



CHAPTER 82.

An Act respecting Witnesses and Evidence.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

Short Title.

1. This Act may be cited as the “Evidence Act.” R.S. 1911, Short title. c. 78, s. 1.

Interpretation.

2. In this Act, unless the context otherwise requires, “Lieutenant-Governor” and “Lieutenant-Governor in Council,” when referring to other Provinces than British Columbia, shall have the meaning applied to them by section 34, clauses (13) and (14), of the “Interpretation Act” of the “Revised Statutes of Canada, 1906.” R.S. 1911, c. 78, s. 2.

Application of Act.

3. This Act shall apply to all proceedings and other matters whatsoever respecting which the Legislature has jurisdiction in this behalf. R.S. 1911, c. 78, s. 3.

Witnesses, their Evidence and Examination.

4. A person shall not be incompetent to give evidence by reason only of interest or crime. R.S. 1911, c. 78, s. 4.

5. No witness shall be excused from answering any question upon the ground that the answer to the question may tend to criminate him, or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person: Provided that if with respect to any question the witness objects to answer upon the ground that his answer may tend to criminate him or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person, and if but for this section the witness

would therefore have been excused from answering the question, then, although the witness shall be compelled to answer, yet the answer so given shall not be used or receivable in evidence against him in any criminal trial or other criminal proceeding against him thereafter taking place other than a prosecution for perjury in giving such evidence. R.S. 1911, c. 78, s. 5.

Evidence of child of tender years and requirement as to corroboration.

6. 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 upon 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 upon such evidence alone, and such evidence shall be corroborated by some other material evidence. R.S. 1911, c. 78, s. 6.

Person charged and wife or husband competent.

7. Every person charged with an offence, and the wife or husband, as the case may be, of the person so charged, shall be a competent witness whether the person so charged is charged solely or jointly with any other person. R.S. 1911, c. 78, s. 7.

Parties to civil causes and their wives may be witnesses.

8. 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 or husbands, shall, except as hereinafter excepted, be competent as witnesses, and compellable to attend and give evidence in like manner as they would be if not parties to the proceedings, or wives or husbands of such parties: Provided that 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 such promise. R.S. 1911, c. 78, s. 8.

Communications made during marriage need not be disclosed.

9. No husband shall be compellable to disclose any communication made to him by his wife during the marriage, and no wife shall be compellable to disclose any communication made to her by her husband during the marriage. R.S. 1911, c. 78, s. 9.

In actions by or against lunatics, evidence of opposite party must be corroborated.

10. In any action or proceeding by or against a person found by inquisition to be of unsound mind, or being an inmate of a lunatic asylum or hospital for insane, an opposite or interested party shall not obtain a verdict, judgment, or decision therein, on his own evidence, unless such evidence is corroborated by some other material evidence. R.S. 1911, c. 78, s. 10.

In actions by or against representatives of a deceased person, evidence of the opposite party must be corroborated.

11. In any action or proceeding by or against the heirs, executors, administrators, or assigns of a deceased person, an opposite or interested party to the action shall not obtain a verdict, judgment, or decision therein, on his own evidence, in respect of any matter

occurring before the death of the deceased person, unless such evidence is corroborated by some other material evidence. R.S. 1911, c. 78, s. 11.

12. In any proceeding over which the Legislature has jurisdiction, it shall be lawful for any Court, Judge, Coroner, Gold or other Commissioner, or Justice, in the discretion of such Court, Judge, Coroner, Gold or other Commissioner, or Justice, to receive the evidence of any aboriginal native, or native of mixed blood, of the continent of North America or the islands adjacent thereto, being an uncivilized person, destitute of the knowledge of God and of any fixed and clear belief in religion or in a future state of rewards and punishments, without administering the usual form of oath to such aboriginal native, or native of mixed blood, as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth, and nothing but the truth, or in such other form as may be approved by the Court, Judge, Coroner, Gold or other Commissioner, or Justice. R.S. 1911, c. 78, s. 12.

Indian testimony
receivable in certain
cases.

