

CYPRUS

EVIDENCE

CHAPTER 9 OF THE LAWS

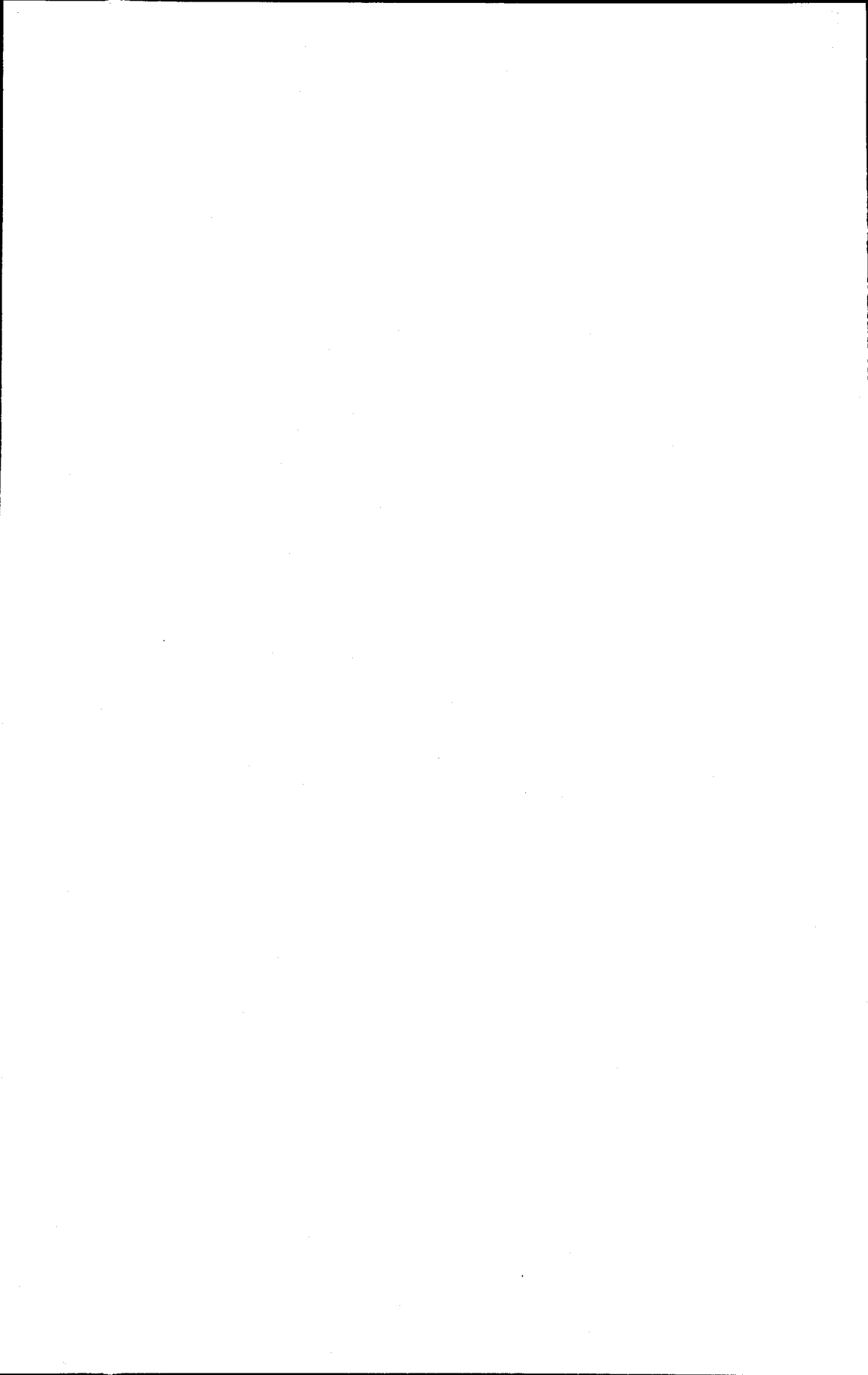
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1959



CHAPTER 9.

