

# BILL

No. 2 of 1910.

An Act respecting Witnesses and Evidence.

(Assented to 1910.)

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

## SHORT TITLE.

1. This Act may be cited as "*The Evidence Act.*"

Short title

## INTERPRETATION.

2. In this Act—

Interpretation

1. "Court" shall include a judge, arbitrator, umpire, commissioner, police magistrate, justice of the peace or other officer or person having by law or by the consent of parties authority to hear, receive and examine evidence;

Court

2. "Action" shall include an issue, matter, arbitration, reference, investigation, inquiry, a prosecution for an offence committed against a Statute of Alberta or an Ordinance in force in Alberta, or against a by-law or regulation made under the authority of any such Statute or Ordinance and any other proceeding authorized or permitted to be tried, heard, had or taken by or before a court under the law of Alberta.

Action

## APPLICATION OF ACT.

3. This Act shall extend and apply to the evidence offered or taken orally or by interrogatories or affidavits or by the production of documents or things or otherwise by or before a court in an action.

Application of Act

## COMPETENCY OF WITNESSES.

4. No person offered as a witness in an action shall be excluded by reason of any alleged incapacity from crime or interest from giving evidence.

Witnesses not to be incapacitated by crime or interest

5. Every person offered as a witness shall be admitted to give evidence notwithstanding that he has an interest in the matter in question or in the event of the action, and notwithstanding that he has been previously convicted of a crime or offence.

Such persons admitted to give evidence

6. The parties to an action, and the persons on whose behalf the same is brought, instituted, opposed or defended shall, except as hereinafter otherwise provided, be competent and compellable to give evidence on behalf of themselves or of any of the parties; and the husbands and wives of such parties and persons shall, except as hereinafter otherwise provided, be competent and compellable to give evidence on behalf of any of the parties.

Evidence of parties

Evidence of husband and wife

7. A witness shall not be excused from answering any question upon the ground that the 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 or to a prosecution under any Act of or Ordinance in force in Alberta.

Witness not excused from answering questions tending to criminate

(2) If with respect to any question a witness objects to answer upon any of the grounds mentioned in subsection 1, and if, but for this section or any Act of the Parliament of Canada, he would have been excused from answering such question then, although the witness is by reason of this section or by reason of any Act of the Parliament of Canada compelled to answer, the answer so given shall not be used or receivable in evidence against him in any civil proceeding or in any proceeding under any Act of or Ordinance in force in Alberta.

Answer not to be used in evidence against him

8. The parties to an action or proceeding instituted in consequence of adultery, and their husbands and wives shall be competent but not compellable to give evidence, but the husband or wife, if competent only under this Act, shall not be asked or bound to answer any question tending to show that he or she has been guilty of adultery, unless he or she shall have already given evidence in the same action or proceeding in disproof of his or her alleged adultery.

Evidence in proceedings in consequence of adultery

9. A husband shall not be compellable to disclose any communication made to him by his wife during the marriage, nor shall a wife be compellable to disclose any communication made to her by her husband during the marriage.

Communications made during marriage

#### *Expert Evidence.*

10. Where it is intended by any party to examine as witnesses persons entitled according to the law or practice to give opinion evidence not more than three of such witnesses may be called upon either side without the leave of the judge or other person presiding, to be applied for before the examination of any of such witnesses.

Limit of number of expert witnesses in action, etc.

#### *Corroborative Evidence.*

11. The plaintiff in an action for breach of promise of marriage shall not recover unless his or her testimony is corroborated by some other material evidence in support of the promise.

Evidence in actions for breach of promise

12. In an action by or against the heirs, next of kin, executors, administrators, or assigns of a deceased person, an opposite or interested party shall not obtain a verdict, judgment or decision, 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.

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

13. In an action by or against a lunatic so found or an inmate of a lunatic asylum, or a person who from unsoundness of mind is incapable of giving evidence, an opposite or interested party shall not obtain a verdict, judgment or decision on his own evidence unless such evidence is corroborated by some other material evidence.