13. In the case of any proceeding in the nature of a preliminary inquiry, the substance of the evidence or information of any such aboriginal native, or native of mixed blood, as aforesaid, shall be reduced to writing and signed by the person giving the same by his name or mark, and verified by the signature or mark of the person acting as interpreter (if any) and of the Coroner, Justice, or person before whom the evidence or information has been given. R.S. 1911, c. 78, s. 13.

Indian testimony,
how taken.

14. The Court, Judge, Coroner, Gold or other Commissioner, or Justice shall, before taking any such evidence, information, or examination, caution every such aboriginal native, or native of mixed blood, as aforesaid, that he will be liable to incur punishment if he does not as aforesaid tell the truth. R.S. 1911, c. 78, s. 14.

Preliminary caution.

15. The written declaration or examination made, taken, and verified in manner aforesaid of any such aboriginal native, or native of mixed blood, as aforesaid, being one of such uncivilized persons as hereinbefore described, may be lawfully read and received as evidence upon the trial of any cause where, under the like circumstances, the written affidavit, examination, deposition, or confession of any person might be lawfully read and received as evidence. R.S. 1911, c. 79, s. 15.

Indian declaration
evidence.

16. 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 such contradictory proof can be given,

Cross-examination
of witnesses as to
previous statements
in writing.

be called to those parts of the writing which are to be used for the purpose of so 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 thereupon make such use of it for the purposes of the proceedings as he thinks fit. R.S. 1911, c. 78, s. 16.

On cross-examination as to former statement, before disproof given, witness must be asked if he made the statement.

17. If a witness, upon 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 such statement, proof may be given that he did in fact make it; but, before such proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he did make such statement. R.S. 1911, c. 78, s. 17.

Interrogation of witness as to conviction of offence and proof of conviction by certificate.

18. (1.) A witness may be questioned as to whether he has been convicted of any offence, indictable or not, and upon being so questioned, if he either denies the fact or refuses to answer, the opposite party may prove the conviction; and 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, shall, upon proof of the identity of the witness as such convict, be sufficient evidence of his conviction, without proof of the signature or of the official character of the person appearing to have signed the certificate.

Fee for certificate.

(2.) For such certificate a fee of one dollar and no more may be demanded or taken. R.S. 1911, c. 78, s. 18.

Party producing witness cannot impeach his credit by general evidence, but may give evidence to contradict him by leave of Judge.

19. 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, such 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 such last-mentioned proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he did make such statement. R.S. 1911, c. 78, s. 19.

Evidence by certified copies of examinations and depositions.

20. Where an examination of a party or witness has been taken before a Judge or other officer or person appointed to take the same, copies of the examinations and depositions, certified under the hand of the Judge, officer, or other person taking the same, shall, without proof of the signature, be receivable in evidence, saving all just exceptions. R.S. 1911, c. 78, s. 20.

21. In an action or other proceeding relating to any debt or account (other than an action by or on behalf of His Majesty) wherein a person residing in the United Kingdom is a party, the evidence and examination of witnesses on behalf of either or any of the parties to the action or proceeding shall be the same and given in the same manner as in other actions or proceedings according to the practice of the Court. R.S. 1911, c. 78, s. 21.

Evidence where party resides in United Kingdom.

22. A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible. R.S. 1911, c. 78, s. 22.

Dumb person.

23. Where it becomes necessary to prove the nationality or race of any person in any action, cause, proceeding, or matter before any Court, Judge, or Magistrate, the Court, Judge, jury, or Magistrate may infer as a fact the nationality or race of the person in question from the appearance of the person. R.S. 1911, c. 78, s. 23.

Nationality or race may be inferred from appearance.

Administering Oaths.

24. (1.) If, in a Court of justice, or in any proceeding, a person called to give evidence objects to take an oath, or is objected to as incompetent to take an oath, the person shall, if the presiding Judge is satisfied that the taking of an oath would have no binding effect on his conscience, or of the sincerity of the objection of the witness from conscientious motives to be sworn, make the following promise, affirmation, and declaration:—

Affirmation of witness in lieu of oath.

