

ACT No. XV. OF 1852.

*Passed by the Governor General of India in Council on
the 12th March, 1852.*

An Act to amend the Law of Evidence.

WHEREAS it is expedient to amend the law of Evidence in divers particulars, It is hereby enacted as follows :

I. So much of Section I. of Act VII. of 1844 as provides that the said Act shall " not render competent any party to any suit, action, or proceeding 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in whose immediate and individual behalf any action may be brought or defended, either wholly or in part," is hereby repealed.

Repeal of part of Section I., Act VII. of 1844.

II. On the trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action, or other proceeding in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence with respect to, or concerning any

Parties to be admissible witnesses.

suit,

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ACT No. XV. OF 1852.

suit, action, or other proceeding in any of such Courts, the parties thereto, and the persons in whose behalf any such suit, action, or other proceeding, may be brought or defended, shall, except as hereinafter excepted, be competent and compellable to give evidence, either *vivâ voce*, or by deposition, according to the practice of the Courts, on behalf of either or any of the parties to the said suit, action, or other proceeding.

III. But 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.

Parties not compellable to criminate themselves. Husband and wife not compellable to give evidence for or against each other.

IV. Nothing herein contained shall apply to any action, suit, or proceeding in any Court of Common Law, or in any Ecclesiastical Court, instituted in consequence of adultery, or to any action for breach of promise of marriage.

Act not to apply to proceedings for adultery or to actions for breach of promise of marriage.

V. Nothing herein contained shall repeal any provision contained in Act XXV. of 1838.

The Wills' Act not repealed.

VI. Whenever any action or other legal proceeding shall henceforth be pending in any of Her Majesty's Courts, such 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

Courts authorized to compel inspection of documents in actions and other proceedings whenever Equity would grant discovery.

ACT No. XV. OF 1852.

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 stamped, in all cases in which previous to the passing of this Act, a discovery might have been obtained by filing a bill, or by 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. Provided always, that every such application shall be made as aforesaid before issue joined in any such action, and twenty-one days before the trial or hearing of any other legal proceeding.

VII. All Proclamations, Treaties, and other Acts of State of any Foreign State, or of the East India Company, or of any Territory under the Government of the East India Company, or of any British Colony, and all judgments, decrees, orders, and other judicial proceedings of any Court of Justice in any Foreign State, or in any of the Territories under the Government of the East India Company, or in any British Colony, and all affidavits, pleadings, and other legal documents filed or deposited in any such Court, may be proved in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, 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 of the East India Company, or of the Territory under the Government of the East India Company, or of the 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 Foreign or Colonial Court, or of any Court within the Territories under the

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

ACT No. XV. OF 1852.

the Government of the East India Company, 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 the Foreign or Colonial Court, or Court within the Territories under the Government of the East India Company 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, 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 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.

VIII. Every Register of a Vessel kept under Act X. of 1841, or under any of the Acts of Parliament relating to the registry of British Vessels, may be proved in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, 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 Rupee; and every such Register, or such copy of a Register, and also every Certificate of Registry granted under the said Act or any of the Acts of Parliament relating to the registry of British Vessels, and purporting

Registers of British Vessels and Certificates of Registry admissible without proof of signature.

ACT No. XV. OF 1852.

porting to be signed as required by law, shall be received in evidence in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, as *primâ 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.

IX. 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 Court or other Officer having the custody of the records of the Court where such conviction or acquittal took place, or by the Deputy of such Clerk or other Officer, 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.

X. 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 Act exists which renders its contents provable by means of a copy, any copy thereof, or extract therefrom, shall be admissible in evidence in any of Her Majesty's Courts of Justice, or before any person now or hereafter having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, provided it be proved to be an examined copy or extract, or provided it purports to be signed and certified as a true copy or extract by the Officer to whose custody the original

Where necessary to prove conviction or acquittal, not necessary to produce record, but Certificate of Clerk of Court.

Examined or certified copies of documents admissible.

ACT No. XV. OF 1852.

nal 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 four annas for every folio of ninety words.

XI. 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, upon conviction, to imprisonment for any term not exceeding eighteen months.

XII. All Her Majesty's Courts within the British Territories under the Government of the East India Company, and every Judge and Justice of such Courts, and every Officer, Commissioner, Arbitrator or other person, now or hereafter having, by law or by consent of parties, authority to hear, receive, and examine evidence with respect to or concerning any suit, action, or other proceeding in any of such Courts, is hereby empowered to administer an oath to all such witnesses as are legally called before them respectively.

XIII. 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, he shall be guilty of felony, and shall, upon conviction, be liable to transportation for seven years, or to imprisonment for any term not exceeding three years, nor less than one year, with hard labour; 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

ACT No. XV. OF 1852.

party against whom the same is so admitted in evidence, direct 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; and every person who shall be charged with committing any felony under this Act may be dealt with, indicted, tried, and, if convicted, sentenced, and his offence may be laid and charged to have been committed in the place in which he shall be apprehended or be in custody; and every accessory before or after the fact to any such offence may be dealt with, indicted, tried, and, if convicted, sentenced, and his offence may be laid and charged to have been committed in any place in which the principal offender may be tried.

XIV. This Act shall come into operation from and after the tenth day of April, One thousand eight hundred and fifty-two.