



ANNO VICESIMO QUARTO

VICTORIÆ REGINÆ.

No. C.

An Act further to amend and to consolidate the Law of Evidence. [22nd August, 1860.]

WHEREAS it is expedient further to amend and to consolidate the law of evidence Be it therefore enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say)—

Preamble.

I. The Act passed in the twenty-first year of Her present Majesty and numbered eight shall be and the same is hereby repealed but all examinations and depositions taken by virtue of the said Act or in the intended execution thereof shall and may be read in evidence in the same manner as if they had been taken by virtue of this Act.

Repeal of Act 21st Vic. No 8.

II. It shall not be necessary to issue a separate writ of subpoena *ad testificandum* or a separate summons for every four witnesses and any number of witnesses may hereafter be inserted in any such writ or summons for the same party in the same matter and no subpoena *duces tecum* or summons for the production of an original record shall be issued out of any court unless a rule of court or the order of a judge shall be produced to the proper officer of such court and filed with him and unless the writ or summons shall be made conformable to the description of the document mentioned in such rule or order.

Subpoena and summonses to witnesses.

III. On the trial of any issue joined or of any matter or question or on an inquiry arising in any suit action or proceeding in any court or before any person having by law or by consent of parties authority to hear receive and examine evidence any person who may happen to be present and who by virtue of this Act is competent to give evidence shall and may be called and required to give evidence and to produce any document and if any such person when called and required as aforesaid shall not appear and give evidence and if then able so to do produce the document he shall be subject to the same proceedings and liabilities as if he had been duly served with a writ of subpoena *ad testificandum* or *duces tecum* or a summons or other process and had received his conduct money and payment for expenses and loss of time.

Persons present may be examined without a subpoena.

IV. Every

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Oath may be administered or if witness object an affirmation.

IV. Every court and 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 but if any person called as a witness or required or desiring to make an affidavit or deposition shall refuse or be unwilling from alleged conscientious motives to be sworn it shall be lawful for the court or person having by law or by consent of parties authority to hear receive and examine evidence or for any judge or person qualified to take affidavits or depositions upon being satisfied of the sincerity of such objection to permit such person instead of being sworn to make his solemn affirmation or declaration in the words contained in the first schedule to this Act 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.

False affirmation to be perjury.

V. If any person making any affirmation or declaration under the power conferred by this Act shall wilfully falsely and corruptly affirm or declare any matter or thing which if the same had been sworn in the usual form would have amounted to wilful and corrupt perjury every such person so offending shall incur the same penalties as by the laws in force in this colony are or may be enacted or provided against persons convicted of wilful and corrupt perjury.

Witness not to be incapacitated by crime or interest.

VI. No person offered as a witness shall hereafter be excluded by reason of incapacity from crime or interest from giving evidence either in person or by deposition according to the practice of the court on the trial of any issue joined or of any matter or question or on any inquiry arising in any suit action or proceeding in any court or before any person having by law or by consent of parties authority to hear receive and examine evidence but every person so offered may and shall be admitted to give evidence notwithstanding that such person may or shall have an interest in the matter in question or in the event of the trial of any issue matter question or inquiry or of the suit action or proceeding in which he is offered as a witness and notwithstanding that such person offered as a witness may have been previously convicted of any crime or offence.

Aboriginal natives and infants may be witnesses.

VII. On the trial of any issue joined or of any matter or question or on any inquiry arising in any suit action or proceeding in any court or before any person having by law or by consent of parties authority to hear receive and examine evidence it shall be lawful for such court or person to receive the evidence of any aboriginal or half-caste native or of any person brought up and abiding with any tribe of aboriginal natives of Victoria or of any of the countries adjacent thereto on the continent of Australia or of any infant under the age of seven years notwithstanding he may be destitute of the knowledge of God and of any belief in religion or in a future state of rewards and punishments Provided always that the evidence of such native or other person or infant shall be given upon his affirmation or declaration to tell the truth the whole truth and nothing but the truth or in such other form as may be approved of and allowed by such court or person as first aforesaid and after he shall have been cautioned by such court or person that he will incur and be liable to punishment if he do not tell the truth Provided also that no such evidence shall in any case be received unless it shall be proved to the satisfaction of such court or person that such native or other person or infant perfectly understands the nature and object of such declaration or affirmation as aforesaid and the purpose for which his testimony is required.