EVIDENCE.

ARRANGEMENT OF SECTIONS.

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A LAW TO AMEND AND CONSOLIDATE CERTAIN PROVISIONS RELATING TO THE LAW OF EVIDENCE.

1949 Cap. 15.
36 of 55.
6 of 57.

[8th August, 1946.]

1. This Law may be cited as the Evidence Law.*

Short title.

2. In this Law,

Interpretation.

“civil proceeding” and cognate expressions means any proceeding other than a criminal proceeding and includes arbitrations and references;

“Court” means a Court of competent jurisdiction and, in relation to arbitrations or references, shall be construed accordingly;

“criminal proceeding” and cognate expressions means any proceeding against any person to obtain punishment of such person for any offence against any Law or public instrument;

“document” includes books, maps, plans, drawings, photographs and also includes any matter expressed

* And see Stamp Law, Cap. 328, sections 20 and 21.

or described upon any substance by means of letters figures or marks or by more than one of these means intended to be used or which may be used for the purpose of recording that matter.

Application
of English
law and rules
of evidence.

3. Save in so far as other provision is made in this Law or has been made or shall be made in any other Law in force for the time being, every Court, in the exercise of its jurisdiction in any civil or criminal proceeding, shall apply so far as circumstances may permit, the law and rules of evidence as in force in England on the 5th day of November 1914.

Admissi-
bility of
documentary
evidence as
to facts in
issue.

4. (1) In any civil proceeding where direct oral evidence of a fact would be admissible, any statement made by a person in a document and tending to establish that fact shall, on production of the original document, be admissible as evidence of that fact if the following conditions are satisfied; that is to say—

(a) if the maker of the statement either—

(i) had personal knowledge of the matter dealt with by the statement; or

(ii) where the document in question is or forms part of a record purporting to be a continuous record, made the statement (in so far as the matters dealt with thereby are not within his personal knowledge) in the performance of duty to record information supplied to him by a person who had, or might reasonably be supposed to have, personal knowledge of those matters; and

(b) subject to subsection (2) of this section, if the maker of the statement is called as a witness in the proceedings:

Provided that the condition that the maker of the statement shall be called as a witness need not be satisfied if he is dead or unfit by reason of his bodily or mental condition to attend as a witness, or if he is beyond the seas and it is not reasonably practicable to secure his attendance or if all reasonable efforts to find him have been made without success.

(2) In any civil proceedings, the Court may, at any stage of the proceedings, if having regard to all the circumstances of the case it is satisfied that undue delay or expense would

otherwise be caused, order that such a statement as is mentioned in subsection (1) of this section shall be admissible as evidence or may, without any such order having been made, admit such a statement in evidence—

- (a) notwithstanding that the maker of the statement is available but is not called as a witness;
- (b) notwithstanding that the original document is not produced, if in lieu thereof there is produced a copy of the original document or of the material part thereof certified to be a true copy in such manner as may be specified in the order or as the Court may approve, as the case may be.

(3) Nothing in this section shall render admissible as evidence any statement made by a person interested at a time when proceedings were pending or anticipated involving a dispute as to any fact which the statement might tend to establish.

(4) For the purposes of this section, a statement in a document shall not be deemed to have been made by a person unless the document or the material part thereof was written, made or produced by him with his own hand, or was signed or initialled by him or otherwise recognized by him in writing as one for the accuracy of which he is responsible.

(5) For the purpose of deciding whether or not a statement is admissible as evidence by virtue of the foregoing provisions, the Court may draw any reasonable inference from the form or contents of the document in which the statement is contained, or from any other circumstances, and may, in deciding whether or not a person is fit to attend as a witness, act on a certificate purporting to be the certificate of a registered medical practitioner, and the Court may in its discretion reject the statement notwithstanding that the requirements of this section are satisfied with respect thereto, if for any reason it appears to it to be expedient in the interests of justice that the statement should be admitted.