I solemnly promise, affirm, and declare that the evidence given by me to the Court shall be the truth, the whole truth, and nothing but the truth.

And upon the person making such solemn promise, affirmation, and declaration, his evidence shall be taken in the said Court or proceeding, and such promise, affirmation, and declaration shall be of the same force and effect as if the person had taken an oath in the usual form.

(2.) The words "Court of justice" and the words "presiding Judge" in this section shall be deemed to include any person having by law authority to administer an oath for the taking of evidence. R.S. 1911, c. 78, s. 24.

"Court of justice" and "presiding Judge."

25. 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 so to do, and the oath shall be administered to him in such form and manner without further question. R.S. 1911, c. 78, s. 25.

Oath may be administered with uplifted hand.

26. Every Court and Judge, and every person having by law or consent of parties authority to hear and receive evidence, shall have power to administer an oath to every witness who is legally called

Courts, Judges, and persons having authority to hear evidence, empowered to administer oaths.

to give evidence before that Court, Judge, or person. R.S. 1911, c. 78, s. 26.

Documentary Evidence.

Judicial notice of Imperial Acts, Ordinances of Lieut.-Governor in Council, and Provincial Acts.

27. Judicial notice shall be taken of all Acts of the Imperial Parliament, of all Ordinances made by the Governor in Council or the Lieutenant-Governor in Council of any Province or Colony which, or some portion of which, forms part of Canada, and of all the Acts of the Legislature of any such Province or Colony, whether enacted before or after the passing of the "British North America Act, 1867." R.S. 1911, c. 78, s. 27.

Modes of giving evidence of Dominion proclamations, orders, regulations, and appointments.

28. Evidence of any proclamation, order, regulation, or appointment made or issued by the Governor-General or by the Governor in Council, or by or under the authority of any Minister or head of any department of the Government of Canada, may be given in all or any of the modes hereinafter mentioned, that is to say:—

- (a.) 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 the proclamation, order, regulation, or appointment, or a notice thereof:
- (b.) By the production of a copy of the proclamation, order, regulation, or appointment, purporting to be printed by the King's Printer for Canada:
- (c.) By the production, in the case of any proclamation, order, regulation, or appointment made or issued by the Governor-General or by the Governor in Council, of a copy or extract purporting to be certified to be true by the Clerk, or Assistant or Acting Clerk, of the King's Privy Council for Canada; and in the case of any order, regulation, or appointment made or issued by or under the authority of any Minister or head of a department, by the production of a copy or extract purporting to be certified to be true by the Minister, or by his deputy or acting-deputy, or by the secretary or acting-secretary of the department over which he presides. R.S. 1911, c. 78, s. 28.

Modes of giving evidence of Provincial proclamations, orders, regulations, and appointments.

29. Evidence of any proclamation, order, regulation, or appointment made or issued by a Lieutenant-Governor or Lieutenant-Governor in Council of this or any other Province of Canada, or by or under the authority of any member of the Executive Council, being the head of any department of the Government of the Province, may be given in all or any of the modes hereinafter mentioned, that is to say:—

- (a.) By the production of a copy of the official Gazette for the Province, purporting to contain a copy of the proclamation, order, regulation, or appointment, or a notice thereof:

- (b.) By the production of a copy of the proclamation, order, regulation, or appointment, purporting to be printed by the Government or King's Printer for the Province:
- (c.) By the production of a copy or extract of the proclamation, order, regulation, or appointment, purporting to be certified to be true by the Clerk, or Assistant or Acting Clerk, of the Executive Council, or by the head of any department of the Government of a Province, or by his deputy or acting-deputy, as the case may be. R.S. 1911, c. 78, s. 29.

30. Evidence of any proceeding or record whatsoever of, in, or before any Court in the United Kingdom, or the Supreme or Exchequer Courts of Canada, or any Court, or any Justice or any 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 made in any action or proceeding by an exemplification or certified copy thereof, 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 whatever; and if any such 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 whatsoever. R.S. 1911, c. 78, s. 30.