Parties and husbands and wives may be witnesses.

VIII. On the trial of any issue joined or of any matter or question or on any inquiry arising in any suit action or proceeding in any court or

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or before any person having by law or by consent of parties authority to hear receive and examine evidence the parties thereto and the persons in whose behalf any such suit action or proceeding may be brought or defended and the husbands and wives of such parties and persons respectively shall except as hereinafter excepted be competent and compellable to give evidence either in person or by deposition according to the practice of the court on behalf of either or any of the parties to the said suit action or proceeding.

IX. 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 (except as hereinafter mentioned) shall render any person compellable to answer any question tending to criminate himself 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.

X. It shall be lawful for any person who in any criminal proceeding is charged with the commission of any indictable offence or any offence punishable on summary conviction (whether such person shall or shall not make his answer or defence thereto by counsel or attorney) to make a statement of facts (without oath) in lieu of or in addition to any evidence on his behalf.

XI. 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.

XII. No witness shall on the trial of any issue joined or of any matter or question or on any inquiry arising in any suit action or proceeding whether civil or criminal be permitted to refuse to answer any question which is relevant and material to the matter in issue on the ground that the answer may expose him to any penalty or forfeiture or may disgrace or criminate himself unless the court or person having by law or by consent of parties authority to hear receive and examine evidence shall be of opinion that the answer will tend to subject such witness to punishment for treason felony or misdemeanor.

XIII. A witness may be questioned as to whether he has been convicted of any indictable or other offence and upon being so questioned if he either denies the fact or refuses to answer it shall be lawful for the party so questioning to prove such conviction.

XIV. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character but may contradict him by other evidence or (in case the witness shall in the opinion of the court or person having by law or by consent of parties authority to hear receive and examine evidence prove adverse) may by leave of such court or person prove that he has 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 has made such statement.

XV. If a witness upon cross-examination as to a former statement made by him relative to the subject matter of the cause or prosecution and inconsistent with his present testimony does not distinctly admit that he has made 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

Exceptions as to criminal cases.

Person charged with offence may make a statement.

Communications to husband or wife privileged.

Witness must answer questions which disgrace or criminate.

Witness may be questioned as to previous conviction.

Adverse witness may be contradicted by party calling him.

Evidence of previous statement of witness.

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statement sufficient to designate the particular occasion must be mentioned to the witness and he must be asked whether or not he has made such statement.

Witness may be cross-examined as to written statements without producing them.

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

Attesting witness.

XVII. 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.

Comparison of handwriting.

XVIII. Comparison of a disputed writing with any writing proved to the satisfaction of the court or person having such authority as aforesaid 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 such court or person and the jury or assessors if any as evidence of the genuineness or otherwise of the writing in dispute.

Confessions to clergymen and medical men.

XIX. No clergyman of any church or religious denomination shall without the consent of the person making the confession divulge in any suit action or proceeding whether civil or criminal any confession made to him in his professional character according to the usage of the church or religious denomination to which he belongs and no physician or surgeon shall without the consent of his patient divulge in any civil suit action or proceeding unless the sanity of the patient be the matter in dispute any information which he may have acquired in attending the patient and which was necessary to enable him to prescribe or act for the patient.

Confession after promise or threat or purporting to be on oath.

XX. No confession which is tendered in evidence on any trial shall be rejected on the ground that a promise or threat has been held out to the person confessing unless the judge or other presiding officer shall be of opinion that the inducement was really calculated to cause an untrue admission of guilt to be made nor shall any confession which is tendered in evidence on any trial be rejected on the ground that it purports to have been made on oath if proof can be given to the judge or other presiding officer that in fact it was not so made.