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

#### *Oaths and Affirmations.*

14. Where an oath may lawfully be administered to any person as a witness or as a deponent in an action or on appointment to any office or employment or on any occasion whatever,

Deponent may take oath declared to be binding

such person shall be bound by the oath administered, if the same shall have been administered in such form and with such ceremonies as such person may declare to be binding.

(2) Where an oath has been duly administered and taken, the fact that the person to whom the same was administered had, at the time of taking such oath, no religious belief shall not for any purpose affect the validity of such oath.

15. If a person called as a witness or required or desiring to give evidence or to make an affidavit or deposition in an action or on an occasion whereon or touching a matter respecting which an oath is required or permitted, objects to take an oath or is objected to as incompetent to take an oath and if the presiding judge or the person qualified to take affidavits or depositions is satisfied that such person objects to be sworn from conscientious scruples or on the ground of his religious belief or on the ground that the taking of an oath would have no binding effect on his conscience, such person may make an affirmation and declaration in lieu of taking an oath and such affirmation and declaration shall be of the same force and effect as if such person had taken an oath in the usual form.

Certain persons may make affirmations or declarations instead of oaths

(2) Where the evidence is in the form of an affidavit or written deposition the person before whom the same is taken shall certify that the deponent satisfied him that he was a person entitled to affirm.

Certificate that deponent entitled to affirm

16. If any person to whom an oath is to be 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.

Scotch oath

17. In any legal proceeding where a child of tender years is offered as a witness, and such child does not, in the opinion of the judge, justice or other presiding officer, understand the nature of an oath, the evidence of such 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, such child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth.

Evidence of child

(2) No case shall be decided upon such evidence alone, and such evidence must be corroborated by some other material evidence.

Must be corroborated

18. A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible.

Evidence of mute

#### *Attendance of Witnesses.*

19. A witness served in due time with a subpoena issued out of any court in Alberta, and paid his proper witness fees and conduct money, who shall make default in obeying such subpoena, without any lawful and reasonable impediment, shall in addition to any penalty he may incur as for a contempt of court be liable to an action on the part of the person by whom or on whose behalf he shall have been subpoenaed, for any damage which such person may sustain or be put to by reason of such default.

Witness disobeying subpoena liable to action

*Examination of Witnesses.*

20. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the matter in question, without the writing being shown to him; but if it is intended to contradict him by the writing, his attention shall, before such contradictory proof is given, 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 at any time during the trial or proceeding may require the production of the writing for his inspection, and may thereupon make such use of it for the purposes of the trial or proceeding as he may think fit.

Proof of  
contradictory  
written  
statements

21. If a witness upon cross-examination as to a former statement made by him relative to the matter in question, 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 is given the circumstances of the supposed statement, sufficient to designate the particular occasion, shall be mentioned to the witness, and he shall be asked whether or not he did make such statement.

Proof of  
contradictory  
oral state-  
ments

22. A witness may be asked whether he has been convicted of any crime, and upon being so asked, if he either denies the fact or refuses to answer, the conviction may be proved; and a certificate containing the substance and effect only (omitting the formal part) of the charge and of the conviction, purporting to be signed by the officer having the custody of the records of the court at which the offender was convicted, or by the deputy of the officer, shall, upon proof of the identity of the witness as such convict, be sufficient evidence of the conviction, without proof of the signature or of the official character of the person appearing to have signed the certificate.

Proof of  
previous  
conviction  
of a witness  
may be given  
if he denies  
it, etc.

Certificate of  
conviction

(2) For such certificate a fee of \$1 and no more may be demanded or taken.

Fee for

23. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character but he may contradict him by other evidence, or if the witness in the opinion of the judge or other person presiding proves adverse such party may by leave of the judge or other person presiding prove that the witness made at some other time a statement inconsistent with his present testimony, but before such last mentioned proof is given the circumstances of the proposed statement sufficient to designate the particular occasion shall be mentioned to the witness and he shall be asked whether or not he did make such statement.

How far a  
party may  
discredit  
his own  
witness

## STATUTES AND PUBLIC DOCUMENTS.

*Statutes, Proclamations, Orders in Council, Letters Patent, etc.*

24. Letters patent under the Great Seal of the United Kingdom of Great Britain and Ireland, or of any other of His Majesty's dominions, may be proved by the production of an exemplification thereof, or of the enrolment thereof, under the Great Seal under which the same may have issued, and such exemplification shall have the like force and effect for all purposes as the letters patent thereby exemplified, as well against His Majesty as against all other persons whomsoever.

