's air forces; or
- (d) an Officer of Her Majesty's naval, military or air forces, authorized to sign, in the case of a member of any of Her Majesty's forces,

stating that the person named in the certificate was a member of any of Her Majesty's forces, and that he has been officially reported as dead or presumed to be dead, if it appears on the face of the certificate that the person signing is qualified as prescribed in paragraph (a), (b), (c) or (d), as the case may be, is sufficient proof of the death of the person named and of all facts stated in the certificate for any purpose to which the authority of the Legislature of the Province extends, and also of the office, authority and signature of the person giving or making the certificate, without any proof of his appointment, authority or signature.

RS1960-134-50.

No liability for research group

57. (1) In this section "research group" means a person or persons that

- (a) has the conduct of a course of study or research conducted for the purpose of reducing morbidity or mortality from any cause or condition; and
- (b) is a committee or subcommittee of or acts under the auspices of either the British Columbia division of the Canadian Medical Association, the

College of Physicians and Surgeons of British Columbia, a public hospital, a university, or any ministry, department or emanation of the government of the Province or of Canada.

(2) No liability for damages or other relief shall arise or be enforced against any person, corporation, hospital, sanitarium, nursing home, rest home, or ministry or emanation of the government by reason of

- (a) the provision to a research group, orally or in writing, of information, records of interviews, reports, statements, memoranda or other data;
- (b) publication of the findings or conclusions of a research group for the purpose of advancing medical research or medical education; or
- (c) the release or publication generally of a summary of the findings or conclusions of a research group.

(3) A research group shall not use, disclose or publish information, material or data provided to it within the scope of this section or any resulting findings and conclusion except

- (a) for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality;
- (b) in a manner that the use or publication shall preclude the identification in any manner of the persons whose condition or treatment has been studied.

(4) Oral or written statements made or furnished to or for a research group under this section or collected by or preserved by a research group within the scope of this section and any findings, conclusions or records resulting from the studies are declared to be privileged communications which may not be used, offered or received in evidence in any legal proceeding at any time.

1967-49-4, 1968-16-6, 1977-75-1

Evidence of foreign marriage

58. (1) Where it is alleged in a civil proceeding that a ceremony of marriage took place in the Province or in another jurisdiction,

- (a) the evidence of a person present at the ceremony; and
- (b) a document purporting to be the original or certified copy of the certificate of marriage

is evidence that the ceremony took place.

(2) Where evidence of a ceremony of marriage is adduced under subsection (1), the marriage shall be deemed formally valid unless

- (a) decisive evidence to the contrary is adduced; or
- (b) by reason of the nature of the ceremony, or of the document, the court requires further evidence that the marriage is formally valid.

(3) In the absence of decisive evidence to the contrary, a marriage deemed under subsection (2) to be formally valid shall be deemed to be essentially valid.

1979-2-18

Power of Supreme or County Court to order examination of witness under commission issued by foreign court

59. (1) Where, on application, it is made to appear to the Supreme Court or to a County Court that a court or tribunal of competent jurisdiction in a foreign country has duly authorized, by commission, order or other process, the obtaining the testimony in

or in relation to an action, suit or proceeding pending in or before the foreign court or tribunal, of any witness out of its jurisdiction, and within the jurisdiction of the court applied to, the court may order the examination before the person appointed, and in a manner and form directed by the commission, order or other process, of the witnesses accordingly; and may, by the same order or a subsequent order command the attendance of persons named in it for the purpose of being examined, or the production of any writing or other documents mentioned in the order; and give all directions as to the time, place and manner of the examination and all other matters connected with it as may appear reasonable and just. The order may be enforced, and any disobedience of it punished, in the same manner as in case of an order made by the same court in a cause depending in the court.

(2) Every person whose attendance is ordered is entitled to the same conduct money and payment for expenses and loss of time as on attendance at a trial in the Supreme Court.

(3) Every person examined under the commission, order or other process has the same right to refuse to answer any questions which, in a cause pending in the court by which the order for examination was made, the witness would be entitled to refuse to answer. No person is compelled to produce at the examination any writing or document which he would not be compellable to produce at the trial of that cause.

(4) Where the commission directs, or the instructions of the court accompanying it direct, that the person to be examined shall be sworn or shall affirm before the commissioner or other person, the commissioner or other person has authority to administer an oath or affirmation to the person to be examined.

RS1960-134-51; 1976-33-86.