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

31. Imperial Proclamations, Orders in Council, treaties, orders, warrants, licences, certificates, rules, regulations, or other Imperial official records, Acts, or documents, may be proved:—

Modes of proof of Imperial proclamations and official records.

- (a.) In the same manner as the same may from time to time be provable in any Court in England; or
- (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 the same or a notice thereof; or
- (c.) By the production of a copy thereof purporting to be printed by the King's Printer for Canada. R.S. 1911, c. 78, s. 31.

32. In every case in which the original record could be received in evidence, a copy of any official or public document of Canada or of any Province, purporting to be certified under the hand of the proper officer or person in whose custody the official or public document is placed, or a copy of a document, by-law, 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 any Province, purporting to be certified under the seal of the corporation, and the hand of the presiding

Evidence of Dominion and Provincial public documents, and of documents and proceedings of corporations.

officer; clerk, or secretary thereof, shall be 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 thereof. R.S. 1911, c. 78, s. 32.

Evidence of public books and documents.

33. (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 thereof or extract therefrom shall be admissible in evidence in any Court of justice, 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.

Duty of officer to furnish copy.

(2.) Such officer shall furnish such certified copy or extract to any person applying for the same at a reasonable time, upon his paying therefor a sum not exceeding ten cents for every folio of one hundred words. R.S. 1911, c. 78, s. 33.

Proof of signature or official position of person certifying to copies or extracts unnecessary.

34. No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this Act, to the truth of any copy of or extract from any proclamation, order, register, by-law, rule, regulation, appointment, book, or other document; and any such copy or extract may be in print or in writing, or partly in print and partly in writing. R.S. 1911, c. 78, s. 34.

Orders signed by Secretary of State by command of Governor-General.

35. Any 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. R.S. 1911, c. 78, s. 35.

Copies printed in Canada Gazette or British Columbia Gazette prima facie evidence.

36. All copies of official and other notices, advertisements, and documents printed in the Canada Gazette or in The British Columbia Gazette shall be prima facie evidence of the originals, and of the contents thereof. R.S. 1911, c. 78, s. 36.

Evidence of entries in departmental books of Governments of Dominion and the Province.

37. A copy of any entry in any book kept in any 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 therein recorded, if it is proved by the oath or affidavit of an officer of the department that the book was, at the time of the making of the entry, one of the ordinary books kept in the department, that the entry was made in the usual and ordinary course of business of the department, and that the copy is a true copy thereof. R.S. 1911, c. 78, s. 37.

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

38. Any document purporting to be a copy of a notarial act or instrument made, filed, or enregistered 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 such Notary or Prothonotary, shall be received in evidence in the place and stead of the original, and shall have 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 such 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 such nature as may by the law of the Province of Quebec be taken before a Notary or be filed, enrolled, or enregistered by a Notary in the said Province. R.S. 1911, c. 78, s. 38.

39. No copy of any book or other document, as provided in section 38, shall be received in evidence upon any trial unless the party intending to produce the same has, before the trial, given to the party against whom it is intended to be produced reasonable notice of such intention. The reasonableness of the notice shall be determined by the Court or Judge, but the notice shall not in any case be less than ten days. R.S. 1911, c. 78, s. 39.

Reasonable notice required of intention to produce notarial copy in evidence.

40. In any 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 real estate, the party intending to establish in proof the devise or other testamentary disposition may give notice to the opposite party, ten 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; and in every such case the probate or letters of administration, or copy thereof, stamped as aforesaid, shall be sufficient evidence of the will, and of its validity and contents, notwithstanding the same 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 four days after the receipt, gives notice that he disputes the validity of the devise or other testamentary disposition. R.S. 1911, c. 78, s. 40.

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

41. In every case in which in such action the original will is produced and proved, the Court or Judge before whom the evidence is given may direct by which of the parties the costs thereof shall be paid. R.S. 1911, c. 78, s. 41.

