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Paper work on evidence Act

	Original	Recommended
	<p>The Evidence Act 1872 (Act no.1 of 1872)</p> <p style="text-align: right;">(15 th March,1872)</p>	The Bangladesh Evidence Act 2015
Preamble	Whereas it is expedient to consolidate , define and amend the law of Evidence; it is enacted as follows:	Whereas it is necessary for the interest of justice to enact the law of Evidence ; it is hereby enacted as follows:
	PART I	PART I
	RELEVANCY OF FACTS	RELEVANCY OF FACTS
	CHAPTER I	CHAPTER I
	PRELIMINARY	PRELIMINARY
Short title	1.This Act may be called The Evidence Act, 1872.	1.This Act may be called The Bangladesh Evidence Act, 2015

Extent	It extends to the whole of Bangladesh and applies to all judicial proceedings in or before any Court, including Courts-martial, other than Courts-martial convened under the ³ [Army Act, 1952, the Naval Discipline Ordinance, 1961 or the Air Force Act, 1953] but not to affidavits presented to any Court or officer, nor to proceedings before an arbitrator;	It extends to the whole of Bangladesh including the lands which may in future form a part of Bangladesh and applies to all judicial proceedings in or before any Court, including arbitration in a court but not to affidavits presented to any Court or officer, nor to proceedings before an urban and rural arbitrator;
Commencement the of Act	And it shall come into force on the first day of September, 1872.	And it shall come into force on the 2015
Repealed	2. [Repealed by section 2 and Schedule of the Repealing Act, 1938 (Act No. I of 1938).	
Interpretation clause Court	3. In this Act the following words and expressions are used in the following senses, unless a contrary appears from the context:- "Court" includes all Judges and Magistrates and all	2. In this Act the following words and expressions are used in the following senses, unless a contrary intention appears either from the context or from the Act:-

<p>Fact</p>	<p>persons, except arbitrators, legally authorized to take evidence.</p> <p>"Fact" means and includes-</p> <p>(1) anything, state of things, or relation of things capable of being perceived by the senses;</p> <p>(2) any mental condition of which any person is conscious.</p> <p style="text-align: center;">Illustrations</p> <p>(a) That there are certain objects arranged in a certain order in a certain place, is a fact.</p> <p>(b) That a man heard or saw something, is a fact.</p> <p>(c) That a man said certain words, is a fact.</p> <p>(d) That a man holds a certain opinion, has a certain</p>	<p>"Court" includes all Judges and Magistrates and all persons legally authorized to take evidence.</p> <p>"Fact" means and includes-</p> <p>1. Any matter Which can be seen, heard or perceived by senses</p> <p>2. Any mental condition of which any person is conscience.</p> <p style="text-align: center;">Illustrations</p> <p>(a) That there are certain objects arranged in a certain order in a certain place, is a fact.</p> <p>(b) That a man has heard or seen or perceived something, is a fact.</p> <p>(c) That a man has said certain words, is a fact.</p>
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	<p>Explanation.-Whenever, under the provisions of the law for the time being in force relating to Civil Procedure any Court records an issue of fact. The fact to be asserted or denied in the answer to such issue is a fact in issue.</p> <p style="text-align: center;">Illustrations</p> <p>A is accused of the murder of B.</p> <p>At his trial the following facts may be in issue:</p> <p>that A caused B's death; that A intended to cause B's death; that A had received grave and sudden provocation from B;</p> <p>that A, at the time of doing the act which caused B's death, was, by reason of unsoundness of mind, incapable of knowing its nature.</p>	<p style="text-align: center;">Illustrations</p> <p>A is accused of the murder of B.</p> <p>At his trial the following facts may be in issue:</p> <p>that A caused B's death; that A intended to cause B's death; that A had received grave and sudden provocation from B;</p> <p>That A, at the time of doing the act which caused B's death, was, by reason of unsoundness of mind, incapable of knowing its nature.</p> <p>"Document" means any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended</p>
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<p>Document</p>	<p>"Document" means any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter.</p> <p style="text-align: center;">Illustrations</p> <p>A writing is a document: Words printed, lithographed or photographed are documents: A map or plan is a document: An inscription on a metal plate or stone is a document: A caricature is a document.</p>	<p>to be used, or which may be used, for the purpose of recording that matter.</p> <p style="text-align: center;">Illustrations</p> <p>A writing is a document: Words printed, lithographed or photographed are documents: A map or plan is a document: An inscription on a metal plate or stone is a document: A caricature is a document.</p> <p>An audio, video, electronic files are document.</p>
<p>Evidence</p>	<p>"Evidence" means and includes</p> <p>(1) all statements which the Court permits or requires to be made before it by witnesses, in</p>	<p>"Evidence" means</p> <p>Anything that helps to solve a dispute. But judicial evidence means those evidence which are taken by the court under this act under any act which is</p>

<p>Proved</p>	<p>relation to matters of fact under inquiry: such statements are called oral evidence;</p> <p>(2) All documents produced for the inspection of the Court; such documents are called documentary evidence.</p> <p>A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.</p>	<p>enforced in Bangladesh.</p> <p>Evidence are of two kinds:-</p> <p>a. Oral Evidence: Anything that is stated before a court of law in a disputed matter.</p> <p>b. Documentary Evidence: Anything that is presented before the court of law for its inspection including electronic records.</p> <p style="text-align: center;">Illustration</p> <p>A fact is proved when, after considering the materials before it, the court is satisfied that it has been proved.</p>
<p>Disproved</p>	<p>A fact is said to be disproved when, after considering the matters before it, the Court either believes that it does not exist, or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the</p>	<p>A fact is disproved when, after considering the materials before it, the Court is satisfied that it has not been proved.</p>

<p>Not proved</p>	<p>supposition that it does not exist.</p> <p>A fact is said not to be proved when it is neither proved nor disproved</p>	<p>A fact is said to be not proved when the court after considering the materials before it is satisfied that it has not been proved nor disproved.</p> <p>Presumption means the acceptance of a fact as true without any proof.</p> <p>Presumption are of three kinds:-</p> <p>(a) May presumption is factual presumption. It is also called natural presumption or discretionary presumption. It is easy to rebut.</p> <p>Sections 73,74,75,77 and 99 are the Illustration of May presumption.</p> <p>Illustration</p>
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		<p>A partner in crime is unworthy of credit unless he is corroborated.</p> <p>(b) Shall presumption means a legal presumption. It is more difficult to rebut than May Presumption.</p> <p>Sections 67, 68, 69, 70, 71, 72 and 76 are the Illustrations of Shall presumption.</p> <p style="text-align: center;">Illustration</p> <p>A certified copy of any public document, public records kept in Bangladesh of private documents.</p> <p>(c) Conclusive presumption is legal but temporary or nearly proved. It is very difficult</p>
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		<p>to rebut and the evidence is very limited.</p> <p>These are of two kinds:-</p> <p>(I) Legal but temporary in nature.</p> <p>Section 32 Illustrates temporary conclusive presumption of judgment in probate and matrimonial jurisdiction of the court.</p> <p>(II) Conclusive presumption which is almost proved or nearly proved though apparently factual.</p> <p>Section 98 Illustrates this presumption.</p> <p>Illustration</p> <p>A child born during a valid marriage is legitimate and can only be rebutted by giving evidence that the husband and wife never met when the child could be</p>
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		conceived.
May presume	4. Whenever it is provided by this Act that the Court may presume a fact, it may either regard such fact as proved, unless and until it is disproved, or may call for proof of it:	Section 4 is merged with section 2
Shall presume	Whenever it is directed by this Act that the Court shall presume a fact, it shall regard such fact as proved, unless and until it is disproved:	
Conclusive proof	When one fact is declared by this Act to be conclusive proof of another, the Court shall, on proof of the one fact, regard the Other as proved, and shall not allow evidence to be given for the purpose of disproving it.	

