

The words underlined with red are not in
 14815 V, c. 99, s. 2, and as the case is noted in both
 towns in which were decided in Easter Term
 1852, no doubt the words "and their respective
 wives" were inserted in this Act to
 meet those decisions.



See Price v Price
 23 set 71121:

1852.

See No 10 N/1869-70.

No. 2.

N. B. s. 3 of 16817 V, c. 83,
 as to her not being compellable
 to disclose any during
 marriage communication
 this is not in this Act

An Act to amend the Law of Evidence.

[Assented to 11th November, 1852.]

see No. 10 of 1869-70
 subject to the
 p. 254-1212
 QB col 2

WHEREAS it is expedient to amend the Law of Evidence in
 divers particulars :

Recited proviso, in
 Sec. 1, of 6 and 7
 Vict. c. 85, repealed.

Be it therefore Enacted, by the Lieutenant-Governor of South
 Australia, by and with the advice and consent of the Legis-
 lative Council thereof, That so much of an Act of the sixth
 and seventh years of the reign of Her present Majesty, en-
 titled "An Act for improving the Law of Evidence," adopted
 in this Province, by Ordinance, No. 2 of one thousand eight
 hundred and forty-five, as provides that the said Act shall
 "not render competent any party to any suit, action, or pro-
 ceeding, individually named in the record, or any lessor of the
 plaintiff, or tenant of premises sought to be recovered in ejectment,
 or the landlord, or other person, in whose right any defendant in
 replevin may make cognizance, or any person in whose immediate
 and individual behalf any action may be brought or defended, either
 wholly or in part," shall no longer be in force or apply in this
 Province.

2. And be it Enacted, That on the trial of any issue joined, or of
 any matter or question, or on any enquiry arising in any suit,
 action, or other proceeding, in any court of justice, or before any
 person having, by law or consent of parties, authority to hear,
 receive, and examine evidence, the parties thereto, and the persons
 in whose behalf any such suit, action, or other proceeding, may be
 brought or defended, and their respective wives, shall, except as
 hereinafter excepted, be competent and compellable to give evidence,
 either *viva voce*, or by deposition, according to the practice of the
 court,

Parties to be admis-
 sible witnesses.

compare
 16817 V, c. 83,
 s. 1 which was
 not assented
 to till 20th
 Aug 1853:

under Stapleton v Croft
 1828 367: 21 LJO 247
 Barba 178
 1810 609: 21 LJO 135:

court, on behalf of either or any of the parties to the suit, action, or other proceeding.

28th No. 100/1869-78, S. 1.

Not to apply to proceedings in consequence of adultery, or breach of promise of marriage.

Nothing herein to compel person charged with criminal offence to give evidence tending to criminate himself, &c.

3. And be it Enacted, That nothing herein contained shall apply to any action, suit, or proceeding in the Supreme Court of the said Province, instituted in consequence of adultery, or of breach of promise of marriage: Provided that nothing herein contained shall render any person who in any criminal proceeding is charged with the commission of any indictable offence, or any offence punishable on summary conviction, competent or compellable to give evidence for or against himself or herself, or shall render any person compellable to answer any question tending to criminate himself or herself, or shall in any criminal proceeding render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband.

Supreme Court authorised to compel inspection of documents, whenever Equity would grant discovery.

*LR 7 CP 353-4
6 QB 242*

4. And be it Enacted, That whenever any action or other legal proceeding shall henceforth be pending in the Supreme Court of the said Province, the said Court and each of the Judges thereof, may respectively, on application made for such purpose, by either of the litigants, compel the opposite party to allow the party making the application to inspect all documents in the custody, or under the control, of such opposite party, relating to such action or other legal proceeding, and if necessary to take examined copies of the same, or to procure the same to be duly attested, in all cases in which, previous to the passing of this Act, a discovery might have been obtained by filing a bill or any other proceeding in a Court of Equity at the instance of the party so making application as aforesaid to the said Court or Judge.

British and Colonial Acts of State, judgments, &c., provable by certified copies without proof of seal or signature or judicial character of person signing same.

5. And be it Enacted, That all Proclamations, Treaties, and other Acts of State, of any Foreign State, or in any British Colony, and all judgments, decrees, orders, and other judicial proceedings of any Court of Justice in the Kingdom of Great Britain or Ireland, or in any Foreign State, or in any British Colony, and all affidavits, pleadings, and other legal documents filed or deposited in any such Court may be proved in the said Supreme Court, or before any person having by law or by consent of the parties authority to hear, receive, and examine evidence, either by examined copies or by copies authenticated as hereinafter mentioned: that is to say, if the document sought to be proved be a Proclamation, Treaty, or other Act of State, the authenticated copy to be admissible in evidence must purport to be sealed with the seal of the Foreign State or British Colony to which the original document belongs, and if the document sought to be proved be a judgment, decree, order, or other judicial proceeding, of any British, Irish, Foreign, or Colonial Court, or an affidavit, pleading, or other legal document filed or deposited in any such Court, the authenticated copy to be admissible in evidence must purport either to be sealed with the seal of any Court to which the original document belongs, or in the event of such Court having no seal, to be signed by the Judge, or if there be more than one Judge,

Seal Rose v P, 15 ed, 95: patent

Judge, by any one of the Judges of the said Court, and such Judge shall attach to his signature a statement in writing on the said copy that the Court whereof he is a Judge has no seal, but if any of the aforesaid authenticated copies shall purport to be sealed or signed as hereinbefore respectively directed, the same shall be respectively admitted in evidence in every case in which the original document could have been received in evidence without any proof of the seal, where a seal is necessary, or of the signature, or of the truth of the statement attached thereto, where such signature and statement are necessary, or of the judicial character of the person appearing to have made such signature and statement.