Evidence of  
letters  
patent

25. Copies of Statutes, official gazettes, Ordinances, regulations, proclamations, journals, orders, appointments to office, notices thereof and other public documents purporting to be printed by or under the authority of the Parliament of Great Britain and Ireland or of the Imperial Government or by or under the authority of the Government or of any legislative body of any Dominion, Commonwealth, State, Province, Colony, Territory, or possession within the King's dominions, shall be admitted in evidence to prove the contents thereof.

Copies of  
Canadian  
and  
Provincial  
Statutes as  
evidence

26. *Prima facie* evidence of a proclamation, order, regulation or appointment to office made or issued—

- (a) By the Governor General or the Governor General in Council, or other chief executive officer or administrator of the Government of Canada; or
- (b) By or under the authority of any Minister or head of any department of the Government of Canada or of a provincial or territorial Government in Canada; or
- (c) By a Lieutenant Governor or Lieutenant Governor in Council or other chief executive officer or administrator of Alberta or of any other province or territory in Canada;

Procla-  
mations,  
orders in  
Council, etc.,  
of Govern-  
ment of  
Canada and  
of Provin-  
cial Govern-  
ments how  
proved

may be given by the production of—

- (a) A copy of the Canada Gazette or of the official gazette for any province or territory purporting to contain a notice of such proclamation, order, regulation or appointment; or
- (b) A copy of such proclamation, order, regulation or appointment purporting to be printed by the King's Printer or by the Government Printer for the province or territory; or
- (c) A copy of or extract from such proclamation, order, regulation or appointment purporting to be certified to be a true copy by such Minister or head of a department or by the clerk or assistant or acting clerk of the Executive Council or by the head of any department of the Government of Canada or of a provincial or territorial Government or by his deputy or acting deputy.

27. An order in writing purporting to be signed by the Secretary of State of Canada, and to be written by command of the Governor General, shall be received in evidence as the order of the Governor General; and an order in writing purporting to be signed by the Provincial Secretary and to be written by command of the Lieutenant Governor shall be received in evidence as the order of the Lieutenant Governor.

Orders  
signed by  
Secretary of  
State or  
Provincial  
Secretary

#### *Official Documents.*

28. Copies of proclamations and of official and other documents, notices and advertisements printed in the Canada Gazette or in the Alberta Gazette, or in the official gazette of any province or territory in Canada shall be *prima facie* evidence of the originals, and of the contents thereof.

Notices in  
Gazette

29. Where the original record could be received in evidence, a copy of any official or public document in Alberta purporting to be certified under the hand of the proper officer, or the person in whose custody such official or public document is placed, or of a document, by-law, rule, regulation or proceeding, or of

How public  
or official  
documents  
proved

any entry in any register or other book of any corporation, created by charter or Statute of Alberta, or charter or Ordinance of the North-West Territories carrying on business in Alberta, purporting to be certified under the seal of the corporation, and the hand of the presiding officer 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 or persons appearing to have signed the same, and without further proof thereof. By-laws, etc., of corporations

30. Where a document is in the official possession, custody or power of a member of the Executive Council, or of the head of a department of the public service of Alberta, if the deputy head or other officer of the department has the document in his personal possession, and is called as a witness, he shall be entitled, acting herein by the direction and on behalf of such member of the Executive Council or head of the department, to object to produce the document on the ground that it is privileged; and such objection may be taken by him in the same manner, and shall have the same effect, as if such member of the Executive Council or head of the department were personally present and made the objection. Privilege in case of official documents

31. A copy of an entry in any book of account kept in any department of the Government of Canada or of Alberta shall be received as *prima facie* evidence of such entry, and of the matters, transactions and accounts therein recorded, if it is proved by the oath or affidavit of an officer of such department that such book was, at the time of the making of the entry, one of the ordinary books kept in such department, that the entry was apparently, and as the deponent believes, made in the usual and ordinary course of business of such department, and that such copy is a true copy thereof. Entries in departmental books to be prima facie evidence