	CHAPTER II OF THE RELEVANCY OF FACTS	CHAPTER II FACTS ON WHICH EVIDENCE MAY BE GIVEN
<p>Evidence may be given of facts in issue and relevant facts</p>	<p>5. Evidence may be given in any suit or proceeding of the existence or non-existence of every fact in issue and of such other fact as are hereinafter declared to be relevant, and of no others.</p> <p>Explanation.-This section shall not enable any person to give evidence of a fact which he is disentitled to prove by any provision of the law for the time being in force relating to Civil Procedure.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A is tried for the murder of B by beating him with a club with the intention of causing his death.</p>	<p>3. Evidence may be given in any suit or proceeding of every fact in issue and such other relevant fact as are mentioned here in below.</p> <p>This section however shall not enable any person to give evidence of a fact which is not permissible to give under any law in Bangladesh for the time being in force.</p> <p>Relevant fact may be divided into seven groups:-</p> <p>(a) Facts which are directly connected with the fact in issue. (Sections 4-14)</p> <p>(b) Facts as Admission and Confession. (Sections 15-22)</p> <p>(1) Admission. (Sections 15-20)</p>

	<p>At A's trial the following facts are in issue:</p> <p>A's beating B with the club;</p> <p>A's causing B's death by such beating;</p> <p>A's intention to cause B's death.</p> <p>(b) A suitor does not bring with him, and have in readiness for production at the first hearing of the case, a bond on which he relies. This section does not enable him to produce the bond or prove its contents at a subsequent stage of the proceedings, otherwise than in accordance with the conditions prescribed by the Code of Civil Procedure.</p>	<p>(2) Confession. (Sections 21-22)</p> <p>(c) Facts as statement by persons who cannot be called as witnesses.(Sections 23-24)</p> <p>(d) Facts recorded under special circumstances. (Sections 25-30)</p> <p>(e) Judgment , order or decree of a court.(Sections 31-35)</p> <p>(f) Opinion of third persons.(Sec 36-42)</p> <p>(g) Facts as to character of parties. (Sections 43-46)</p>
<p>Relevancy of facts forming part of same transaction</p>	<p>6. Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the</p>	<p>4. Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the</p>

<p>same time and place or at different times and places.</p> <p>Illustrations</p> <p>(a) A is accused of the murder of B by beating him. Whatever was said or done by A or B or the bystanders at the beating, or so shortly before or after it as to form part of the transaction, is a relevant fact.</p> <p>(b) A is accused of waging war against Bangladesh by taking part in an armed insurrection in which property is destroyed, troops are attacked, and gaols are broken open. The occurrence of these facts is relevant, as forming part of the general transaction, though A may not have been present at all of them.</p> <p>(c) A sues B for a libel contained in a letter forming part of a correspondence. Letters between the parties relating to the subject out of which the libel</p>	<p>same time and place or at different times and places.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A is accused of the murder of B by beating him. Whatever was said or done by A or B or the bystanders at the beating, or so shortly before or after it as to form part of the transaction, is a relevant fact.</p> <p>(b) A is accused of waging war against Bangladesh by taking part in an armed insurrection in which property is destroyed, troops are attacked, and gaols are broken open. The occurrence of these facts is relevant, as forming part of the general transaction, though A may not have been present at all of them.</p> <p>(c) A sues B for a libel contained in a letter forming part of a correspondence. Letters between the parties relating to the subject out of which the libel</p>
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	<p>arose, and forming part of the correspondence in which it is contained are relevant facts, though they do not contain the libel itself.</p> <p>(d) The question is, whether certain goods ordered from B were delivered to A. The goods were delivered to several intermediate persons successively. Each delivery is a relevant fact.</p>	<p>arose, and forming part of the correspondence in which it is contained are relevant facts, though they do not contain the libel itself.</p> <p>(d) The question is, whether certain goods ordered from B were delivered to A. The goods were delivered to several intermediate persons successively. Each delivery is a relevant fact.</p>
<p>Facts which are the occasion, cause or effect of facts in issue</p>	<p>7. Facts which are the occasions, cause or effect, immediate or otherwise, of relevant facts, or facts in issue, or which constitute the state of things under which they happened, or which afforded an opportunity for their occurrence or transaction, are relevant .</p>	<p>5. Facts which are the occasions, cause or effect, immediate or otherwise, of relevant facts, or facts in issue, or which constitute the state of things under which they happened, or which afforded an opportunity for the occurrence or transaction, are relevant .</p>

	Illustrations	Illustrations
	<p>(a) The question is, whether A robbed B.</p> <p>The facts that, shortly before the robbery, B went to a fair with money in his possession, and that he showed it or mentioned the fact that he had it, to third person are relevant.</p> <p>(b) The question is, whether A murdered B.</p> <p>Marks on the ground, produced by a struggle at or near the place where the murder was committed, are relevant</p>	<p>(a) The question is, whether A robbed B.</p> <p>The facts that, shortly before the robbery, B went to a fair with money in his possession, and that he showed it or mentioned the fact that he had it, to third person are relevant.</p> <p>(b) The question is, whether A murdered B.</p> <p>Marks on the ground, produced by a struggle at or near</p>

	<p>facts.</p> <p>(c) The question is, whether A poisoned B.</p> <p>The state of B's health before the symptoms ascribed to poison, and habits of B, known to A, which afforded an opportunity for the administration of poison, are relevant facts.</p>	<p>the place where the murder was committed, are relevant facts.</p> <p>(c) The question is, whether A poisoned B.</p> <p>The state of B's health before the symptoms ascribed to poison, and habits of B, known to A, which afforded an opportunity for the administration of poison, are relevant facts.</p>
<p>Motive, preparation and previous or subsequent conduct.</p>	<p>8. Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.</p> <p>The conduct of any party, or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person an offence against whom is the subject of any</p>	<p>6. Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.</p> <p>The conduct of any party, or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person an offence against whom is the subject of any</p>

	<p>proceeding is relevant, if such conduct influences or is influenced by any fact, in issue or relevant fact, and whether or as previous subsequent thereto.</p> <p>Explanation 1. The word "conduct" in this section does not include statements, unless those statements accompany and explain acts other than statements; but this explanation is not to effect the relevancy of statements under any other section of this Act.</p> <p>Explanation 2. When the conduct of any person is relevant, any statement made to him or in his presence and hearing, which affects such conduct, is relevant.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A is tried for the murder of B.</p>	<p>proceeding is relevant, if such conduct influences or is influenced by any fact, in issue or relevant fact, and whether or as previous subsequent thereto.</p> <p>Explanation 1. The word "conduct" in this section does not include statements, unless those statements accompany and explain acts other than statements; but this explanation is not to effect the relevancy of statements under any other section of this Act.</p> <p>Explanation 2. When the conduct of any person is relevant, any statement made to him or in his presence and hearing, which affects such conduct, is relevant.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A is tried for the murder of B.</p>
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	<p>The facts that A murdered C, that B knew that A had murdered C, and that B had tried to extort money from A by threatening to make his knowledge public, are relevant.</p> <p>(b) A sues B upon a bond for the payment of money. B denies the making of the bond.</p> <p>The fact that, at the time when the bond was alleged to be made, B required money for a particular purpose, is relevant.</p> <p>(c) A is tried for the murder of B by poison.</p> <p>The fact that, before the death of B, A procured poison similar to that which was administered to B, is relevant.</p> <p>(d) The question is whether a certain document is the will of A.</p> <p>The facts, that not long before the date of the alleged</p>	<p>The facts that A murdered C, that B knew that A had murdered C, and that B had tried to extort money from A by threatening to make his knowledge public, are relevant.</p> <p>(b) A sues B upon a bond for the payment of money. B denies the making of the bond.</p> <p>The fact that, at the time when the bond was alleged to be made, B required money for a particular purpose, is relevant.</p> <p>(c) A is tried for the murder of B by poison.</p> <p>The fact that, before the death of B, A procured poison similar to that which was administered to B, is relevant.</p> <p>(d) The question is whether a certain document is the will of A.</p> <p>The facts, that not long before the date of the alleged</p>
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<p>will A made inquiry into matters to which the provisions of the alleged will relate, that he consulted ⁴[Advocate] in reference to making the will, and that he caused drafts of other wills to be prepared of which he did not approve, are relevant.</p> <p>(e) A is accused of a crime.</p> <p>The facts that, either before or at the time of, or after the alleged crime, A provided evidence which would tend to give to the facts of the case an appearance favourable to himself, or that he destroyed or concealed evidence, or prevented the presence or procured the absence of person who might have been witnesses, or suborned persons to give false evidence respecting it, are relevant.</p> <p>(f) The question is whether A robbed B.</p> <p>The facts that, after B was robbed, C said in A's</p>	<p>will A made inquiry into matters to which the provisions of the alleged will relate, that he consulted Advocate in reference to making the will, and that he caused drafts of other wills to be prepared of which he did not approve, are relevant.</p> <p>(e) A is accused of a crime.</p> <p>The facts that, either before or at the time of, or after the alleged crime, A provided evidence which would tend to give to the facts of the case an appearance favourable to himself, or that he destroyed or concealed evidence, or prevented the presence or procured the absence of person who might have been witnesses, or suborned persons to give false evidence respecting it, are relevant.</p> <p>(f) The question is whether A robbed B.</p> <p>The facts that, after B was robbed, C said in A's</p>
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<p>presence- "the police are coming to look for the man who robbed B," and that immediately afterwards A ran away, are relevant.</p> <p>(g) The question is whether A owes B Taka 10,000.</p> <p>The facts that A asked C to lend him money, and that D said to C in A's presence and hearing- "I advise you not to trust A, for he owes B Taka 10,000" and that A went away without making any answer are relevant facts.</p> <p>(h) The question is, whether A committed a crime.</p> <p>The fact that A absconded after receiving a letter warning him that inquiry was being made for the criminal, and the contents of the letter are relevant.</p> <p>(i) A is accused of a crime.</p> <p>The facts that, after the commission of the alleged</p>	<p>presence- "the police are coming to look for the man who robbed B," and that immediately afterwards A ran away, are relevant.</p> <p>(g) The question is whether A owes B Taka 10,000.</p> <p>The facts that A asked C to lend him money, and that D said to C in A's presence and hearing- "I advise you not to trust A, for he owes B Taka 10,000" and that A went away without making any answer are relevant facts.</p> <p>(h) The question is, whether A committed a crime.</p> <p>The fact that A absconded after receiving a letter warning him that inquiry was being made for the criminal, and the contents of the letter are relevant.</p> <p>(i) A is accused of a crime.</p> <p>The facts that, after the commission of the alleged</p>
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<p>crime, he absconded, or was in possession of property or the proceeds of property acquired by the crime, or attempted to conceal things which were or might have been used in committing it, are relevant.</p> <p>(j) The question is whether A was ravished.</p> <p>The facts that, shortly after the alleged rape, she made a complaint relating to the crime, the circumstances under which, and the terms in which, the complaint was made, are relevant.</p> <p>The fact that, without making a complaint, she said that she had been ravished is not relevant as conduct under this section, though it may be relevant as a dying declaration under section 32, clause (1), or as corroborative evidence under section 157.</p> <p>(k) The question is, whether A was robbed.</p> <p>The fact that, soon after the alleged robbery, he made</p>	<p>crime, he absconded, or was in possession of property or the proceeds of property acquired by the crime, or attempted to conceal things which were or might have been used in committing it, are relevant.</p> <p>(j) The question is whether A was ravished.</p> <p>The facts that, shortly after the alleged rape, she made a complaint relating to the crime, the circumstances under which, and the terms in which, the complaint was made, are relevant.</p> <p>The fact that, without making a complaint, she said that she had been ravished is not relevant as conduct under this section, though there of in consequence if she dies then it may be relevant as a dying declaration under section 23, clause (1), or as corroborative evidence under section 142.</p> <p>(k) The question is, whether A was robbed.</p>
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	<p>a complaint relating to the offence, the circumstances under which, and the terms in which, the complaint was made, are relevant.</p> <p>The fact that he said he had been robbed without making any complaint, is not relevant, as conduct under this section, though it may be relevant as a dying declaration under section 32, clause (1), or as corroborative evidence under section 157.</p>	<p>The fact that, soon after the alleged robbery, he made a complaint relating to the offence, the circumstances under which, and the terms in which, the complaint was made, are relevant.</p> <p>The fact that he said he had been robbed without making any complaint, is not relevant, as conduct under this section, though in consequences thereof if he dies then it may be relevant as a dying declaration under section 23, clause (1), or as corroborative evidence under section 142.</p>
<p>Facts necessary to or introduce relevant facts</p>	<p>9. Facts necessary to explain or introduce a fact in issue or to explain o^r relevant fact, or which support or rebut an inference suggested by a fact in issue or relevant fact, or which establish the identity of anything or person whose identity is relevant, or fix</p>	<p>7. Facts necessary to explain or introduce a fact in issue or to explain o^r relevant fact, or which support or rebut an inference suggested by a fact in issue or relevant fact, or which establish the identity of anything or person whose identity is relevant, or fix the time or</p>