Costs of producing and proving original will in discretion of Judge.

42. (1.) In case of the death of a person in any of His Majesty's possessions out of the Province, after having made a will sufficient to pass real estate in the Province, and whereby such estate has been devised, charged, or affected, and in case the will has been duly proved in any Court having the proof and issuing probate of wills in any of such possessions, and remains filed in the Court, then, in

Procedure for proving will by production of probate from Court of British possession in which will remains filed.

case notice of the intention to use such probate in the place of the original will is given to the opposite party in the proceeding one month before the same 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 two witnesses, shall, in any proceeding in any Court in the Province concerning such real estate, be sufficient prima facie evidence of the will and the contents thereof, and of the same having been executed so as to pass real estate, without the production of the original will; but the probate or certificate shall not be used if, upon cause shown before such Court or a Judge thereof, the Court or Judge finds reason to doubt the sufficiency of the execution of the will to pass such real estate as aforesaid, and makes a rule or order disallowing the production of the probate.

Certificate as prima facie evidence.

(2.) The production of the certificate in this section mentioned shall be sufficient prima facie evidence of the facts therein stated, and of the authority of the Judge, Registrar, or Clerk, without proof of his appointment, authority, or signature. R.S. 1911, c. 78, ss. 42, 43.

Certified copies of documents in Land Registry, Supreme Court, and County Court offices as evidence.

43. An exemplification or a certified copy of any instrument or document deposited, filed, kept, or registered in any Land Registry Office, Registry of the Supreme Court, Registry of the County Court, under the hand and seal of office of the Registrar in whose office the same is so deposited, filed, kept, or registered, shall be received as prima facie 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 so deposited, filed, kept, or registered. R.S. 1911, c. 78, s. 44 (*part*).

Certified copies of documents in Mining Recorders' offices as evidence.

44. Every copy of or extract from any entry in any of the books kept by a Mining Recorder under the "Mineral Act" or "Placer-mining Act," or of any document filed in any Mining Recorder's office, certified to be a true copy or extract by the Mining Recorder, shall be received in any Court in the Province as evidence of the matters therein contained. R.S. 1911, c. 78, s. 44 (*part*).

Procedure as to production and proof of original documents filed in Land Registry Office or County Courts.

45. In any action where it would be necessary to produce and prove an original instrument or document which has been registered or filed in any Land Registry Office or County Court Office in order to establish the instrument and the contents thereof, the party intending to prove the original instrument may give notice to the opposite party, ten 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 thereof certified by the Registrar of the office where the same is so filed or registered, under his hand and seal of

office; and in every such case the copy so certified shall be sufficient evidence of the original instrument, and of its validity and contents, unless the party receiving the notice, within four 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 or Judge to be paid by either of the parties as may be deemed right. R.S. 1911, c. 78, s. 45.

46. (1.) In any 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, five 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 contents, an instrument purporting to be a copy of the document.

Mercantile instruments or others may be proved by copy, on notice to other party, unless on inspection opposite party disputes correctness of copy.

(2.) Such copy may then be inspected by the opposite party at some convenient time and place; and in every such case the copy shall, without further proof, be sufficient evidence of the contents of the original document, and be accepted and taken in lieu of the original, unless the party receiving the notice, within four days after the time mentioned therein for such 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; and the Court or Judge before whom the question is raised may direct by which of the parties the costs which may thereupon attend any production or proof of the original document, according to the rules of evidence heretofore existing, shall be paid. R.S. 1911, c. 78, s. 46.

47. It shall not be necessary to prove by the attesting witness any instrument to the validity of which attestation is not requisite, and such instrument may be proved by admission or otherwise, as if there had been no attesting witness thereto. R.S. 1911, c. 78, s. 47.

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

48. Comparison of a disputed writing with any writing proved to the satisfaction of the Judge to be genuine shall be permitted to be made by witnesses; and such writings and the evidence of witnesses respecting the same may be submitted to the Court and jury as evidence of the genuineness or otherwise of the writing in dispute. R.S. 1911, c. 78, s. 48.