32. 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, a copy thereof or extract therefrom shall be admissible in evidence if it is proved that it is an examined copy or extract, or that it purports to be signed and certified as a true copy or extract by the officer to whose custody the original has been entrusted. Copies of public books or documents admissible in evidence

(2) Such officer shall furnish the 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. Copies to be delivered if required

#### *Signatures of Judges, etc.*

33. All courts, judges, justices, masters, clerks of courts, commissioners and other officers acting judicially, shall take judicial notice of the signature of any of the judges of any court of Canada, of Alberta, and of every other province and territory in Canada, where such signature is appended or attached, to any decree, order, certificate, affidavit, or judicial or official document. Judicial notice to be taken of signatures of judges, etc.

(2) The members of the Board of Railway Commissioners of Canada shall be deemed judges for the purposes of this section.

34. No proof shall be required of the handwriting or official position of any person certifying to the truth of any copy or extract from any proclamation, order, regulation or appointment; and any such copy or extract may be in print or in writing, or partly in print and partly in writing. Proof of handwriting, when not required

*Foreign Judgments.*

35. A judgment, decree or other judicial proceeding recovered, made, had or taken in the Supreme Court of Judicature or in any Court of Record in England or Ireland or in any of the Superior Courts of Law, Equity or Bankruptcy in Scotland, or in any Court of Record in Canada or in any British Colony or possession, or in any Court of Record of the United States, or of any State of the United States of America, may be proved by an exemplification of the same under the seal of the court, without any proof of the authenticity of such seal or other proof whatever, in the same manner as a judgment decree, or other judicial proceeding of the Supreme Court of Alberta may be proven by an exemplification thereof.

Foreign judgments, etc., how proved

*Notarial Documents.*

36. A copy of a notarial act or instrument in writing made in Quebec, before a notary and filed, enrolled or enregistered by such notary, certified by a notary or prothonotary to be a true copy of the original thereby certified to be in his possession as such notary or prothonotary, shall be receivable 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.

Copies of notarial acts in Quebec admissible

37. The proof by such certified copy may be rebutted or set aside by proof 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 a nature as may by the law of Quebec be taken before a notary, or be filed, enrolled or enregistered by a notary.

How impeached

*Protests of Bills and Notes.*

38. A protest of a bill of exchange or promissory note purporting to be under the hand of a notary public wherever made shall be received as *prima facie* evidence of the allegations and facts therein stated.

Production of protests to be *prima facie* evidence that protest was made

39. Any note, memorandum or certificate purporting to be made by a notary public in Canada, in his own handwriting or to be signed by him at the foot of or embodied in any protest, or in a regular register of official acts purporting to be kept by him shall be *prima facie* evidence of the fact of notice of non-acceptance or non-payment of a bill of exchange or promissory note having been sent or delivered, at the time and in the manner stated in such note, certificate or memorandum.

Certain certificates of notaries to be *prima facie* evidence

*Affidavits, etc., made out of Alberta.*

40. Oaths, affidavits, affirmations or declarations administered, sworn, affirmed or made out of Alberta—

Affidavits to be used in Alberta may be made before certain functionaries in other countries

- (a) In England or Ireland before a commissioner authorized to administer oaths in the Supreme Court of Judicature of England or Ireland;
- (b) In England or Ireland before a judge of the Supreme Court of Judicature of England or Ireland;
- (c) In Scotland before a judge of the Court of Session or the Judiciary Court of Scotland;
- (d) Before a judge of any of the County Courts of Great Britain or Ireland, within his county;

- (e) In Great Britain or Ireland, or in any Colony of His Majesty, or in any foreign country, before the mayor or chief magistrate of any city, borough or town corporate, certified under the common seal of such city, borough or town corporate;
- (f) In any Colony belonging to the Crown of Great Britain, or any dependency thereof, or in any foreign country before a judge of any Court of Record or of supreme jurisdiction;
- (g) 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;
- (h) In Quebec, before a judge or prothonotary of the Superior Court or clerk of the Circuit Court;
- (i) In any foreign place, before any consul, vice-consul, or consular agent of His Majesty exercising his functions;
- (j) Before a notary public and certified under his hand and official seal;
- (k) Or before a commissioner authorized by the laws of Alberta to take such affidavits;

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, affirmed or made in Alberta before a commissioner for taking affidavits therein, or other competent authority of the like nature.