<p>the time or place at which any fact in issue or relevant fact happened or which show the relation of parties by whom any such fact was transacted, are relevant in so far as they are necessary for that purpose.</p> <p style="text-align: center;">Illustrations</p> <p>(a)The question is, whether a given document is the will of A.</p> <p>The State of A's property and of his family at the date of the alleged will may be relevant facts.</p> <p>(b)A sues B for a libel imputing disgraceful conduct to A; B affirms that the matter alleged to be libellous is true.</p> <p>The position and relations of the parties at the time</p>	<p>place at which any fact in issue or relevant fact happened or which show the relation of parties by whom any such fact was transacted, are relevant in so far as they are necessary for that purpose.</p> <p style="text-align: center;">Illustrations</p> <p>(a)The question is, whether a given document is the will of A.</p> <p>The State of A's property and of his family at the date of the alleged will may be relevant facts.</p> <p>(b)A sues B for a libel imputing disgraceful conduct to A; B affirms that the matter alleged to be libellous is true.</p> <p>The position and relations of the parties at the time</p>
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<p>when the libel was published may be relevant facts as introductory to the facts in issue.</p> <p>The particulars of a dispute between A and B about a matter unconnected with the alleged libel are irrelevant, though the fact that there was a dispute may be relevant if it affected the relations between A and B.</p> <p>(c) A is accused of a crime.</p> <p>The fact that, soon after the commission of the crime, A absconded from his house, is relevant under section 8, as conduct subsequent to and affected by facts in issue.</p> <p>The fact that at the time when he left home he had sudden and urgent business at the place to which he</p>	<p>when the libel was published may be relevant facts as introductory to the facts in issue.</p> <p>The particulars of a dispute between A and B about a matter unconnected with the alleged libel are irrelevant, though the fact that there was a dispute may be relevant if it affected the relations between A and B.</p> <p>(c) A is accused of a crime.</p> <p>The fact that, soon after the commission of the crime, A absconded from his house, is relevant under section 8, as conduct subsequent to and affected by facts in issue.</p> <p>The fact that at the time when he left home he had sudden and urgent business at the place to which he</p>
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<p>went, is relevant, as tending to explain the fact that he left home suddenly.</p> <p>The details of the business on which he left are not relevant, except in so far as they are necessary to show that the business was sudden and urgent.</p> <p>(d) A sues B for inducing C to break a contract of service made by him with A. C, on leaving A's service, says to A- "I am leaving you because B has made me a better offer." This statement is a relevant fact as explanatory of C's conduct, which is relevant as a fact in issue.</p> <p>(e) A, accused of theft, is seen to give the stolen property to B, who is seen to give it to A's wife. B says as he delivers it- "A says you are to hide this." B's statement is relevant as explanatory of a fact which is part of the transaction.</p>	<p>went, is relevant, as tending to explain the fact that he left home suddenly.</p> <p>The details of the business on which he left are not relevant, except in so far as they are necessary to show that the business was sudden and urgent.</p> <p>(d) A sues B for inducing C to break a contract of service made by him with A. C, on leaving A's service, says to A- "I am leaving you because B has made me a better offer." This statement is a relevant fact as explanatory of C's conduct, which is relevant as a fact in issue.</p> <p>(e) A, accused of theft, is seen to give the stolen property to B, who is seen to give it to A's wife. B says as he delivers it- "A says you are to hide this." B's statement is relevant as explanatory of a fact which is part of the transaction.</p>
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	(f) A is tried for a riot and is proved to have marched at the head of a mob. The cries of the mob are relevant as explanatory of the nature of the transaction.	(f) A is tried for a riot and is proved to have marched at the head of a mob. The cries of the mob are relevant as explanatory of the nature of the transaction.
Things said or done by conspirator in reference to common design	10. Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, anything said, done or written by any one of such persons in reference to their common intention, after the time when such intention was first entertained by any one of them, is a relevant fact as against each of the persons believed to be so conspiring, as well for the purpose of proving the existence of the conspiracy as for the purpose of showing that any such person was a party to it.	8. Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, anything said, done or written by any one of such persons in reference to their common intention, after the time when such intention was first entertained by any one of them, is a relevant fact as against each of the persons believed to be so conspiring, as well for the purpose of proving the existence of the conspiracy as for the purpose of showing that any such person was a party to it.

