

ACT No. XXX OF 1939.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
26th September, 1939.)

An Act to amend the Law of Evidence with respect
to certain commercial documents.

WHEREAS it is expedient to amend the Law of
Evidence with respect to certain commercial
documents;

It is hereby enacted as follows:—

1. (1) This Act may be called the Commercial Docu- Short title
and extent.
ments Evidence Act, 1939.

(2) It extends to the whole of British India.

I of 1872.

2. Notwithstanding anything contained in the In- Statements of
relevant facts
in scheduled
documents to
be them-
selves relevant
facts.
dian Evidence Act, 1872, statements of facts in issue
or of relevant facts made in any document included in
the Schedule as to matters usually stated in such docu-
ment shall be themselves relevant facts within the mean-
ing of that Act.

I of 1872.

3. For the purposes of the Indian Evidence Act, 1872, Presumption
as to genui-
ness of docu-
ments.
and notwithstanding anything contained therein, a
Court—

(a) shall presume, within the meaning of that Act,
in relation to documents included in Part I
of the Schedule, and

(b) may presume, within the meaning of that Act,
in relation to documents included in Part II
of the Schedule,—

that any document purporting to be a document includ-
ed in Part I or Part II of the Schedule, as the case
may be, and to have been duly made by or under the
appropriate authority, was so made and that the state-
ments contained therein are accurate.

4. In the Schedule the expression “ recognised Cham- Definition.
ber of Commerce ” means a Chamber of Commerce rec-
ognised by the Government of its country as being
competent to issue certificates of origin, and includes
any other association similarly recognised.

THE SCHEDULE.

[Price : Anna 1 or 1½d.]

THE SCHEDULE.

(See sections 2 and 3.)

PART I.

Documents in relation to which the Court "SHALL presume".

1. Lloyd's Register of Shipping.
2. Lloyd's Daily Shipping Index.
3. Lloyd's Loading List.
4. Lloyd's Weekly Casualty Reports.
5. Certificate of delivery of goods to the Manchester Ship Canal Company.
6. Official log book, Supplementary Official log book and official wireless log kept by a British ship.
7. Certificate of Registry, Safety Certificate, Safety Radio-Telegraphy Certificate, Exemption Certificate, Certificate of Survey, Declaration of Survey, International Load Line Certificate, British India Load Line Certificate, Report of Survey of a ship provisionally detained as unsafe, Report of Survey to be served upon the master of a ship declared unsafe upon survey, Docking Certificate, Memorandum issued under Article 56 of the International Convention for the Safety of Life at Sea, 1929.
8. Certificates A and B issued under the Indian Merchant Shipping Act, 1923.
9. The following documents relating to marine insurance, namely, insurance policy, receipt for premium, certificate of insurance and insurance cover note.
10. Certificate concerning the loss of country craft issued by the appropriate authority under Department of Commerce, Mercantile Marine Department Circular No. 2 of 1938.
11. Protest made before a Notary Public or other duly authorised official by a master of a ship relating to circumstances calculated to affect the liability of the ship-owner.
12. Licence or permit for radio-telegraph apparatus carried in ships or aircraft.
13. Certificate of registration of an aircraft granted by the Government of the country to which the aircraft belongs.
14. Certificate of airworthiness of an aircraft granted or validated by, or under the authority of, the Government of the country to which the aircraft belongs.
15. Licences

15. Licences and certificates of competency of aircraft personnel granted or validated by, or under the authority of, the Government of the country to which the personnel belongs.

16. Ground Engineer's Licence issued by a competent authority authorised in this behalf by Government.

17. Consular Certificate in respect of goods shipped or shut out, consular certificates of origin, and consular invoice.

18. Certificate of origin of goods issued (but not merely attested) by a recognised Chamber of Commerce, or by a British Consular officer or British or Indian Trade Commissioner or Agent.

19. Receipt for payment of customs duty issued by a Customs authority.

20. Schedule issued by a Port, Dock, Harbour, Wharfage or Warehouse authority, or by a Railway company, showing fees, dues, freights or other charges for the storage, transport or other services in connection with goods.

21. Tonnage schedule and schedule of fees, commission or other charges for services rendered, issued by a recognised Chamber of Commerce.

22. The publication known as the Indian Railway Conference Association Coaching and Goods Tariffs.

23. Copy, certified by the Registrar of Companies, of the memorandum or the articles of association of a company, filed under the Indian Companies Act, 1913.

24. Protest, noting and certifying the dishonour of a bill of exchange, made before a Notary Public or other duly authorised official.

PART II.

Documents in relation to which the Court "MAY presume".

1. Survey Report issued by a competent authority—

(i) in respect of cargo loaded ; or

(ii) certifying the quantity of coal loaded ; or

(iii) in respect of the security of hatches.

2. Official log book, Supplementary Official log book and official wireless log kept by a foreign ship.

3. Dock certificate, dock chalan, dock receipt or warrant, Port Warehouse certificate or warrant, issued by, or under the authority of, a Port, Dock, Harbour or Wharfage authority.

4. Certificate

4. Certificate issued by a Port, Dock, Harbour, Wharfage or other authority having control of acceptance of goods for shipping transport or delivery, relating to the date or time of shipment of goods, arrival of goods for acceptance, arrival of vessels or acceptance or delivery of goods, or to the allocation of berthing accommodation to vessels.

5. Export Application issued by a Port authority showing dues paid, weight and measurement and the shutting out of a consignment.

6. Certificate or receipt showing the weight or measurement of a consignment issued by the official measurer of the Conference Lines, or by a sworn or licensed measurer, or by a recognised Chamber of Commerce.

7. Reports and publications issued by a Port authority showing the movement of vessels, and certificates issued by such authority relating to such movements.

8. Certificate of safety for flight signed by a licensed Ground Engineer.

9. Aircraft Log Book, Journey Log Book and Log Book, maintained by the owner or operator in respect of aircraft.

10. Passenger List or Manifest of Goods carried in public transport aircraft.

11. Passenger ticket issued by a steamship company or air transport company.

12. Air Consignment Note and Baggage Check, issued by an air transport company in respect of goods carried by air, and the counterfoil or duplicate thereof retained by the carrier.

13. Aircraft Load Sheet.

14. Storage warrant of a warehouse recognised by a Customs, Excise, Port, Dock, Harbour or Wharfage authority.

15. Acknowledgment receipt for goods granted by a Port, Dock, Harbour, Wharfage or Warehouse authority or by a Railway or Steamship company.

16. Customs or Excise pass and Customs or Excise permit or certificate, issued by a Customs or Excise authority.

17. *Force majeure* certificate issued by a recognised Chamber of Commerce

18. Receipt

18. Receipt of a Railway or Steamship company granted to a consignor in acknowledgment of goods entrusted to the company for transport.

19. Receipt granted by the Posts and Telegraphs Department

20. Certificate or survey award issued by a recognised Chamber of Commerce relating to the quality, size, weight or valuation of any goods, count of yarn or percentage of moisture in yarn and other goods.

21. Copy, certified by the Registrar of Companies, of the Balance Sheet, Profit and Loss Account, and audit report of a company, filed with the said Registrar under the Indian Companies Act, 1913, and the rules made thereunder.