Party may be ordered to allow inspection of realty or personalty.

XXI. Either party to any action or suit depending in the Supreme Court or in any county court or court of mines shall be at liberty to apply to the court or a judge for a rule or order for the inspection by himself or by his witnesses of any real or personal property the inspection of which may be material to the proper determination of the question in dispute and it shall be lawful for the court or a judge if they or he think fit to make such rule or order upon such terms as to costs and otherwise as such court or judge may direct.

Party may be ordered to allow inspection of papers.

XXII. Whenever any cause or other civil proceeding shall be pending in the Supreme Court such court or any judge thereof may 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 cause or other proceeding and if necessary to take examined

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examined copies of the same in all cases in which previous to the passing of this Act a discovery might have been obtained in a court of equity at the instance of the party so making application as aforesaid.

XXIII. Upon the application of either party to any cause or other proceeding in the Supreme Court upon an affidavit by such party of his belief that any document to the production of which he is entitled for the purpose of discovery or otherwise is in the possession or power of the opposite party it shall be lawful for the court or judge to order that the party against whom such application is made or if such party is a body corporate that some officer to be named of such body corporate shall answer on affidavit stating what documents he or they has or have in his or their possession or power relating to the matters in dispute or what he knows as to the custody they or any of them are in and whether he or they objects or object (and if so on what grounds) to the production of such as are in his or their possession or power and upon such affidavit being made the court or judge may make such further order thereon as shall be just.

Party may be compelled to answer what documents he has in his possession.

XXIV. In all causes in the Supreme Court by order of the court or a judge thereof the plaintiff may with the declaration and the defendant may with the plea or either of them by leave of the court or a judge may at any other time deliver to the opposite party or his attorney (provided such party if not a body corporate would be liable to be called and examined as a witness upon such matter) interrogatories in writing upon any matter as to which discovery may be sought and require such party or in the case of a body corporate any of the officers of such body corporate within ten days to answer the questions in writing by affidavit to be sworn and filed in the ordinary way and any party or officer omitting without just cause sufficiently to answer all questions as to which a discovery may be sought within the above time or such extended time as the court or a judge shall allow shall be deemed to have committed a contempt of the court and shall be liable to be proceeded against accordingly.

Party may be ordered to answer interrogatories.

XXV. The application for such order shall be made upon an affidavit of the party proposing to interrogate and his attorney or agent or in case of a body corporate of their attorney or agent stating that the deponents or deponent believe or believes that the party proposing to interrogate whether plaintiff or defendant will derive material benefit in the cause from the discovery which he seeks that there is a good cause of action or defence upon the merits and if the application be made on the part of the defendant in any action or of the plaintiff in replevin that the discovery is not sought for the purpose of delay Provided always that where it shall happen from unavoidable circumstances that the plaintiff or defendant cannot join in such affidavit the court or judge may if they or he think fit upon affidavit of such circumstances by which the party is prevented from so joining therein allow and order that the interrogatories may be delivered without such affidavit.

Mode of obtaining order.

XXVI. In case of omission without just cause to answer sufficiently such written interrogatories it shall be lawful for the court or a judge at their or his discretion to direct an oral examination of the interrogated party as to such points as they or he may direct before a judge or the prothonotary and the court or judge may by such rule or order or any subsequent rule or order command the attendance of such party or parties before the person appointed to take such examination for the purpose of being orally examined as aforesaid or the production of any writings or other documents to be mentioned in such rule or order and may impose therein such terms as to such examination and the costs of the application and of the proceedings thereon and otherwise as

If interrogatories not answered oral examination may be directed.

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as to such court or judge shall seem just and every such rule or order shall have the same force and effect and may be proceeded upon in like manner as an order made under the provisions next hereinafter contained.