	Illustrations	Illustrations
	<p>Reasonable ground exists for believing that A has joined in a conspiracy to wage war against Bangladesh.</p> <p>The facts that B procured arms in Europe for the purpose of the conspiracy, C collected money in Chittagong for a like object, D persuaded persons to join the conspiracy in ⁵[Khulna], E published writings advocating the object in view at ⁶[Pabna], and F transmitted from ⁷[Dhaka] to G at Cabul the money which C had collected at Chittagong, and the contents of a letter written by H giving an account of the conspiracy, are each relevant, both to prove the existence of the conspiracy, and to prove A's complicity in it, although he may have been ignorant of all of them, and although the persons by whom they were done were strangers to him, and although they may have taken</p>	<p>Reasonable ground exists for believing that A has joined in a conspiracy to wage war against Bangladesh.</p> <p>The facts that B procured arms in Europe for the purpose of the conspiracy, C collected money in Chittagong for a like object, D persuaded persons to join the conspiracy in Khulna, E published writings advocating the object in view at Pabna, and F transmitted from Dhaka to G at Cabul the money which C had collected at Chittagong, and the contents of a letter written by H giving an account of the conspiracy, are each relevant, both to prove the existence of the conspiracy, and to prove A's complicity in it, although he may have been ignorant of all of them, and although the persons by whom they were done were strangers to him, and although</p>

	place before he joined the conspiracy or after he left it.	they may have taken place before he joined the conspiracy or after he left it.
When facts are not otherwise relevant become relevant	<p>11. Facts not otherwise relevant are relevant</p> <p>(1) If they are inconsistent with any fact in issue or relevant fact;</p> <p>(2) If by themselves or in connection with other facts they make the existence or non-existence of any fact in issue or relevant fact highly probable or improbable.</p> <p style="text-align: center;">Illustrations</p> <p>(a) The question is whether A committed a crime at Chittagong on a certain day.</p>	<p>9. Facts which are not apparently relevant becomes relevant</p> <p>(1) If they are inconsistent with any fact in issue or relevant fact;</p> <p>(2) If by themselves or in connection with other facts they make the existence or non-existence of any fact in issue or relevant fact highly probable or improbable.</p> <p style="text-align: center;">Illustration</p> <p>(a) A school teacher was implicated in a murder case. But on that day he was far away from the</p>

	<p>The fact that, on that day, A was at Dhaka is relevant.</p> <p>The fact that, near the time when the crime was committed, A was at a distance from the place where it was committed, which would render it highly improbable, though not impossible, that he committed it, is relevant.</p> <p>(b) The question is, whether A committed a crime.</p> <p>The circumstances are such that the crime must have been committed either by A, B, C or D. Every fact which shows that the crime could have been committed by no one else and that it was not committed by either B, C or D, is relevant. existence of any such state of mind or body or bodily feeling is in issue or relevant.</p>	<p>place of occurrence and he took classes at the time of the alleged occurrence took place and there after he went to the secondary education board and attended a meeting.</p> <p>(b) The question is whether A committed a crime at Chittagong on a certain day.</p> <p>The fact that, on that day, A was at Dhaka is relevant.</p> <p>The fact that, near the time when the crime was committed, A was at a distance from the place where it was committed, which would render it highly improbable, though not impossible, that he committed it, is relevant.</p>
In suits for damages,	12. In suits in which damages are claimed, any fact	10. In suits in which damages are claimed, any fact

<p>facts tending to enable court to determine amount are relevant</p>	<p>which will enable the Court to determine the amount of damages which ought to be awarded, is relevant.</p>	<p>which will enable the Court to determine the amount of damages is relevant.</p> <p style="text-align: center;">Illustration</p> <p>A kitchen garden was destroyed by a cow. A suit was filed by the owner. Area of the land, the particular types of vegetable grown there and market price and the labor expenses etc. may be taken into consideration for determination of the damage.</p>
<p>Facts relevant when right or custom is in question</p>	<p>13. Where the question is as to the existence of any right of custom, the following facts are relevant:</p> <p>(a) any transaction by which the right or custom in question was created, claimed, modified, recognized, asserted or denied, or which was inconsistent with its existence;</p>	<p>11. In a dispute as to the existence of any right or custom, any fact will go in evidence when the right or custom was recognized, exercised, disputed and modified.</p> <p style="text-align: center;">Illustration</p>

(b) Particular instances in which the right or custom was claimed, recognized or exercised, or in which its exercise was disputed, asserted or departed from.

Illustration

The question is whether A has a right to a fishery. A deed conferring the fishery on A's ancestors, a mortgage of the fishery by A's father, a subsequent grant of the fishery by A's father, irreconcilable with the mortgage, particular instances in which A's father exercised the right, or in which the exercise of the right was stopped by A's neighbours, are relevant facts.

(a) Four close friends purchased a piece of land in Dhaka on condition that there would be a passage of 20 feet width so that all of them would get some facilities for ingress and egress to the main road. So long they were alive there was no dispute. But after the death of one of them the friend who got the plot contiguous to the main road encroached upon the path way and kept it only 10 feet width.

(b) The question is whether A has a right to a fishery. A deed conferring the fishery on A's ancestors, a mortgage of the fishery by A's father, a subsequent grant of the fishery by A's father, irreconcilable with the mortgage, particular instances in which A's father exercised the right, or in which the exercise of the right was stopped by A's neighbours,

		are relevant facts.
Facts showing existence of state of mind or body or, bodily feeling	<p>14. Facts showing the existence of any state of mind, such as intention, knowledge, good faith, negligence, rashness, ill-will, or good-will towards any particular person, or showing the existence of any state of body or bodily feeling, are relevant, when the existence of any such state of mind or body or bodily feeling is in issue or relevant.</p> <p>Explanation 1.A fact relevant as showing the existence of a relevant state of mind must show that the state of mind exists, not generally, but in reference to the particular matter in question.</p> <p>Explanation 2.But where, upon the trial of a person accused of an offence, the previous commission by the accused of an offence is relevant within the meaning of this section, the previous conviction of such person</p>	<p>12. Facts showing the existence of any state of mind, such as intention, knowledge, good faith, negligence, rashness, ill-will, or good-will towards any particular person, or showing the existence of any state of body or bodily feeling, are relevant, when the existence of any such state of mind or body or bodily feeling is in issue or relevant.</p> <p>Explanation 1.A fact relevant as showing the existence of a relevant state of mind must show that the state of mind exists, not generally, but in reference to the particular matter in question.</p> <p>Explanation 2.But where, upon the trial of a person accused of an offence, the previous commission by the accused of an offence is relevant within the meaning of this section, the previous conviction of such person</p>