41. Any document purporting to have affixed, impressed or <sup>Seal and signature need not be proved</sup> subscribed thereon, or thereto, the signature of such judge or 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 and signature of such consul, vice-consul or consular agent in testimony of such oath, affidavit, affirmation or declaration having been administered, sworn, affirmed or made by or before him, or for any other purpose authorized by this Act, shall be admitted in evidence without proof of such signature, or seal and signature, being the signature or the seal and signature of the person whose signature or seal and signature the same purport to be, or of the official character of such person.

#### *Formal Defects in Affidavits.*

42. No informality in the heading, or other formal requisites to any affidavit, declaration or affirmation made or taken before a commissioner authorized to take affidavits under the *Act respecting Commissioners to Administer Oaths*, or under this Act, shall be any objection to its reception in evidence if the court or judge before whom it is tendered thinks proper to receive it. <sup>Informal headings, etc. not to invalidate</sup> <sup>6 Edw. VII. c. 14</sup>

#### *Depositions.*

43. Where an examination or deposition of a party or witness has been taken before a judge or other officer or person appointed to take the same, copies of the examination or deposition certified under the hand of the judge, officer or other person taking the same, shall, without proof of the signature, be received and read in evidence, saving all just exceptions. <sup>Copies of depositions certified by person taking the same admissible in evidence</sup>



23. Where a judgment creditor obtains the appointment of a receiver by way of equitable execution of property of his debtor the receiver shall pay into court the money received by him by virtue of his receivership, and the same shall be subject to the provisions of the next preceding section, but the creditor shall be entitled to be paid thereout the costs of and incidental to the receivership order and the proceedings thereon in priority to the claims of all other creditors.

24. Where the amount levied by the sheriff is not sufficient to pay the executions and certificates with costs in full the money shall be applied to the payment rateably of such debts and costs of the creditors after retaining the sheriff's fees including poundage, and after payment in full of the taxed costs and the costs of the execution to the creditor at whose instance and under whose execution the seizure and levy were made where he is entitled to priority therefor under the provisions of this Act.

25. The sheriff if directed by an endorsement upon a certificate shall, in addition to the amounts named therein, levy interest on such amounts from the date of the certificate or from the date named in that behalf in the certificate, and also \$1.35 for the disbursements on every renewal of the certificate; and where such renewal is made upon the application of a solicitor he shall also levy \$1.25 for the solicitor's costs on the renewal.

26. Where money is to be distributed by the sheriff under this Act he shall not be entitled to poundage as upon separate executions or certificates, but only upon the net proceeds distributable by him at the same rate as if the whole amount had been payable upon one execution.

27. Where money is made under an execution it shall be taken to have been made under all the executions and certificates entitled to the benefit thereof, and upon payment being made to the person entitled under any such execution or certificate the sheriff shall endorse thereon a memorandum of the amount so paid, but he shall not, except on the request of the party who issued the execution, or by direction of the court out of which the same issued, or of a judge thereof, return the execution until the same has been fully satisfied or has expired, in which latter case the sheriff shall make a formal return of the amount made thereunder.

(2) The like proceedings may be taken to compel payment by the sheriff of money payable in respect to a certificate as can now be had to compel the return by the sheriff of an execution.

28. Pending the distribution the sheriff shall keep in the book mentioned in section 5 a statement, form 6, showing the following particulars:

- (a) The amounts levied or received and the dates of levy or receipt;
- (b) Each execution, certificate or order in his hands at the time of making the entry, form 1, or subsequently received during the month, the amount thereof, for debt and costs, and the date of receipt, and such statement shall be amended from time to time as additional amounts are levied or received or further executions, certificates or orders are received.

50. Where a public officer produces upon a subpoena an original document it shall not be deposited in court unless otherwise ordered, but if the document or a copy is needed for subsequent reference or use a copy thereof or of so much thereof as may be deemed necessary, certified under the hand of the officer producing the document, shall be filed as an exhibit in the place of the original; and the officer shall be entitled to receive in addition to his ordinary fees the fees for any certified copy, to be paid to him before it is delivered or filed.