Ricc 24

6. And be it Enacted, That every register of a vessel, kept under any of the Acts of the Imperial Parliament relating to the registry of English vessels, may be proved in the said Supreme Court, or before any person having by law or by consent of parties authority to hear, receive, and examine evidence, either by the production of the original or by an examined copy thereof, or by a copy thereof purporting to be certified under the hand of the person having the charge of the original, and which person is hereby required to furnish such certified copy to any person applying at a reasonable time for the same, upon payment of the sum of One Shilling; and every such register, or such copy of a register, and also every certificate of registers granted under any of the said Acts relating to the registry of British vessels, and purporting to be signed as required by law, shall be received in evidence in the said Court, or before any person having by law or by consent of parties authority to hear, receive, and examine evidence, as *prima facie* proof of all the matters contained or recited in such register when the register or such copy thereof as aforesaid is produced, and of all matters contained, or recited in, or endorsed on such certificate of registry when the said certificate is produced.

Registers of British vessels and certificates of registry admissible as *prima facie* evidence of their contents with proof of signature, &c.

7. And whereas it is expedient, as far as possible, to reduce the expenses attendant upon the proof of criminal proceedings, be it Enacted, That whenever in any proceeding whatever it may be necessary to prove the trial and conviction, or acquittal of any person charged with any indictable offence, it shall not be necessary to produce the record of the conviction or acquittal of such person, or a copy thereof, but it shall be sufficient that it be certified or purport to be certified under the hand of the Clerk of the said Supreme Court or other officer having the custody of the records of the Court where such conviction or acquittal took place, that the paper produced is a copy of the record of the indictment, trial, conviction, and judgment or acquittal, as the case may be, omitting the formal parts thereof.

Where necessary to prove conviction or acquittal of person charged, not necessary to produce record, but may be certified under hand of Clerk of Court.

1120c 172d 102

Ricc 24

8. And be it Enacted, That whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from the proper custody, and no Statute or

Examined or certified copies of documents admissible in evidence.

Price v Price 23 S.S.R. 121 Act

Act of the Legislative Council of the Province aforesaid exists which renders its contents provable by means of a copy, any copy thereof or extract therefrom shall be admissible in evidence in the said Court, or before any person now or hereafter having by law or by the consent of parties authority to hear, receive, and examine evidence, provided it be proved to be an examined copy or extract, or provided it purport to be signed and certified as a true copy or extract by the officer to whose custody the original is entrusted, and which officer is hereby required to furnish such certified copy or extract to any person applying at a reasonable time for the same, upon payment of a reasonable sum for the same, not exceeding Sixpence for every folio of ninety words.

Examined or certified copies of documents in Great Britain and Ireland, or in any British Colony, admissible in evidence.

9. And be it Enacted, That in any case in which by the law of England, or of any British Colony, any book or other document, in the Kingdom of Great Britain and Ireland, or in such Colony, is provable by means of a copy, any copy thereof, or extract therefrom, shall be admissible in evidence in the Supreme Court aforesaid, or before any person now or hereafter having by law, or by the consent of parties, authority to hear, receive, and examine evidence, provided it be proved to be an examined copy or extract, or provided it purport to be signed and certified as a true copy or extract by the officer to whose custody the original is entrusted.

Rose 17th 98-9

Certifying a false document a misdemeanor.

10. And be it Enacted, That if any officer authorised or required by this Act to furnish any certified copies or extracts, shall wilfully certify any document as being a true copy or extract, knowing that the same is not a true copy or extract, as the case may be, he shall be guilty of a misdemeanor, and be liable upon conviction to imprisonment with hard labor for any term not less than eighteen months or more than three years.

Court, &c. may administer oaths.

11. And be it Enacted, That the Supreme Court aforesaid, and every Judge, Justice, Officer, Commissioner, Arbitrator, or other person, now or hereafter having by law or by consent of parties authority to hear, receive, and examine evidence, is hereby empowered to administer an oath to all such witnesses as are legally called before them respectively.

Persons forging seal, stamp, or signature of certain documents, or wilfully uttering the same, guilty of felony.

12. And be it Enacted, That if any person shall forge the seal, stamp, or signature of any document in this Act mentioned or referred to, or shall tender in evidence any such document with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, shall be guilty of felony, and shall upon conviction be liable to imprisonment with hard labor for seven years. And whenever any such document shall have been admitted in evidence by virtue of this Act, the Court, or the person who shall have admitted the same, may, at the request of any party against whom the same is so admitted in evidence, direct that

that the same shall be impounded and be kept in the custody of some officer of the Court, or other proper person, for such period, and subject to such conditions, as to the said Court or person shall seem meet.

13. And be it Enacted, That this Act shall commence and take Commencement. effect from and after the passing thereof.

JOHN MORPHETT, Speaker.

*Passed the Legislative Council this second }
day of November, one thousand eight }
hundred and fifty-two.*

F. C. SINGLETON,
Clerk of the Legislative Council.

In the name and on the behalf of Her Majesty I assent to this Act.

H. E. F. YOUNG,
Lieutenant-Governor.

Government House, Adelaide,
11th November, 1852.