<p>shall also be a relevant fact.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A is accused of receiving stolen goods knowing them to be stolen. It is proved that he was in possession of a particular stolen article.</p> <p>The fact that, at the same time, he was in possession of many other stolen articles is relevant, as tending to show that he knew each and all of the articles of which he was in possession to be stolen.</p> <p>(b) A is accused of fraudulently delivering to another person a counterfeit coin which, at the time when he delivered it, he knew to be counterfeit.</p> <p>The fact that, at the time of its delivery, A was possessed of a number of other pieces of counterfeit coin is relevant.</p>	<p>shall also be a relevant fact.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A is accused of receiving stolen goods knowing them to be stolen. It is proved that he was in possession of a particular stolen article.</p> <p>The fact that, at the same time, he was in possession of many other stolen articles is relevant, as tending to show that he knew each and all of the articles of which he was in possession to be stolen.</p> <p>(b) A is accused of fraudulently delivering to another person a counterfeit coin which, at the time when he delivered it, he knew to be counterfeit.</p> <p>The fact that, at the time of its delivery, A was possessed of a number of other pieces of counterfeit coin is relevant.</p>
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	<p>The fact that A had been previously convicted of delivering to another person as genuine a counterfeit coin knowing it to be counterfeit is relevant.</p> <p>(c) A sues B for damage done by a dog of B's, which B knew to be ferocious.</p> <p>The facts that the dog had previously bitten X, Y and Z, and that they had made complaints to B, are relevant.</p> <p>(d) The question is, whether A, the acceptor of a bill of exchange, knew that the name of the payee was fictitious.</p> <p>The fact that A had accepted other bills drawn in the same manner before they could have been transmitted to him by the payee if the payee had been a real person, is relevant as showing that A knew that the payee was a fictitious person.</p> <p>(e) A is accused of defaming B by publishing an</p>	<p>The fact that A had been previously convicted of delivering to another person as genuine a counterfeit coin knowing it to be counterfeit is relevant.</p> <p>(c) A sues B for damage done by a dog of B's, which B knew to be ferocious.</p> <p>The facts that the dog had previously bitten X, Y and Z, and that they had made complaints to B, are relevant.</p> <p>(d) The question is, whether A, the acceptor of a bill of exchange, knew that the name of the payee was fictitious.</p> <p>The fact that A had accepted other bills drawn in the same manner before they could have been transmitted to him by the payee if the payee had been a real person, is relevant as showing that A knew that the payee was a fictitious person.</p> <p>(e) A is accused of defaming B by publishing an</p>
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	<p>imputation intended to harm the reputation of B.</p> <p>The fact of previous publications by A respecting B, showing ill-will on the part of A towards B is relevant, as proving A's intention to harm B's reputation by the particular publication in question.</p> <p>The facts that there was no previous quarrel between A and B, and that A repeated the matter complained of as he heard it, are relevant, as showing that A did not intend to harm the reputation of B.</p> <p>(f) A is sued by B for fraudulently representing to B that C was solvent, whereby B, being induced to trust C, who was insolvent, suffered loss.</p> <p>The fact that at the time when A represented C to be solvent, C was supposed to be solvent by his neighbours and by persons dealing with him, is relevant, as showing that A made the representation in</p>	<p>imputation intended to harm the reputation of B.</p> <p>The fact of previous publications by A respecting B, showing ill-will on the part of A towards B is relevant, as proving A's intention to harm B's reputation by the particular publication in question.</p> <p>The facts that there was no previous quarrel between A and B, and that A repeated the matter complained of as he heard it, are relevant, as showing that A did not intend to harm the reputation of B.</p> <p>(f) A is sued by B for fraudulently representing to B that C was solvent, whereby B, being induced to trust C, who was insolvent, suffered loss.</p> <p>The fact that at the time when A represented C to be solvent, C was supposed to be solvent by his neighbours and by persons dealing with him, is relevant, as showing that A made the representation in</p>
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<p>good faith.</p> <p>(g) A is sued by B for the price of work done by B, upon a house of which A is owner, by the order of C, a contractor.</p> <p>A's defence is that B's contract was with C.</p> <p>The fact that A paid C for the work in question is relevant, as proving that A did, in good faith, make over to C the management of the work in question, so that C was in a position to contract with B on C's own account, and not as agent for A.</p> <p>(h) A is accused of the dishonest misappropriation of property which he had found, and the question is whether, when he appropriated it, he believed in good faith that the real owner could not be found.</p> <p>The fact that public notice of the loss of the property had been given in the place where A was, is relevant, as</p>	<p>good faith.</p> <p>(g) A is sued by B for the price of work done by B, upon a house of which A is owner, by the order of C, a contractor.</p> <p>A's defence is that B's contract was with C.</p> <p>The fact that A paid C for the work in question is relevant, as proving that A did, in good faith, make over to C the management of the work in question, so that C was in a position to contract with B on C's own account, and not as agent for A.</p> <p>(h) A is accused of the dishonest misappropriation of property which he had found, and the question is whether, when he appropriated it, he believed in good faith that the real owner could not be found.</p> <p>The fact that public notice of the loss of the property had been given in the place where A was, is relevant, as</p>
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	<p>showing that A did not in good faith believe that the real owner of the property could not be found.</p> <p>The fact that A knew, or had reason to believe, that the notice was given fraudulently by C, who had heard of the loss of the property and wished to set up a false claim to it, is relevant, as showing that the fact that A knew of the notice did not disprove A's good faith.</p> <p>(i) A is charged with shooting at B with intent to kill him. In order to show A's intent the fact of A's having previously shot at B may be proved.</p> <p>(j) A is charged with sending threatening letters to B. Threatening letters previously sent by A to B may be proved, as showing the intention of the letters.</p> <p>(k) The question is, whether A has been guilty of cruelty towards B, his wife.</p>	<p>showing that A did not in good faith believe that the real owner of the property could not be found.</p> <p>The fact that A knew, or had reason to believe, that the notice was given fraudulently by C, who had heard of the loss of the property and wished to set up a false claim to it, is relevant, as showing that the fact that A knew of the notice did not disprove A's good faith.</p> <p>(i) A is charged with shooting at B with intent to kill him. In order to show A's intent the fact of A's having previously shot at B may be proved.</p> <p>(j) A is charged with sending threatening letters to B. Threatening letters previously sent by A to B may be proved, as showing the intention of the letters.</p> <p>(k) The question is, whether A has been guilty of cruelty towards B, his wife.</p>
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	<p>Expressions of their feeling towards each other shortly before or after the alleged cruelty are relevant facts.</p> <p>(l) The question is, whether A's death was caused by poison.</p> <p>Statements made by A during his illness as to his symptoms are relevant facts.</p> <p>(m) The question is, what was the state of A's health at the time an assurance on his life was effected.</p> <p>Statements made by A as to the state of his health at or near the time in question are relevant facts.</p> <p>(n) A sues B for negligence in providing him with a carriage for hire not reasonably fit for use, whereby A was injured.</p> <p>The fact that B's attention was drawn on other occasions to the defect of that particular carriage is relevant.</p>	<p>Expressions of their feeling towards each other shortly before or after the alleged cruelty are relevant facts.</p> <p>(l) The question is, whether A's death was caused by poison.</p> <p>Statements made by A during his illness as to his symptoms are relevant facts.</p> <p>(m) The question is, what was the state of A's health at the time an assurance on his life was effected.</p> <p>Statements made by A as to the state of his health at or near the time in question are relevant facts.</p> <p>(n) A sues B for negligence in providing him with a carriage for hire not reasonably fit for use, whereby A was injured.</p> <p>The fact that B's attention was drawn on other occasions to the defect of that particular carriage is relevant.</p>
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	<p>The fact that B was habitually negligent about the carriages which he let to hire is irrelevant.</p> <p>(o) A is tried for the murder of B by intentionally shooting him dead.</p> <p>The fact that A on other occasions shot at B is relevant as showing his intention to shoot B.</p> <p>The fact that A was in the habit of shooting at people with intent to murder them is irrelevant.</p> <p>(p) A is tried for a crime.</p> <p>The fact that he said something indicating an intention to commit that particular crime is irrelevant.</p> <p>The fact that he said something indicating a general disposition to commit crimes of that class is irrelevant.</p>	<p>The fact that B was habitually negligent about the carriages which he let to hire is irrelevant.</p> <p>(o) A is tried for the murder of B by intentionally shooting him dead.</p> <p>The fact that A on other occasions shot at B is relevant as showing his intention to shoot B.</p> <p>The fact that A was in the habit of shooting at people with intent to murder them is irrelevant.</p> <p>(p) A is tried for a crime.</p> <p>The fact that he said something indicating an intention to commit that particular crime is irrelevant.</p> <p>The fact that he said something indicating a general disposition to commit crimes of that class is irrelevant.</p>
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<p>Facts bearing on question whether act was accidental or intentional</p>	<p>15. When there is a question whether an act was accidental or intentional, or done with a particular knowledge or intention, the fact that such act formed part of a series of similar occurrences, in each of which the person doing the act was concerned, is relevant.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A is accused of burning down his house in order to obtain money for which it is insured.</p> <p>The facts that A lived in several houses successively each of which he insured, in each of which a fire occurred, and after each of which fires A received payment from a different insurance office, are relevant, as tending to show that the fires were not accidental.</p>	<p>13. When there is a question whether an act was accidental or intentional, or done with a particular knowledge or intention, the fact that such act formed part of a series of similar occurrences, in each of which the person doing the act was concerned, is relevant.</p> <p style="text-align: center;">Illustrations</p> <p>(d) A is accused of burning down his house in order to obtain money for which it is insured.</p> <p>The facts that A lived in several houses successively each of which he insured, in each of which a fire occurred, and after each of which fires A received payment from a different insurance office, are relevant, as tending to show that the fires were not accidental.</p>
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	<p>(b) A is, employed to receive money from the debtors of B. It is A's duty to make entries in a book showing the amounts received by him. He makes an entry showing that on a particular occasion he received less than he really did receive.</p> <p>The question is, whether this false entry was accidental or intentional.</p> <p>The facts that other entries made by A in the same book are false, and that the false entry is in each case in favour of A, are relevant.</p> <p>(c) A is accused of fraudulently delivering to B a counterfeit Taka.</p> <p>The question is, whether the delivery of the Taka was accidental.</p> <p>The facts that, soon before or soon after the delivery</p>	<p>(e) A is, employed to receive money from the debtors of B. It is A's duty to make entries in a book showing the amounts received by him. He makes an entry showing that on a particular occasion he received less than he really did receive.</p> <p>The question is, whether this false entry was accidental or intentional.</p> <p>The facts that other entries made by A in the same book are false, and that the false entry is in each case in favour of A, are relevant.</p> <p>(f) A is accused of fraudulently delivering to B a counterfeit Taka.</p> <p>The question is, whether the delivery of the Taka was accidental.</p> <p>The facts that, soon before or soon after the delivery to</p>
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	to B, A delivered counterfeit Taka to C, D and E are relevant, as showing that the delivery to B was not accidental.	B, A delivered counterfeit Taka to C, D and E are relevant, as showing that the delivery to B was not accidental.
Existence of course of business when relevant	<p>16. When there is a question whether a particular act was done, the existence of any course of business, according to which it naturally would have been done, is a relevant fact.</p> <p style="text-align: center;">Illustrations</p> <p>(a) The question is, whether a particular letter was dispatched.</p> <p>The facts that it was the ordinary course of business for all letters put in a certain place to be carried to the post, and that that particular letter was put in that place are relevant.</p>	<p>14. When there is a question whether a particular act was done, the existence of any course of business, according to which it naturally would have been done, is a relevant fact.</p> <p style="text-align: center;">Illustrations</p> <p>(a) The question is, whether a particular letter was dispatched.</p> <p>The facts that it was the ordinary course of business for all letters put in a certain place to be carried to the post, and that that particular letter was put in that place are relevant.</p>