Act gives additional powers

60. This Act shall be deemed to be in addition to and not in derogation of any powers of proving documents given by any other law.

RS1960-134-52.

Voluntary affidavits

61. A person may make a statement of fact, opinion, belief or knowledge by means of an affidavit.

1973-31-3.

Lieutenant Governor in Council may make rules

62. The Lieutenant Governor in Council may make rules under the *Court Rules Act* for regulating the means by which particular facts may be proved and the mode in which evidence may be given.

1976-33-86.

Appointment

63. (1) The Lieutenant Governor in Council may appoint, by order, commissioners for taking affidavits for British Columbia.

(2) An appointment under subsection (1) may be made for a period and subject to restrictions, exceptions, terms and conditions that the Lieutenant Governor in Council sets forth in the order.

1960-13-2.

Fee

64. No person shall be appointed under section 63 unless he has paid to the Crown in right of the Province a fee of \$20.

RS1960-134-53

Exceptions

65. Section 64 does not apply to the appointment of officers or employees or servants of the Crown in right of the Province or in right of Canada, or to officers or employees of veterans' organizations.

RS1960-134-54

Powers of commissioner

66. Subject to restrictions, exceptions, terms or conditions set forth in an order under section 63, and to section 68, a commissioner for taking affidavits for British Columbia may, in or out of the Province, administer oaths and take affidavits, declarations and affirmations concerning

- (a) any cause, proceeding, matter or thing before the Supreme Court or any other court in the Province;
- (b) any matter in connection with which an oath, affidavit, affirmation, solemn declaration or statutory declaration is permitted, authorized or required by law to be sworn, affirmed, declared or made.

RS1960-134-55, 1972-19-2

Commissioners by virtue of their office

67. The following are, by virtue of their office, commissioners for taking affidavits for British Columbia:

- (a) every judge of a court in the Province;
- (b) justices in the Province;
- (c) registrars, deputy registrars, district registrars and deputy district registrars of the Supreme Court or County Courts;
- (d) barristers and solicitors enrolled under the *Barristers and Solicitors Act* and not disbarred, disqualified or suspended from practice;
- (e) notaries public;
- (f) the clerk of each municipality in the Province;
- (g) the secretary of a regional district;
- (h) coroners;
- (i) government agents and deputy government agents.

RS1960-134-57, 1965-12-2, 1969-35-7, 1973-31-4, 1975-4-6

Social workers

68. (1) Every officer or employee of

- (a) the Crown in right of the Province;
- (b) a municipality; or
- (c) a community resources board under the *Community Resource Board Act*,

to whom the director of human resources or the director of community resources has assigned powers or duties under the *Guaranteed Available Income for Need Act* or the

Community Resource Board Act, is, by virtue of his office, a commissioner for taking affidavits for British Columbia in connection only with the performance of the powers and duties assigned to him.

(2) Where the director of human resources or the director of community resources revokes the power and duty of a person referred to in subsection (1), that person ceases to be a commissioner for taking affidavits for British Columbia.

1974-18-55.

Revocation

69. (1) The Lieutenant Governor in Council may, by order, revoke the appointment of

- (a) a commissioner for taking affidavits for British Columbia;
- (b) a commissioner for taking affidavits within British Columbia appointed prior to April 1, 1960;
- (c) a special commissioner for taking affidavits within British Columbia appointed prior to April 1, 1960;
- (d) a commissioner for taking affidavits in and for the courts of British Columbia appointed prior to April 1, 1960,

whether the appointment was made under this or any other statute of the Province.

(2) The Lieutenant Governor in Council may, by order, discontinue for the period as may be designated in the order the application of sections 67 and 68 to any person or group of persons.

RS1960-134-59.

Affidavits sworn out of the Province for use in the Province

70. Oaths, affidavits, affirmations or statutory declarations administered, sworn, affirmed or made in any other province or territory of Canada or any country other than Canada before

- (a) a judge, a magistrate or an officer of a court of justice or a commissioner authorized to administer oaths in the courts of justice of the province, territory or country;
- (b) the mayor or chief magistrate of any city, borough or town corporate, certified under the seal of the city, borough or town corporate;
- (c) an officer of any of Her Majesty's diplomatic or consular services exercising his functions in any country other than Canada, including an ambassador, envoy, minister, chargé d'affaires, counsellor, secretary, attaché, consul general, consul, vice consul, proconsul, consular agent, acting consul general, acting consul, acting vice consul and acting consular agent;
- (d) an officer of the Canadian diplomatic and consular service exercising his functions in any country other than Canada, including, in addition to the diplomatic and consular officers mentioned in paragraph (c), a high commissioner, permanent delegate, acting high commissioner, acting permanent delegate, counsellor and secretary;
- (e) a Canadian government trade commissioner and assistant Canadian government trade commissioner while exercising his functions in any country other than Canada;