Order or commission
to examine wit-
nesses.

XXVII. It shall be lawful for the Supreme Court or any judge thereof in any action or suit depending in such Supreme Court or in any county court or court of mines upon the application of any of the parties to such action or suit to order the examination on oath upon interrogatories or otherwise before some person to be named in such order of any witnesses within Victoria or its dependencies or to order a commission to issue for the examination of witnesses on oath at any place or places out of Victoria and its dependencies by interrogatories or otherwise and by the same or any subsequent order or orders to give all such directions touching the time place and manner of such examination as well within Victoria and its dependencies as without and all other matters and circumstances connected with such examinations as may appear reasonable and just.

Witnesses may be
ordered to attend
for examination.

XXVIII. When any rule or order shall be made for the examination of witnesses within Victoria or its dependencies by authority of this Act it shall be lawful for the Supreme Court or any judge thereof in and by the first rule or order to be made in the matter or any subsequent rule or order to command the attendance of any person to be named in such rule or order for the purpose of being examined or the production of any writings or other documents to be mentioned in such rule or order and to direct the attendance of any such person at his own place of abode or elsewhere if necessary or convenient so to do and the wilful disobedience of any such rule or order shall be deemed a contempt of the Supreme Court and proceedings may be thereupon had by attachment (the judges order being made a rule of court before or at the time of the application for an attachment) if in addition to the service of the rule or order an appointment of the time and place of attendance in obedience thereto signed by the person or persons appointed to take the examination or by one or more of such persons shall be also served together with or after the service of such rule or order Provided always that every person whose attendance shall be so required shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial Provided also that no person shall be compelled to produce under any such rule or order any writing or other document that he would not be compellable to produce at the trial of the cause.

Witnesses in prison
how examined.

XXIX. It shall be lawful for any sheriff gaoler or other officer having the custody of any prisoner to take such prisoner for examination under the authority of this Act by virtue of a writ of *habeas corpus* to be issued for that purpose which writ shall and may be issued by the Supreme Court or any judge thereof under such circumstances and in such manner as such court or judge may now by law issue the writ commonly called a writ of *habeas corpus ad testificandum*.

Persons giving false
evidence on a com-
mission or order
guilty of perjury.

XXX. It shall be lawful for every person authorized to take the examination of witnesses by any rule order writ or commission made or issued in pursuance of this Act and he is hereby authorized and required to take all such examinations and if upon such examination any person shall wilfully and corruptly give any false evidence every person so offending shall and may be prosecuted for perjury in Victoria whether such evidence shall be given in or out of the same or its dependencies.

XXXI. It

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XXXI. It shall and may be lawful for the judge prothonotary or other person or persons to be named in any such rule or order as aforesaid for taking any examination in pursuance thereof and he and they are hereby required to make if need be a special report to the court wherein the action shall be depending touching such examination and the conduct or absence of any witness or other person thereon or relating thereto and the Supreme Court is hereby authorized to institute such proceedings and make such order and orders upon such report as justice may require and as may be instituted and made in any case of contempt of that court.

Examiners may report as to conduct or absence of witness.

XXXII. The costs of every application for any rule or order to be made for the examination of witnesses under any commission or otherwise by virtue of this Act and of the rule or order and proceedings thereupon shall be costs in the cause unless otherwise directed either by the judge making such rule or order or by the judge before whom the trial or inquiry of the cause may be had or by the court wherein the action shall be depending.

Costs of order and commission.

XXXIII. Whenever by virtue of this Act an examination of any witness has been taken before a judge of the Supreme Court or before the prothonotary thereof or any other person or persons as aforesaid the depositions taken down by such examiner shall be returned to and filed and kept in the office of the prothonotary and office copies of such depositions may be given out to either party.

Depositions to be returned to the prothonotary.