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

49. 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 the same, may direct the same to be impounded and kept in the custody of an officer of the Court,

Impounding documents.

or other person, for such period and subject to such conditions as to the Court or person who admits the document seems meet, or until further order touching the same has been made either by the Court or by the Court to which the officer belongs, or by the person so acting or officiating judicially, or by some one of the Judges of the Supreme Court or a County Court (as the case may be), on application made for that purpose. R.S. 1911, c. 78, s. 49.

Provision for filing certified copy as exhibit in lieu of original document produced by Registrar of Titles, or Registrar of Supreme or County Court, or Clerk of Peace.

50. Where in any proceeding the Registrar of Titles, or any District Registrar of the Supreme Court, or Registrar of any County Court, or any Clerk of the Peace, produces upon a subpoena an original document, the original document is not to be deposited in the Court except in the case provided for by the following section; 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 so much thereof as the Judge deems 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 so marked and filed; and the officer shall receive, in addition to ordinary fees, as fees for any certified copy, the sum of twenty-five cents per folio of one hundred words before the copy is delivered, marked, or filed, which shall be paid by him into the Treasury for the use of the Province. R.S. 1911, c. 78, s. 50; 1914, c. 26, s. 2.

Where genuineness questioned Judge may order detention of document.

51. Where there is a question as to the genuineness of the instrument, and the Judge deems 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 as heretofore. R.S. 1911, c. 78, s. 51.

Powers under Foreign Commissions.

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

52. (1.) Where, upon application by motion for this purpose, it is made to appear to the Supreme Court or a Judge thereof, or to a County Court Judge in the Province, that any 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 any action, suit, or proceeding pending in or before the foreign Court or tribunal, of any witness out of the jurisdiction thereof, and within the jurisdiction of the Court or Judge so applied to, the Court or Judge 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 any persons named therein for the purpose of being examined, or the production of any writings or other documents

mentioned in the order; and give all such directions as to the time, place, and manner of the examination and all other matters connected therewith as may appear reasonable and just; and the order may be enforced, and any disobedience thereof punished, in like manner as in case of an order made by the same Court or Judge in a cause depending in the Court or before the Judge.

(2.) Every person whose attendance is so ordered shall be entitled to the like conduct-money and payment for expenses and loss of time as upon attendance at a trial in the Supreme Court. Witness fees.

(3.) Every person examined under such commission, order, or other process as aforesaid shall have the like right to refuse to answer any questions which, in a cause pending in the Court by which, or by a Judge whereof, or before the Judge by whom the order for examination was made, the witness would be entitled to refuse to answer; and no person shall be compelled to produce at the examination any writing or document which he would not be compellable to produce at the trial of such a cause. Witness's right to refuse to answer or produce documents.

(4.) Where the commission directs, or the instructions of the Court accompanying the same direct, that the person to be examined shall be sworn or shall affirm before the Commissioner or other person, the Commissioner or other person shall have authority to administer an oath or affirmation to the person to be examined as aforesaid. R.S. 1911, c. 78, s. 52. Power of Commissioner to administer oaths if directed by commission.

General.

53. The foregoing provisions of this Act shall be deemed to be in addition to and not in derogation of any powers of proving documents given by any existing Statute or other law. R.S. 1911, c. 78, s. 53. Act to be construed as giving additional powers.

Affidavits and Declarations.

54. The Lieutenant-Governor in Council may, by one or more commission or commissions under his hand and seal, from time to time empower as many persons in the Province as he may think fit and necessary to take and receive all and every such affidavit and affirmation (in cases where by law an affirmation is allowed) as any person or persons may desire to make in or concerning any cause, matter, or thing depending on or in anywise concerning any of the proceedings in the Courts of the Province, and such Commissioners shall be styled "Commissioners for taking Affidavits within British Columbia," and for every such commission the sum of twenty dollars shall be paid. R.S. 1911, c. 78, s. 54. Appointment of Commissioners within the Province to take affidavits.