Copies of  
official  
documents  
to be filed  
in lieu of  
originals

(2) Where an order is made that the original be retained, the order shall be delivered to the public officer, and the exhibit shall be retained in court and filed.

Original to  
be retained  
upon order  
of judge

#### *Copies of other Written Instruments.*

51. A party intending to prove the original of a telegram, letter, shipping bill, bill of lading, delivery order, receipt, account or other written instrument used in business or other transactions, 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 to give in evidence as proof of the contents, a writing purporting to be a copy of the document and in the notice shall name some convenient time and place for the inspection thereof.

Copies of  
certain  
documents  
may be ad-  
mitted as  
evidence on  
certain  
conditions

(2) Such copy may then be inspected by the opposite party, and 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 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 costs attending any production or proof of the original document shall be in the discretion of the court.

Inspection

Costs

#### *Miscellaneous Provisions.*

52. Where it is made to appear to the Supreme Court or a judge thereof, or to a judge of a District Court, that any court or tribunal of competent jurisdiction in a foreign country has duly authorized, by commission, order or other process, the obtaining of the testimony in or in relation to any action, suit or proceeding pending in or before such foreign court or tribunal, of a witness out of the jurisdiction thereof and within the jurisdiction of the court or judge so applied to, such court or judge may order the examination of such witness before the person appointed, and in the manner and form directed by the commission, order or other process; and may by the same or by a subsequent order command the attendance of any person named therein for the purpose of being examined, or the production of any writing or other document or thing mentioned in the order; and may give all such directions as to the time and place of the examination, and all other matters connected therewith as may seem proper; and the order may be enforced, and any disobedience thereto punished, in like manner as in case of an order made by the same court or judge in an action pending in such court or before such judge.

Witnesses  
may be  
ordered to  
be examined  
in relation  
to any matter  
pending be-  
fore a foreign  
tribunal

(2) A 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.

Payment of  
expenses of  
witness

(3) A person examined under such commission, order or other process, shall have the like right to object to answer questions tending to criminate himself, and to refuse to answer any questions which, in an action 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 object or to refuse to answer; and no person shall be compelled to produce at the examination any writing, document or thing which he would not be compellable to produce at the trial of such an action.

(4) Where the commission, order or other process or the instructions of the court accompanying the same direct that the person to be examined shall be sworn or shall affirm the person so appointed shall have authority to administer the oath to him or take his affirmation.

53. It shall not be necessary to prove by the attesting witness an instrument to the validity of which attestation is not requisite.

54. Comparison of a disputed writing with any writing proved to the satisfaction of the court to be genuine shall be permitted to be made by a witness; and such writings and the evidence of witnesses respecting the same may be submitted to the court or jury as evidence of the genuineness or otherwise of the writing in dispute.

55. Where a document is received in evidence the court admitting the same may direct that it be impounded and kept in such custody for such period and subject to such conditions as may seem proper or until the further order of the court or of the Supreme Court or a judge thereof or of a District Court (as the case may be).

56. In the completion of any contract of sale of land, recitals, statements of facts and matters and descriptions of parties, contained in deeds, instruments, Acts of Parliament or statutory declarations twenty years old at the date of the contract, shall, subject to any stipulations to the contrary in such contract, and unless and except so far as they are proved to be inaccurate, be taken to be sufficient evidence of the truth of such recitals, statements and descriptions.

57. The provisions of this Act shall not be taken to exclude any method of proving documents or facts in any way in which they may by law be proved.

58. Clause 12 of section 10 of *The Judicature Ordinance* and section 1, chapter 10, of the Ordinances of 1901, are hereby repealed.

No. 10

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SECOND SESSION

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**SECOND LEGISLATURE**

1 GEORGE V.

**1910**

(SECOND SESSION)

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**BILL**

An Act respecting Witnesses and  
Evidence.

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Received and read the

First time.....

Second time.....

Third time.....

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HON. C. R. MITCHELL

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EDMONTON

JAMES E. RICHARDS, Government Printer  
A.D. 1910