XXXIV. No examination or deposition to be taken by virtue of this Act shall be read in evidence without the consent of the party against whom the same may be offered unless it shall appear to the satisfaction of the court or person having by law or consent of parties authority to hear receive and examine evidence that the examinant or deponent is such party or is beyond the jurisdiction of the Supreme Court or dead or unable from permanent sickness or other permanent infirmity to attend in all or any of which cases the examinations and depositions certified under the hand of the commissioners prothonotary or other person taking the same shall and may without proof of the signature to such certificate be received and read in evidence saving all just exceptions.

Depositions not to be read without proof of absence death or sickness.

XXXV. Either party to any suit or action depending in the Supreme Court or in any county court or court of mines may call on the other party by notice to admit any fact or document saving all just exceptions and every such notice and admission respectively may be in the form contained in the second and last schedules to this Act or to the like effect and in case of refusal or neglect to admit the costs of proving the fact or document shall be paid by the party so neglecting or refusing whatever the result of the case may be unless at the hearing trial or inquiry the judge shall certify that the refusal to admit was reasonable and no costs of proving any document shall be allowed unless such notice be given except in cases where the omission to give the notice is in the opinion of the master or prothonotary of the Supreme Court or judge of the county court or court of mines (as the case may be) a saving of expense.

Notice to admit.

XXXVI. An affidavit of the attorney solicitor or agent in the cause or his clerk of the due signature of any admissions made in pursuance of such notice and annexed to the affidavit shall be in all cases sufficient evidence of such admissions and an affidavit of the attorney solicitor or agent in the cause or his clerk of the service of any notice to produce in respect of which notice to admit shall have been given and of the time when it was served with a copy of such notice

Proof of admissions and notice to produce.

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British and foreign
treaties wills judg-
ments &c. may
be proved by
copies.

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notice to produce annexed to such affidavit shall be sufficient evidence of the service of the original of such notice and of the time when it was served.

XXXVII. All proclamations treaties and other acts of state of any part of Her Majesty's dominions or of any foreign state and all judgments decrees orders and other judicial proceedings of any court of justice in any part of such dominions or in any foreign state and all affidavits pleadings and other legal documents wills and codicils filed or deposited in any such court may be proved in any court of justice or before any person having by law or by consent of 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 that part of Her Majesty's dominions or of the foreign state 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 court in the said dominions or in any foreign state or an affidavit pleading or other legal document will or codicil 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 such court or (in the event of such court having no seal) to be signed by the judge or if there be more than one 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 judge has no seal but if any of the aforesaid authenticated copies shall purport to be signed or sealed as hereinbefore respectively directed the same shall respectively be 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 and every such copy shall be *prima facie* evidence of the original thereof in like manner as if such original were produced and proved in due course of law.

Proof of Crown
Grants.

XXXVIII. Whenever in any legal proceeding whatsoever it shall be necessary to prove any grant of land from the Crown it shall not be necessary to produce the original or the enrolment of such grant but a certificate containing a transcript either of such enrolment or of a copy of such enrolment and of the endorsements thereon respectively (if any) and signed by the registrar of the Supreme Court (for which certificate a fee of ten shillings and no more shall be demanded or taken) shall be sufficient evidence of such grant and of the enrolment thereof at the time (if any) stated in or upon such transcript.

Gazette to be evidence
of Acts of Govern-
nor.

XXXIX. The mere production of a paper purporting to be the *Government Gazette* shall be *prima facie* evidence of the publication thereof on the day on which the same bears date and where by any law now or hereafter to be in force the Governor with the advice of the Executive Council or the Governor alone is or shall be authorized or empowered to do any act whatsoever or where by any such law anything is required to be certified by the colonial or chief secretary and published in the said *Gazette* proof of the said *Gazette* purporting to contain a copy or notification of any such act or certificate shall be *prima facie* evidence of such act or certificate having been duly done or given and if such *Gazette* purports to contain any rule byelaw regulation matter or thing allowed confirmed cancelled approved
of

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of assented to or certified shall also be *prima facie* evidence of the purport and due making of such rule byelaw regulation matter or thing.