(6) Nothing in this section shall prejudice the admissibility of any evidence which would, apart from the provisions of this section, be admissible or enable documentary evidence to be given as to any declaration relating to a matter of pedigree, if that declaration would not have been admissible as evidence if this Law had not been enacted.

Weight to be attached to evidence.

5. (1) In estimating the weight, if any, to be attached to a statement rendered admissible as evidence by section 4 of this Law, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement, and in particular to the question whether or not the statement was made contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not the maker of the statement had any incentive to conceal or misrepresent the facts.

(2) For the purpose of any rule of law or practice requiring evidence to be corroborated or regulating the manner in which uncorroborated evidence is to be treated a statement rendered admissible as evidence by section 4 of this Law shall not be treated as corroboration of evidence given by the maker of the statement.

Evidence in actions for breach of promise.

6. A plaintiff in any action for breach of promise of marriage shall not recover judgment unless his or her testimony is corroborated by some other material evidence in support of such promise. The fact that the defendant did not answer letters affirming that he had promised to marry the plaintiff is not such corroboration.

Claim upon estate of deceased person.

7. A claim upon the estate of a deceased person, whether founded upon an allegation of debt or of gift, shall not be maintained upon the uncorroborated testimony of the claimant, unless circumstances appear or are proved which make the claim antecedently probable, or throw the burden of disproving it on the representatives of the deceased.

Evidence in case of treason and misprision of treason.

8. In all cases of treason and of misprision of treason the person charged with such offence may be convicted upon the like evidence as if such person stood charged with murder.

Unsworn evidence of child of tender years.

9. No person shall be convicted of an offence upon the unsworn evidence of a child of tender years unless such unsworn evidence is corroborated by material evidence implicating the accused.

Particulars of immediate complaint may be given in evidence on behalf of the prosecution.

10. Any Court, before which any preliminary inquiry is being held or before which any person accused of an offence is being tried, may receive in evidence, on behalf of the prosecution, the particulars of any complaint or any statement relating to the offence made by the person charged.

whom the offence has been committed, or the person in charge of any property against which the offence has been committed and who was present when the offence was so committed:

Provided that the particulars of any such complaint or statement shall not be admissible on behalf of the prosecution unless it appears to the Court before which a preliminary inquiry is being held or the Court before which the accused person is being tried that the complaint or statement has been made, having regard to the circumstances of the case, immediately after the commission of the offence, and to the first person or persons to whom the person making the complaint or statement spoke after the commission of the offence, or to the person or persons to whom the Court considers that it was natural that he would complain or make a statement regarding the offence.

11. (1) Where, upon the trial on information of a person accused of any offence, any witnesses shall make any material statement of fact in direct contradiction to a statement of fact contained in his deposition or shall deny or state that he does not recollect that he had made any such statement, the deposition may be put in evidence; and if it appears to the Court, having regard to all the circumstances of the case, that the statement therein contained is true (notwithstanding that the witness has so contradicted or denied it or has stated as aforesaid), it shall be lawful for the Court, in considering whether the accused person has or has not committed the offence charged against him in the information or any offence for which he may be lawfully convicted by the Court on his trial, to treat the statement of fact contained in the deposition as the true evidence of the witness and to act upon it accordingly:

Statements in depositions afterwards contradicted may be considered as evidence in certain cases.

Provided that the Court shall not treat the statement of fact contained in the deposition of a witness as his evidence, unless it appears to the Court that the fact deposed to by the witness is corroborated by other evidence in the case.

(2) For the purposes of this section, the word "deposition" shall have the same meaning as in the Criminal Procedure Law.

Cap. 155.

12. (1) Any document purporting to be a certificate or report under the hand of any scientific expert on any matter or thing which has been submitted to him for examination, analysis or report shall be admissible in any

Reports and certificates admissible in evidence in certain circumstances.
2 of 6/57.

criminal proceeding as evidence of the facts stated therein without proof of the signature or appointment of such scientific expert, unless the Court, acting *ex proprio motu* or at the request of a party to the proceeding, requires any such scientific expert to be called as a witness.