	<p>(b) The question is, whether particular letter reached A.</p> <p>The facts that it was posted in due course, and was not returned through the Dead Letter office, are relevant.</p>	<p>(b) The question is, whether particular letter reached A.</p> <p>The facts that it was posted in due course, and was not returned through the Dead Letter office, are relevant.</p>
	<p>ADMISSIONS</p>	<p>CHAPTER III ADMISSIONS</p>
<p>Admission defined</p>	<p>17. An admission is a statement, oral or documentary, which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances, hereinafter mentioned.</p>	<p>15. An admission is a statement, oral or documentary, which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances, hereinafter mentioned.</p>
<p>Admission by party to proceeding or his agent;</p>	<p>18. Statements made by a party to the proceeding, or by an agent to any such party, whom the Court regards, under the circumstances of the case, as</p>	<p>16. Statements made by a party to the proceeding, or by an agent to any such party, whom the Court regards, under the circumstances of the case, as</p>

<p>By person from whom interest derived</p>	<p>are admissions, if they are made during the continuance of the interest of the persons making the statement.</p>	<p>are admissions, if they are made during the continuance of the interest of the persons making the statement.</p>
<p>Admission by persons whose position must be proved as against party to suit</p>	<p>19. Statements made by persons whose position or liability it is necessary to prove as against any party to the suit, are admissions, if such statements would be relevant as against such persons in relation to such position or liability in a suit brought by or against them, and if they are made whilst the person making them occupies such position or is subject to such liability.</p> <p>Illustrations</p> <p>A undertakes to collect rents for B.</p> <p>B sues A for not collecting rent due from C to B.</p>	<p>17. Statements made by persons whose position or liability it is necessary to prove as against any party to the suit, are admissions, if such statements would be relevant as against such persons in relation to such position or liability in a suit brought by or against them, and if they are made whilst the person making them occupies such position or is subject to such liability.</p> <p>Illustrations</p> <p>C Undertakes to collect rents for B.</p> <p>D Sues A for not collecting rent due from C to B.</p> <p>A denies that rent was due from C to B.</p>

	<p>A denies that rent was due from C to B.</p> <p>A statement by C that he owed B rent is an admission, and is a relevant fact as against A, if A denies that C did owe rent to B.</p>	<p>A statement by C that he owed B rent is an admission, and is a relevant fact as against A, if A denies that C did owe rent to B.</p>
<p>Admission by persons expressly referred to by party to suit</p>	<p>20. Statements made by persons to whom a party to the suit has expressly referred for information in reference to a matter in dispute are admissions.</p> <p style="text-align: center;">Illustrations</p> <p>The question is whether a horse sold by A to B is sound.</p> <p>A says to B "Go and ask C; C knows all about it." C's statement is an admission</p>	<p>18. Statements made by persons to whom a party to the suit has expressly referred for information in reference to a matter in dispute are admissions.</p> <p style="text-align: center;">Illustrations</p> <p>The question is whether a horse sold by A to B is sound.</p> <p>A says to B "Go and ask C; C knows all about it." C's statement is an admission.</p>
<p>Proof of admissions against persons making them</p>	<p>21. Admissions are relevant and may be proved as against the person who makes them, or his</p>	<p>19. Admission can be always be used against the person who makes it and not in his favor and may</p>

<p>and by or on their behalf</p>	<p>representative in interest; but they cannot be proved by or on behalf of the person who makes them or by his representative in interest, except in the following cases:</p> <p>(1) An admission may be proved by or on behalf of the person making it, when it is of such a nature that, if the person making it were dead, it would be relevant as between third persons under section 32.</p> <p>(2) An admission may be proved by or on behalf of the person making it, when it consists of statement of the existence of any state of mind or body, relevant or in issue, made at or about the time when such state of mind or body existed, and is accompanied by conduct rendering its falsehood improbable.</p> <p>(3) An admission may be proved by or on behalf of the person making it, if it is relevant otherwise than as</p>	<p>also operate against him as estoppel but not as conclusive proof of the admitted fact.</p>
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an admission.

Illustration

(a) The question between A and B is, whether a certain deed is or is not forged. A affirms that it is genuine, B that it is forged.

A may prove a statement by B that the deed is genuine, and B may prove a statement by A that the deed is forged; but A cannot prove a statement by himself that the deed is genuine, nor can B prove a statement by himself that the deed is forged.

(b) A, the captain of a ship, is tried for casting her away.

Evidence is given to show that the ship was taken out of her proper course.

	<p>A produces a book kept by him in the ordinary course of his business showing observations alleged to have been taken by him from day to day, and indicating that the ship was not taken out of her proper course. A may prove these statements, because they would be admissible between third parties, if he were dead, under section 32, clause (2).</p> <p>(c) A is accused of a crime committed by him at Chittagong.</p> <p>He produces a letter written by himself and dated at ⁹[Dhaka] on that day and bearing the ¹⁰[Dhaka] post-mark of that day.</p> <p>The statement in the date of the letter is admissible, because, if A were dead it would be admissible under section 32, clause (2).</p> <p>(d)A is accused of receiving stolen goods knowing them</p>	
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	<p>to be stolen.</p> <p>He offers to prove that he refused to sell them below their value.</p> <p>A may prove these statements, though they are admissions, because they are explanatory of conduct influenced by facts in issue.</p> <p>(e)A is accused of fraudulently having in his possession counterfeit coin which he knew to be counterfeit.</p> <p>He offers to prove that he asked a skilful person to examine the coin as he doubted whether it was counterfeit or not, and that the person did examine it and told him it was genuine.</p> <p>A may prove these facts for the reasons stated in the last preceding illustration</p>	
When oral admission as	22. Oral admissions as to the contents of a document	Omitted

<p>to contents of documents are relevant</p>	<p>are not relevant, unless and until that the party proposing to prove them shows that he is entitled to give secondary evidence of the contents of such document under the rules hereinafter contained, or unless the genuineness of a document produced is in question.</p>	
<p>Admission on civil cases when relevant</p>	<p>23. In civil cases no admission is relevant, if it is made either upon an express condition that evidence of it is not to be given, or under circumstances from which the Court can infer that the parties agreed together that evidence of it should not be given.</p> <p>Explanation. Nothing in this section shall be taken to exempt any ¹¹[Advocate] from giving evidence of any matter of which he may be compelled to give evidence</p>	<p>20. In civil cases no admission is relevant, if it is made either upon an express condition that evidence of it is not to be given, or under circumstances from which the Court can infer that the parties agreed together that evidence of it should not be given.</p> <p>Explanation. Nothing in this section shall be taken to exempt any Advocate from giving evidence of any matter of which he may be compelled to give evidence</p>

	under section 126.	under section 111.
Confession caused by inducement , threat or promise , when irrelevant in criminal proceeding	24. A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat or promise having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.	21. A confession is a voluntary admission of guilt by an accused. (Section 24 & 27 are merged) A confession made by an accused in a proceeding is irrelevant if the accused has been made to make the confession in the name of interrogation by the law enforcing agencies by coercion , physical violence , mental assault or by way of inducement, threat or promise from a person who is in the estimation of the accused can give him some relief that would appear to him reasonable for supposing that by making it he would gain any advantage or avoid

		<p>any evil of a temporal nature in reference to the proceedings against him.</p> <p>Provided that when in consequences of a statement received from an accused under police custody certain materials are discovered so much of that statement as relates distinctly to the thing discovered will go in evidence and nothing more.</p> <p>21 B. (1) In a prosecution of a police officer for an offence committed by an act alleged to have caused bodily injury to a person, if there is evidence that the injury was caused during a period when that person was in the custody of the police, the Court may presume that the injury was caused by the police officer having custody of that person during that period.</p> <p>(2) The Court, in deciding whether or not it should</p>
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		<p>draw a presumption under sub-section (1), shall have regard to all the relevant circumstances including, in particular,</p> <p>(a) the period of custody;</p> <p>(b) any statement made by the victim as to how the injuries were received, being a statement admissible in evidence;</p> <p>(c) the evidence of any medical practitioner who might have examined the victim; and</p> <p>(d) Evidence of any magistrate who might have recorded or attempted to record the victim's statement.”</p> <p>(3) For the purpose of this section, the expression</p>
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		‘police officer’ includes officers of the para-military forces and other officers of the revenue, who conduct investigation in connection with economic offences
Confession to police officer not to be proved	25. No confession made to a police-officer shall be proved as against a person accused of any offence.	Omitted
Confession by accused while in custody of police not to be proved against him	26. No confession made by any person whilst he is in the custody of a police-officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person. Explanation. In this section "Magistrate" does not include the head of a village discharging magisterial functions unless such headman is a Magistrate exercising the powers of a Magistrate under the Code of Criminal Procedure , ¹² [1898].	Omitted
How much of information received from	27. Provided that, when any fact is deposed to as	Merged in section 19