XL. Every register of a vessel kept under any of the Acts now or hereafter to be in force relating to the registry of British vessels may be proved in any 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 the payment of the sum of one shilling and every such register or such copy of a register and also every certificate of registry granted under any of such Acts and purporting to be signed as required by law shall be received in evidence in any such court or before any such person as aforesaid 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 the matters contained or recited in or endorsed on such certificate of registry when the said certificate is produced.

Register of vessels to be proved by original or copy.

XLI. Whenever by any Act now or hereafter to be in force any certificate official or public document or document or proceeding of any corporation or joint stock or other company or any certified copy of any document or bye-law entry in any register or other book or of any other proceeding shall be receivable in evidence of any particulars the same shall respectively be admitted in evidence in any court and by any person having by law or by consent of parties authority to hear receive and examine evidence provided they respectively purport to be sealed or impressed with a stamp or sealed and signed or signed alone as required or impressed with a stamp and signed as directed by the respective Acts made or to be hereafter made without any proof of the seal or stamp where a seal or stamp is necessary or of the signature or of the official character of the person appearing to have signed the same and without any further proof thereof in every case in which the original record or document could have been received in evidence.

Certain public or corporation document may be proved by a sealed copy.

XLII. Whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from the proper custody and no Act exists which renders its contents proveable by means of a copy any copy thereof or extract therefrom shall be admissible in any court or before any person having by law or by 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 sum for the same not exceeding sixpence for every folio of ninety words.

Documents admissible on mere production to be proved by certified copy.

XLIII. All copies of the votes and proceedings of either house of the Legislature and of the late Legislative Council and of royal proclamations if purporting to be printed by the government printer shall be admitted as evidence thereof by all courts and persons having by law or by consent of parties authority to hear receive and examine evidence without any proof being given that such copies were so printed.

Votes and proceedings of Legislature proved by copy.

XLIV. The probate of a will or codicil or letters of administration with the will or codicil annexed (obtained or having operation within this

Proof of a will.

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this colony) shall notwithstanding the provisions hereinbefore contained be *prima facie* evidence of the original will or codicil as concerns real estate and in all other cases whatsoever in like manner as if such original were produced and proved in due course of law.

Proof of conviction
or acquittal by
certified copy.

XLV. Whenever in any legal proceeding whatsoever 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 a certificate containing the substance and effect only (omitting the formal part) of the indictment information or presentment and conviction or acquittal for such offence purporting to be signed by the officer having the custody of the records of the court where the offender was convicted or acquitted or by the deputy of such officer (for which certificate a fee of five shillings and no more shall be demanded or taken) shall upon proof of the identity of the person be sufficient evidence of the said conviction or acquittal without proof of the signature or official character of the person appearing to have signed the same.

Certain signatures to
be judicially no-
ticed.

XLVI. All courts and all persons having by law or by consent of parties authority to hear receive and examine evidence shall henceforth take judicial notice of the signature of every person who is or shall be or shall have been Governor chief secretary judge of the Supreme Court registrar of such court registrar-general judge of any county court or court of mines commissioner of insolvent estates in and for any part of the colony judge of any court of bankruptcy or insolvency hereafter to be established prothonotary or master in equity provided such signature shall be attached or appended to any decree order certificate affidavit or other judicial or official document.

Machine copies to be
evidence.

XLVII. When any writing whatsoever shall have been copied by means of any machine or press which produces a fac-simile impression or copy of such writing such impression or copy shall upon proof to the satisfaction of the court or person having by law or by consent of parties authority to hear receive and examine evidence that the same was taken or made from the original writing by means of such machine or press as aforesaid be sufficient *prima facie* evidence of such writing without any proof that such impression or copy was compared with the said original thereof and without any notice to produce such original.

Release to be evi-
dence of lease for
a year.
5 Vict. No. 21 sec
21.