55. Every Commissioner for taking Affidavits appointed as aforesaid shall be deemed to be an officer of the Supreme Court. R.S. 1911, c. 78, s. 55. Commissioners appointed deemed to be officers of Court.

56. (1.) The Lieutenant-Governor in Council may, by one or more commission or commissions under his hand and seal, from time to Appointment of Commissioners without the Province to take affidavits.

time empower as many persons as he may think fit and necessary to administer oaths, and take and receive affidavits, declarations, and affirmations without the Province, in or concerning any cause, matter, or thing depending or in anywise concerning any of the proceedings to be had in the Supreme Court or any other Court in the Province; and the persons so appointed shall be styled "Commissioners for taking Affidavits in and for the Courts of British Columbia," and for every such commission the sum of twenty dollars shall be charged.

Validity of affidavits so taken.

(2.) Every oath, affidavit, declaration, or affirmation taken or made before any such Commissioner shall be as valid and effectual, and shall be of the like force and effect, to all intents and purposes as if the oath, affidavit, declaration, or affirmation had been administered, taken, sworn, made, or affirmed before a Commissioner for taking Affidavits within the Province, or other competent authority. R.S. 1911, c. 78, s. 55.

Revocation of commission.

57. The Lieutenant-Governor in Council may revoke the commission of any Commissioner, howsoever and by whomsoever appointed, and such revocation shall operate as a revocation of his appointment for all purposes. R.S. 1911, c. 78, s. 60.

Judges and officials empowered to take affidavits in matters pending in any Court, or authorized to be sworn by any Statute.

58. Every Judge of any Court in the Province, Registrar of the Supreme Court or any County Court, or Notary Public, and every Commissioner appointed for taking affidavits and affirmations within the Province, and every Stipendiary or Police Magistrate and Justice of the Peace within the jurisdiction of such Magistrate or Justice, and every person authorized to take affidavits whether within or without the Province to be used in any Court of the Province, shall have power to take affidavits and affirmations which any person may desire to make in or concerning any action or proceeding pending in the Court of Appeal, or in the Supreme Court, or in any County Court, or before a Judge or Judges of either of the said Courts, and in or concerning any application or matter made or pending before any Judge of any Court in the Province which, by any Statute within the legislative authority of the Province, such Judge is authorized to hear and determine, or in which he is authorized to make any order, although the application or matter is not made or pending in any Court, and may also take any affidavit, affirmation, declaration, or acknowledgment authorized to be sworn, affirmed, or made by any Statute, except the "Land Registry Act," to which this section shall not apply. R.S. 1911, c. 78, s. 61; 1914, c. 26, s. 3; 1916, c. 21, s. 2 (*redrawn*).

Persons before whom affidavits may be sworn out of the Province for use in any Court in the Province.

59. Oaths, affidavits, declarations, or affirmations administered, sworn, made, or affirmed, out of the Province, before some one of the following persons:—

A Commissioner authorized to administer oaths in the Supreme Court of Judicature in England:

A Judge of any of the Superior Courts in England, Ireland, or Scotland:—

A Judge of any of the County Courts in England or Ireland within his county:

A Sheriff or Sheriff's Substitute of any county of Scotland within his county:

A Notary Public and certified under his hand and official seal:

The Mayor or Chief Magistrate of any city, borough, or town corporate in the United Kingdom, or in any Colony of His Majesty without Canada, or in any foreign country, and certified under the common seal of such city, borough, or town corporate:

A Judge of any Court of Record, or of supreme jurisdiction in any Colony without Canada, belonging to the Crown of the United Kingdom, or any dependency thereof, or in any foreign country:

Or, if made in the British possessions in India, before any Magistrate or Collector certified to have been such under the hand of the Governor of such possession:

Or, if made in Canada, before any Judge, Prothonotary, Notary Public, or Commissioner for taking Affidavits or authorized to administer oaths in, or the Clerk of, a Court of Record in the Dominion of Canada, or in any Province thereof, or before any Stipendiary Magistrate in the Territories of Canada:

Or before any Consul, Vice-Consul, or Consular Agent of His Majesty, exercising his functions in any foreign place,—

for the purposes of and in or concerning any cause, matter, or thing depending or in anywise concerning any of the proceedings in any Court in the Province, shall be as valid and effectual, and shall be of like force and effect, to all intents and purposes, as if such oath, affidavit, affirmation, or declaration had been administered, sworn, made, or affirmed in the Province before a Commissioner for taking Affidavits therein, or other competent authority. R.S. 1911, c. 78, s. 56.