(2) In this section the expression "scientific expert" refers to—

- (a) the officers from time to time holding the following appointments in the public service of the Colony or acting in such appointments:—
 - (i) Senior Specialist (Pathologist);
 - (ii) Analyst;
 - (iii) Inspector of Mines;
- (b) any officer or person declared by the Governor, by order made with the advice and assistance of the Chief Justice and published in the Gazette, to be a scientific expert for the purposes of this section.

Who are
competent
witnesses.

13. Subject to section 14 of this Law, all persons shall be competent to give evidence in any proceedings, whether civil or criminal, unless the Court considers that they are prevented by reason of tender years, mental incapacity or any other cause of the same kind from knowing that they ought to speak the truth or from understanding questions put to them or from giving rational answers to those questions.

Husband
and wife.

14. (1) Subject to subsection (2), in criminal proceedings against any person, the husband or wife, as the case may be, of such person shall not be a competent witness for the prosecution against that person nor a compellable witness against any other person jointly charged with him or her.

(2) The husband or wife of a person charged—

- (a) with inflicting or attempting to inflict any bodily injury or violence upon him or her or upon any of his or her children;
- (b) with an offence under any of the sections of the Criminal Code, set out in the Schedule to this Law, or under section 54 of the Children Law,

Schedule
Cap. 154.
Cap. 352.

shall be a competent witness for the prosecution against the person so charged and a compellable witness against any other person jointly charged with him or her.

(3) Nothing in this section shall make a husband compellable to disclose any communication made to him by his wife during the marriage or a wife compellable to disclose any communication made to her by her husband during the marriage.

15. In any proceedings, whether civil or criminal, there shall, in the case of a document proved, or purporting to be not less than twenty years old, be made the same presumption which before the commencement of this Law would have been made in the case of a document of like character proved, or purporting, to be not less than thirty years old.

Presump-
tions as to
documents
twenty
years old.

16. In any proceedings, whether civil or criminal, an instrument to the validity of which attestation is requisite may, instead of being proved by an attesting witness, be proved in the manner in which it might be proved if no attesting witness were alive:

Proof of
instrument
to validity
of which
attestation
is necessary.

Provided that nothing in this section shall apply to the proof of wills or other testamentary documents.

17. Any document executed—

Admission
in evidence
of documents
executed out
of the
Colony.
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(a) in the United Kingdom or in any other place in which Her Majesty exercises jurisdiction (other than the Colony), and purporting to have affixed, impressed, or subscribed thereon or thereto—

(i) in the case of powers of attorney the seal and signature of a notary public or an officer authorized by law in any such place to perform the functions of a notary public;

(ii) in the case of documents other than powers of attorney, the seal and signature of any justice of the peace, or any commissioner for oaths, notary public or other officer authorized by law in any part of the United Kingdom or any such other place in which Her Majesty exercises jurisdiction to administer an oath or to do any notarial act;

(b) in any foreign country or place, and purporting to have affixed, impressed or subscribed thereon or thereto the seal and signature of any of the following persons, namely, any British ambassador, envoy, minister, chargé d'affaires, or any secretary of embassy or legation exercising his

functions in any foreign country, or any British consul-general consul, vice-consul, pro-consul, and consular agent exercising his functions in any foreign place, in testimony of any oath, affidavit, or act administered, taken, or done by or before any such person as aforesaid,

shall, unless any other specific provision is made in respect of any matter or thing in any Law in force for the time being, be admitted in evidence in any Court of the Colony or in any proceeding or transaction under any Law in force for the time being, without proof of the seal or signature of any such person, or of his official character.

Certified
copies of
registers,
etc., to be
evidence.

18. Where any register is kept or any entry or record is made, under any Law in force for the time being, an extract therefrom or a copy thereof purporting to be signed and certified as a true copy by the person having authority to keep the register or make the entry or record, shall be admissible, in any proceedings whether civil or criminal, as evidence of all that is stated therein relating to such register, entry or record.

SCHEDULE.

(Section 14.)

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