XLVIII. Where in or by any deed or instrument of release of freehold estate executed on or before the third day of January One thousand eight hundred and forty-two any deed or instrument of bargain and sale or lease for giving effect to such deed or instrument of release shall be recited or by any mention thereof in such deed or instrument of release appear to have been made or executed such recital or mention thereof shall be deemed and taken to be conclusive evidence of the deed or instrument of bargain and sale or lease so recited or mentioned having been made and executed whether such deed or instrument of bargain and sale or lease shall or shall not have been lost or mislaid or may or may not be produced.

Giving false certifi-
cates misdemean or

XLIX. If any officer authorized 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 on conviction to imprisonment for any term not exceeding two years.

All evidence to be
deemed material.

L. All evidence and proof whatsoever whether given or made orally or by affidavit examination or deposition shall be deemed and taken to be material and it shall not be necessary in any indictment information

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information or presentment for perjury to allege or on the trial thereof to prove the materiality of any such evidence or proof.

LI. 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 or if any person shall print any copy or pretended copy which shall falsely purport to have been printed by the government printer or if any person shall tender in evidence any such copy or pretended copy knowing that the same was not printed by the person by whom it so purports to have been printed every such person shall be guilty of felony and shall upon conviction be liable to be kept to hard labor on the roads or other public works of the colony for any term not exceeding seven years or to be imprisoned for any term not exceeding three years nor less than one year with hard labor 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 the same shall be impounded and 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.

Forging any document or tendering it in evidence felony.

LII. Notwithstanding anything contained in the Act herein before recited the eleventh section of the statute passed in the fifteenth year of the reign of Her present Majesty chapter ninety-nine is hereby admitted and declared to be and shall be of full force and effect in Victoria.

15 Vic. c. 99 sec. 11 to be in force.

SCHEDULES.

Law of Evidence Consolidation Act.

SCHEDULES.

THE FIRST SCHEDULE

Sect. 4.

I JOHN DOE do solemnly sincerely and truly affirm and declare that the taking of any oath is according to my religious belief unlawful and I do also solemnly sincerely and truly affirm and declare that the evidence &c.

THE SECOND SCHEDULE.

No.

In the

Between A. B. plaintiff
and
C. D. defendant

Sect. 36.

Take notice that the _____ proposes to prove the several facts and documents hereunder specified and that such documents may be inspected by the plaintiff (*or defendant*) his attorney [*or solicitor*] or agent at _____ on *Monday* next between the hours of _____ and _____ o'clock and that the plaintiff (*or defendant*) is hereby required within forty-eight hours from the last mentioned hour to admit the said several facts and that such of the said documents as are specified to be originals were respectively written signed or executed as they purport respectively to have been that such as are specified to be copies are respectively true copies and such copies as are stated to have been served sent or delivered were so served sent or delivered respectively saving all just exceptions to the admissibility of all such facts and documents as evidence in this cause.

Dated this _____ day of _____

18

G. H.,

Attorney *or* agent for &c.

To Mr.

the

Attorney *or* Agent

ORIGINALS.

Description of Documents.	Date.
1. An agreement signed by the plaintiff and John Doe.	1st January, 1860.
2. A letter from the defendant to the plaintiff	1st February, 1860.

COPIES.

Description of Documents.	Date.	Original or Duplicate served sent or delivered when how or by whom.
1. Letter from the plaintiff to defendant.	1st January, 1860.	Sent by post on the same day.

FACTS.

1. That the abovenamed John Doe was authorized by the Defendant to sign the abovementioned agreement on his behalf.
2. That John Jones died on the 1st day of March, 18____, intestate.
3. That John Smith was at the commencement of this suit the heir-at-law of the said John Jones.

THE LAST SCHEDULE.

I hereby admit the originals, numbered 1; the copies, numbered 1; and the facts, numbered 2.

A. B.,
Defendant's Agent.

MELBOURNE:

By Authority: JOHN FERRIS, Government Printer.