60. Any document purporting to have affixed, impressed, or subscribed thereon or thereto the signature of such Commissioner, or the signature and official seal of such Notary Public or Prothonotary, or the seal of the corporation and the signature of such Mayor or Chief Magistrate, or Governor as aforesaid, or the seal (if any) and signature of such Judge, Sheriff, Sheriff's Substitute, Collector, Clerk, Stipendiary Magistrate, Consul, Vice-Consul, or Consular Agent in testimony of such oath, affidavit, affirmation, or declaration having been administered, sworn, made, or affirmed by or before him, shall be admitted in evidence without proof of the signature, or seal and signature, being the signature, or the seal and signature, of the

Admissibility of documents attesting to affidavits having been sworn.

person whose signature, or seal and signature, the same purports to be, or of the official character of such person. R.S. 1911, c. 78, s. 57.

Effect given to affidavits.

61. Every such affidavit and affirmation as aforesaid may be read and made use of in the Courts of the Province, and shall be of the same force as if taken in open Court. R.S. 1911, c. 78, s. 58.

Receipt of affidavits by Court notwithstanding certain defects in title or jurat.

62. No defect, by misdescription of parties or otherwise, in the title or jurat of any affidavit, and no other irregularity in the form of any 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 such Court, Judge, or other officer may direct a memorandum to be made on the document that it has been so received. R.S. 1911, c. 78, s. 62.

Person administering oath may in certain cases allow affirmation to be made in lieu of oath.

63. If a person required or desiring to make an affidavit or deposition in a proceeding, or on an occasion whereon or touching a matter respecting which an oath is required, whether on taking office or otherwise, shall refuse or be 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 the same, instead of being sworn, to make his solemn affirmation or declaration in the words following, namely:—

I, A. B., do solemnly, sincerely, and truly affirm and declare that the taking of an oath is, according to my religious belief, unlawful; and I do also solemnly, sincerely, and truly affirm and declare, etc.;

which solemn affirmation and declaration shall be of the same force and effect as if such person had taken an oath in the usual form. R.S. 1911, c. 78, s. 63.

Taking of affidavits required by insurance company.

64. Any 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 therein may be taken before any Commissioner or other person authorized to take affidavits, or before any Justice of the Peace, or before any Notary Public for the Province; and such officer is hereby required to take such affidavit, affirmation, or declaration. R.S. 1911, c. 78, s. 64.

Statutory declarations.

65. Any Judge, Notary Public, Justice of the Peace, Police or Stipendiary Magistrate, Mining Recorder, Gold Commissioner, Mayor, or Commissioner authorized to take affidavits to be used either in the Provincial or Dominion Courts, or any other functionary authorized by law to administer an oath in any matter, may receive the solemn declaration of any person voluntarily making the same before him, in the form in the Schedule 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. R.S. 1911, c. 78, s. 65.

66. Any declaration made in the form in the Schedule shall be as valid and effectual as if expressed to be made by virtue of this Act, notwithstanding that the same is expressed to be made by virtue of the "Canada Evidence Act." R.S. 1911, c. 78, s. 66.

Declarations effective although expressed to be made under "Canada Evidence Act."

SCHEDULE.

CANADA :
 PROVINCE OF BRITISH COLUMBIA. }
 To Wit : }

I, A. B., do solemnly declare that [*state the fact or 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 and by virtue of the "Canada Evidence Act."

Declared before me at this }
 day of , 19 . }
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R.S. 1911, c. 78, Sch.