(f) a notary public acting within the territorial limits of his authority, and certified under his hand and official seal; or

(g) a commissioner authorized by the laws of the Province to take affidavits, are as valid and effectual, and are of the same force and effect, to all intents and purposes as if the oath, affidavit, affirmation or statutory declaration had been administered, sworn, affirmed or made in the Province before a commissioner for taking affidavits or other competent authority of the same nature. [Note: see also Agent General Act, section 3.]

RS1960-134-60.

Commissioned officers empowered to administer oaths

71. All commissioned officers of Her Majesty's naval, military and air forces of Canada on active service in or out of Canada and the Agent General for British Columbia are empowered to administer oaths and take and receive affidavits, declarations and affirmations in or out of the Province for use in the Province.

RS1960-134-61.

Admissibility of documents attesting to affidavits having been sworn

72. (1) A document purporting to have affixed, impressed or subscribed on it or to it

- (a) the signature of
 - (i) a commissioner for taking affidavits for British Columbia;
 - (ii) a commissioner for taking affidavits within British Columbia;
 - (iii) a special commissioner for taking affidavits within British Columbia;
 - (iv) a commissioner for taking affidavits in and for the courts of British Columbia; or
 - (v) a person designated in section 70 (a) or section 71; or
- (b) a seal designated in section 70 (b) together with the signature of the mayor or chief magistrate of the city, borough or town corporate; or
- (c) the seal, if any, and signature of any other person designated in section 70,

in testimony of an oath, affidavit, affirmation or declaration having been administered, sworn, made or affirmed by or before him, is as valid and effectual as if effected in the Province before a commissioner appointed under section 63, and shall be admitted in evidence without proof of the signature, or seal and signature, being the signature, or the seal and signature, of the person whose signature, or seal and signature, the same purports to be, or of the official character of the person.

(2) Subsection (1) applies notwithstanding that the person whose signature is subscribed in testimony of an affidavit having been sworn is the solicitor or the partner, associate, agent or clerk of the solicitor for the deponent or for the party on whose behalf the affidavit is to be used, and a provision of a statute, rule or regulation inconsistent with this subsection is inoperative.

RS1960-134-62; 1961-16-3; 1967-49-4; 1968-16-7.

Effect given to affidavits

73. Every affidavit and affirmation as mentioned above may be read and made use of in the courts of the Province, and is of the same force as if taken in open court.

RS1960-134-63.

Receipt of affidavits notwithstanding defects

74. No defect, by misdescription of parties or otherwise, in the title or jurat of an affidavit, and no other irregularity in the form of an affidavit, affirmation or declaration, shall be any objection to its reception in evidence, if the court, judge or other officer before or to whom it is tendered thinks proper to receive it, and the court, judge or other officer may direct a memorandum to be made on the document that it has been so received.

RS1960-134-64

Affirmation in place of oath

75. If a person required or desiring to make an affidavit or deposition in a proceeding, or on an occasion when or touching a matter for which an oath is required, whether on taking office or otherwise, refuses or is unwilling, from alleged conscientious motives, to be sworn, the person qualified to administer the affidavit, deposition or oath may permit the person required or desiring to make it, instead of being sworn, to make his solemn affirmation or declaration in the following words:

I, *A B* , solemnly promise, affirm and declare that the evidence given by me is the truth, the whole truth and nothing but the truth

which solemn affirmation and declaration shall be of the same force and effect as if the person had taken an oath in the usual form.

RS1960-134-65, 1979-2-19

Taking of affidavits required by insurance company

76. An affidavit, affirmation or declaration required by any insurance company authorized by law to do business in the Province in regard to any loss of, or injury to, person, property or life insured or assured by it may be taken before a commissioner or other person authorized to take affidavits.