<p>accused may be proved</p>	<p>discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.</p>	
<p>Confession made after removal of impression caused by inducement, threat or promise relevant</p>	<p>28. If such a confession as is referred to in section 24 is made after the impression caused by any such inducement, threat or promise has, in the opinion of the Court, been fully removed, it is relevant.</p>	<p>Omitted</p>
<p>Confession otherwise relevant not to become irrelevant because of promise of secrecy, etc</p>	<p>29. If such a confession is otherwise relevant, it does not become irrelevant merely because it was made under a promise of secrecy, or in consequence of a deception practised on the accused person for the purpose of obtaining it, or when he was drunk, or because it was made in answer to questions which he</p>	<p>Omitted</p>

	<p>need not have answered, whatever may have been the form of those questions, or because he was not warned that he was not bound to make such confession, and that evidence of it might be given against him.</p>	
<p>Consideration of proved confession affecting person making it and others jointly under trial for same offence</p>	<p>30. When more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the Court may take into consideration such confession as against such other persons as well as against the person who makes such confession.</p> <p>Explanation.-"Offence", as used in this section, includes the abatement of, or attempt to commit, the offence.</p>	<p>22. A confession by an accused can only be used against him but as against other co-accused if so named in the confession may be relevant if it is otherwise corroborated.</p>

	<p style="text-align: center;">Illustrations</p> <p>(a) A and B are jointly tried for the murder of C. It is proved that A said-"B and I murdered C." The Court may consider the effect of this confession as against B.</p> <p>(b) A is on his trial for the murder of C. There is evidence to show that C was murdered by A and B, and that B said- "A and I murdered C".</p> <p>This statement may not be taken into consideration by the Court against A, as B is not being jointly tried.</p>	
<p>Admission not conclusive proof but may estop</p>	<p>31. Admissions are not conclusive proof of the matters admitted but they may operate as estoppels under the provisions hereinafter contained.</p>	<p>Merged in section 17</p>
	<p>STATEMENTS BY PERSONS WHO CANNOT BE</p>	<p style="text-align: center;">CHAPTER IV</p>

	CALLED AS WITNESSES	STATEMENTS BY PERSONS WHO CANNOT BE CALLED AS WITNESSES
<p>Cases in which statement of relevant fact by person who is dead or cannot be found ,etc., is relevant</p> <p>When it relates to cause of death</p>	<p>32. Statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which under the circumstances of the case appears to the Court unreasonable, are themselves relevant facts in the following cases:</p> <p>(1) When the statement is made by person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question.</p>	<p>23. Statements, written or verbal, of fact in issue or relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which under the circumstances of the case appears to the Court unreasonable, are themselves relevant facts in the following cases:</p> <p>(1) When the statement is made by person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question in a court of law but it cannot by itself be</p>

<p>Or is made of business;</p>	<p>Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.</p> <p>(2) When the statement was made by such person in the ordinary course of business, and in particular when it consists of any entry or memorandum made by him in books kept in the ordinary course of business, or in the discharge of professional duty; or of an acknowledgment written or signed by him of the receipt of money, goods, securities or property of any kind; or of a document used in commerce written or signed by him; or of the date of a letter or other</p>	<p>the basis of conviction unless it is corroborated by other material particulars.</p> <p>(2) When the statement was made by such person in the ordinary course of business, and in particular when it consists of any entry or memorandum made by him in books kept in the ordinary course of business, or in the discharge of professional duty; or of an acknowledgment written or signed by him of the receipt of money, goods, securities or property of any kind; or of a document used in commerce written or signed by him; or of the date of a letter or other document usually dated, written or signed by him.</p> <p>(3) When the statement is against the pecuniary or proprietary interest of the person making it, or when, if true, it would expose him or would have exposed him to</p>
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<p>Or against interest of maker</p> <p>Or gives opinion as to public right or custom, or matters of general interest;</p> <p>Or relates to existence of relationship</p>	<p>document usually dated, written or signed by him.</p> <p>(3) When the statement is against the pecuniary or proprietary interest of the person making it, or when, if true, it would expose him or would have exposed him to a criminal prosecution or to a suit for damages.</p> <p>(4) When the statement gives the opinion of any such person as to the existence of any public right or custom or matter of public or general interest, of the existence of which, if it existed, he would have been likely to be aware, and when such statement was made before any controversy as to such right, custom or matter has arisen.</p> <p>(5) When the statement relates to the existence of any relationship by blood, marriage or adoption between</p>	<p>a criminal prosecution or to a suit for damages.</p> <p>(4) When the statement gives the opinion of any such person as to the existence of any public right or custom or matter of public or general interest, of the existence of which, if it existed, he would have been likely to be aware, and when such statement was made before any controversy as to such right, custom or matter has arisen.</p> <p>(5) When the statement relates to the existence of any relationship by blood, marriage or adoption between person as to whose relationship by blood, marriage or adoption the person making the statement had special means of knowledge, and when the statement was</p>
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<p>Or is made in will or deed relating to family affairs</p>	<p>person as to whose relationship by blood, marriage or adoption the person making the statement had special means of knowledge, and when the statement was made before the question in dispute was raised.</p> <p>(6) When the statement relates to the existence of any relationship by blood, marriage or adoption between persons deceased, and is made in any will or deed relating to the affairs of the family to which any such deceased person belonged, or in any family pedigree or upon any tombstone, family portrait or other thing on which such statements are usually made, and when such statement was made before the question in dispute was raised.</p> <p>(7) When the statement is contained in any deed, will or</p>	<p>made before the question in dispute was raised.</p> <p>(6) When the statement relates to the existence of any relationship by blood, marriage or adoption between persons deceased, and is made in any will or deed relating to the affairs of the family to which any such deceased person belonged, or in any family pedigree or upon any tombstone, family portrait or other thing on which such statements are usually made, and when such statement was made before the question in dispute was raised.</p> <p>(7) When the statement was made by a number of persons, and expressed feelings or impressions on their part relevant to the matter in question.</p> <p>(sub section 8 is omitted)</p>
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<p>Or is made by several persons and expresses feelings relevant to matter in question</p>	<p>other document which relates to any such transaction as is mentioned in section 13, clause (a).</p> <p>(8) When the statement was made by a number of persons, and expressed feelings or impressions on their part relevant to the matter in question.</p> <p style="text-align: center;">Illustrations</p> <p>(a) The question is, whether A was murdered by B; or A dies of injuries received in a transaction in the course of which she was ravished. The question is whether she was ravished by B; or</p> <p>The question is whether A was killed by B under such circumstances that a suit would lie against B by A's widow.</p>	<p style="text-align: center;">Illustrations</p> <p>(a) The question is, whether A was murdered by B; or A dies of injuries received in a transaction in the course of which she was ravished. The question is whether she was ravished by B; or</p> <p>The question is whether A was killed by B under such circumstances that a suit would lie against B by A's widow.</p> <p>Statements made by A as to the cause of his or her death, referring respectively to the murder, the rape and the actionable wrong under consideration are relevant facts.</p> <p>(b) The question is as to the date of A's birth.</p>
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	<p>Statements made by A as to the cause of his or her death, referring respectively to the murder, the rape and the actionable wrong under consideration are relevant facts.</p> <p>(b) The question is as to the date of A's birth.</p> <p>An entry in the diary of a deceased surgeon regularly kept in the course of business, stating that, on a given day he attended A's mother and delivered her of a son, is a relevant fact.</p> <p>(c) The question is, whether A was in Chittagong on a given day.</p> <p>A statement in the diary of a deceased solicitor, regularly kept in the course of business, that on a given day the solicitor attended A at a place mentioned, in ¹³[Chittagong], for the purpose of</p>	<p>An entry in the diary of a deceased surgeon regularly kept in the course of business, stating that, on a given day he attended A's mother and delivered her of a son, is a relevant fact.</p> <p>(c)The question is, whether A was in Chittagong on a given day.</p> <p>A statement in the diary of a deceased Advocate, regularly kept in the course of business that on a given day the Advocate attended A at a place mentioned, in Chittagong, for the purpose of conferring with him upon specified business, is a relevant fact.</p> <p>(d)The question is, whether a ship sailed from Chittagong harbour on a given day.</p> <p>A letter written by a deceased member of a merchant's firm by which she was chartered to their correspondents in London, to whom the cargo was</p>
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	<p>conferring with him upon specified business, is a relevant fact.</p> <p>(d) The question is, whether a ship sailed from ¹⁴[Chittagong] harbour on a given day.</p> <p>A letter written by a deceased member of a merchant's firm by which she was chartered to their correspondents in London, to whom the cargo was consigned, stating that the ship sailed on a given day from ¹⁵[Chittagong] harbour, is a relevant fact.</p> <p>(e) The question is, whether rent was paid to A for certain land.</p> <p>A letter from A's deceased agent to A saying that he had received the rent on A's account and held it at A's orders, is a relevant fact.</p> <p>(f) The question is, whether A and B were legally</p>	<p>consigned, stating that the ship sailed on a given day from Chittagong harbour, is a relevant fact.</p> <p>(e) The question is, whether rent was paid to A for certain land.</p> <p>A letter from A's deceased agent to A saying that he had received the rent on A's account and held it at A's orders, is a relevant fact.</p> <p>(f) The question is, whether A and B were legally married.</p> <p>The statement of a deceased clergyman that he married them under such circumstances that the celebration would be a crime, is relevant.</p> <p>(g)The question is, whether A, a person who cannot be found, wrote a letter on a certain day. The fact that a letter written by him is dated on that day is relevant.</p>
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	<p>married.</p> <p>The statement of a deceased clergyman that he married them under such circumstances that the celebration would be a crime, is relevant.</p> <p>(g) The question is, whether A, a person who cannot be found, wrote a letter on a certain day. The fact that a letter written by him is dated on that day is relevant.</p> <p>(h) The question is, what was the cause of the wreck of a ship.</p> <p>A protest made by the Captain, whose attendance cannot be procured, is a relevant fact.</p> <p>(i) The question is, whether a given road is a public way.</p> <p>A statement by A, a deceased headman of the village, that the road was public, is a relevant fact.</p>	<p>(h)The question is, what the cause of the wreck of a ship was.</p> <p>A protest made by the Captain, whose attendance cannot be procured, is a relevant fact.</p> <p>(i) The question is, whether a given road is a public way.</p> <p>A statement by A, a deceased headman of the village, that the road was public, is a relevant fact.</p> <p>(j)The question is, what was the price of grain on a certain day in a particular market. A statement of the price, made by a deceased banya in the ordinary course of his business, is a relevant fact.</p> <p>(k)The question is, whether A, who is dead, was the father of B.</p> <p>A statement by A that B was his son, is a relevant fact.</p>
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<p>(j) The question is, what was the price of grain on a certain day in a particular market. A statement of the price, made by a deceased banya in the ordinary course of his business, is a relevant fact.</p> <p>(k) The question is, whether A, who is dead, was the father of B.</p> <p>A statement by A that B was his son, is a relevant fact.</p> <p>(l) The question is, what was the date of the birth of A.</p> <p>A letter from A's deceased father to a friend, announcing the birth of A on a given day, is a relevant fact.</p> <p>(m) The question is, whether, and when, A and B were married.</p> <p>An entry in a memorandum-book by C, the deceased father of B, of his daughter's marriage with A on a</p>	<p>(l) The question is, what was the date of the birth of A.</p> <p>A letter from A's deceased father to a friend, announcing the birth of A on a given day, is a relevant fact.</p> <p>(m)The question is, whether, and when, A and B were married.</p> <p>An entry in a memorandum-book by C, the deceased father of B, of his daughter's marriage with A on a given date, is a relevant fact.</p> <p>(n)A sues B for a libel expressed in a painted caricature exposed in a shop window. The question is as to the similarity of the caricature and its libellous character. The remarks of a crowd of spectators on these points may be proved.</p>
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	<p>given date, is a relevant fact.</p> <p>(n)A sues B for a libel expressed in a painted caricature exposed in a shop window. The question is as to the similarity of the caricature and its libellous character. The remarks of a crowd of spectators on these points may be proved.</p>	
<p>Relevancy or certain evidence for proving in subsequent proceeding the truth of facts therein stated</p>	<p>33. Evidence given by a witness in a judicial proceeding, or before any person authorized by law to take it, is relevant for the purpose of proving, in a subsequent judicial proceeding, or in a later stage of the same judicial proceeding, the truth of the facts which it states, when the witness is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or if his presence cannot be obtained without an amount of delay or</p>	<p>24. Evidence given by a witness in a judicial proceeding, or before any person authorized by law to take it, is relevant for the purpose of proving, in a subsequent judicial proceeding, or in a later stage of the same judicial proceeding, the truth of the facts which it states, when the witness is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or if his presence cannot be obtained without an amount of delay or</p>