RS1960-134-66

Statutory declarations

77. A gold commissioner, mayor or commissioner authorized to take affidavits, or any other person authorized by law to administer an oath in any matter, may receive the solemn declaration of any person voluntarily making it before him in attestation of the execution of any writing, deed or instrument, or of the truth of any fact, or of any account rendered in writing, in the following words:

I, *A B* , solemnly declare that [*state the facts declared to*], and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath

RS1960-134-67, 1972-19-3, 1977-54-66

Interpretation of s. 79

78. In section 79

“court” means the Supreme Court or a County Court;

“family matter” means a cause of action in respect of

(a) the custody of, maintenance for, or access to a child by a parent or guardian;

(b) the maintenance of a person by a spouse; or

(c) the division of redistribution of real or personal property between members of a family,
that is, under any Act, instituted or capable of being instituted in a court; and
“judge” means a judge of the Provincial Court of British Columbia.

1974-99-4 [proclaimed June 15, 1974, for South Fraser Judicial District of the Provincial Court power to proclaim in the remainder of the Province repealed with repeal by 1978-20-89 of the Unified Family Court Act, 1974]

Reports of judge

79. (1) For the purposes of this section and an inquiry, report or recommendation made under this section, “child”, “family”, “parent” and “spouse” mean a child, family, parent and spouse as defined in the Act under which the family matter is instituted or is capable of being instituted in a court, and, where a word is not defined in that Act, the word bears its ordinary legal meaning.

(2) Notwithstanding that a proceeding in respect of a family matter is not instituted in a court at the time of his inquiry, a judge may inquire into, and submit to a court a report and recommendations respecting, a family matter.

(3) The Lieutenant Governor in Council may prescribe the form of a report under subsection (2).

(4) A report under subsection (2) signed by a judge, or a copy of a report certified by a judge or clerk of the Provincial Court of British Columbia, is, in any proceeding before a court, evidence of the facts stated and recommendations made in the report, and of the authority of the judge or clerk without proof of his appointment, authority or signature, but the evidence may be rebutted by other evidence.

(5) Unless a judge otherwise orders, no report under subsection (2) shall be used as evidence in a court unless the person intending to use the report as evidence serves, not less than 48 hours before the time he intends to so use the report, a copy of the report on every party to the proceeding in which the report is to be used.

1974-99-4 [proclaimed June 15, 1974, for South Fraser Judicial District of the Provincial Court power to proclaim in the remainder of the Province repealed with repeal by 1978-20-89 of the Unified Family Court Act, 1974]

Evidence of previous conviction admissible in subsequent proceeding

80. (1) In this section and section 81,
“conviction” means a conviction

- (a) that is not subject to appeal or further appeal; or
- (b) for which no appeal is taken;

“finding of guilt” means the plea of guilty by a defendant to an offence or the finding that a defendant is guilty of an offence made before or by a court that makes an order directing that the defendant be discharged for the offence either absolutely or on the conditions prescribed in a probation order, where

- (a) the order directing the discharge is not subject to further appeal; or
 - (b) no appeal is taken in respect of the order directing the discharge,
- and “found guilty” has a corresponding meaning.

(2) Where

- (a) a person has been convicted of or is found guilty of an offence anywhere in Canada; and
- (b) the commission of that offence is relevant to any issue in an action, proof of the conviction or the finding of guilt, as the case may be, is admissible in

evidence to prove that the person committed the offence, whether or not that person is a party to the action, but, except in an action for defamation, a party has where the action is conducted before a jury, the right to argue at trial, in the jury's absence, that introduction of that evidence would, in relation to its probative value, unduly influence the jury.

(3) A certificate containing the substance and effect of the charge and of the conviction or finding of guilt, as the case may be, purporting to be signed by

(a) the officer having custody of the records of the court in which the offender was convicted or found guilty; or

(b) a person authorized to act for the officer,

is, on proof of the identity of a person named in the certificate as the offender, sufficient evidence of the conviction of that person or the finding of guilt against him, without proof of the signature or of the official character of the person purporting to have signed the certificate.

(4) Where proof of the conviction or finding of guilt of a person is tendered in evidence under subsection (2) in an action for defamation, the conviction or finding of guilt of that person is conclusive proof that he committed the offence.

(5) Where proof of a conviction or a finding of guilt is admitted in evidence under this section, the contents of the information, complaint or indictment relating to the offence for which the person was convicted or found guilty is admissible in evidence.

1977-70-2

Weight of evidence a question of fact

81. Subject to section 80 (4), the weight to be given to the conviction or finding of guilt shall be determined by the judge or jury, as the case may be.

1977-70-2