	<p>expense which, under the circumstances of the case, the Court considers unreasonable: Provided-</p> <p>that the proceeding was between the same parties or their representatives in interest;</p> <p>that the adverse party in the first proceeding had the right and opportunity to cross-examine;</p> <p>that the questions in issue were substantially the same in the first as in the second proceeding.</p> <p>Explanation. A criminal trial or inquiry shall be deemed to be a proceeding between the prosecutor and the accused within the meaning of this section.</p>	<p>expense which, under the circumstances of the case, the Court considers unreasonable: Provided-</p> <p>that the proceeding was between the same parties or their representatives in interest;</p> <p>that the adverse party in the first proceeding had the right and opportunity to cross-examine;</p> <p>That the questions in issue were substantially the same in the first as in the second proceeding.</p>
	<p>STATEMENTS MADE UNDER SPECIAL CIRCUMSTANCES</p>	<p>CHAPTER V STATEMENTS MADE UNDER SPECIAL CIRCUMSTANCES</p>
<p>Entries of books of account when</p>	<p>34. Entries in books of account, regularly kept in the</p>	<p>25. Entries in books of account, regularly kept in the</p>

<p>relevant</p>	<p>course of business, are relevant whenever they refer to a matter into which the Court has to inquire, but such statements shall not alone be sufficient evidence to charge any person with liability.</p> <p style="text-align: center;">Illustration</p> <p>A sues B for Taka 1,000, and shows entries in his account books showing B to be indebted to him to this amount. The entries are relevant, but are not sufficient, without other evidence, to prove the debt.</p>	<p>course of business, are relevant whenever they refer to a matter into which the Court has to inquire, but such statements shall not alone be sufficient evidence to charge any person with liability.</p> <p style="text-align: center;">Illustration</p> <p>A sues B for Taka 1,000, and shows entries in his account books showing B to be indebted to him to this amount. The entries are relevant, but are not sufficient, without other evidence, to prove the debt.</p>
<p>Relevancy of entry in public record made in performance of duty</p>	<p>35. An entry in any public or other official book, register or record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register or record is kept, is itself a relevant fact.</p>	<p>26. An entry in any public or other official book, register or record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register or record is kept, is itself a relevant fact.</p>

<p>Relevancy of statements in maps, charts and plans</p>	<p>36. Statements of facts in issue or relevant facts, made in published maps or charts generally offered for public sale, or in maps or plans made under the authority of the Government, as to matters usually represented or stated in such maps, charts or plans, are themselves relevant fact.</p>	<p>27. Statements of facts in issue or relevant facts, made in published maps or charts generally offered for public sale, or in maps or plans made under the authority of the Government, as to matters usually represented or stated in such maps, charts or plans, are themselves relevant fact.</p>
<p>Relevancy of statement as to fact of public nature contained in certain acts or notification</p>	<p>37. When the Court has to form an opinion as to the existence of any fact of a public nature, any statement of it, made in a recital contained in any Act of Parliament of the United Kingdom, or in any ¹⁶[Act of Parliament] or in a Government notification ¹⁷[* * *] is a relevant fact.</p>	<p>28. When the court has to form an opinion as to the existence of any fact of public nature in a recital contained in any Act of the Parliament having reciprocal arrangement with Bangladesh in a Government Notification of these countries is relevant.</p>
<p>Relevancy of statement as to any law contained in law- books.</p>	<p>38. When the Court has to form an opinion as to a law of any country, any statement of such law contained in a book purporting to be printed or published under the</p>	<p>29. When the Court has to form an opinion as to a law of any country having reciprocal arrangement with Bangladesh, any statement of such law contained in a</p>

	<p>authority of the Government of such country and to contain any such law, and any report of a ruling of the Courts of such country contained in a book purporting to be a report of such rulings, is relevant.</p>	<p>book purporting to be printed or published under the authority of the Government of such country and to contain any such law, and any report of a ruling of the Courts of such country contained in a book purporting to be a report of such rulings, is relevant.</p>
	<p>HOW MUCH OF A STATEMENT IS TO BE PROVED</p>	<p>HOW MUCH OF A STATEMENT IS TO BE PROVED</p>
<p>What evidence to be given when statement forms part of a conversation, document, book or series of letters or papers</p>	<p>39. When any statement of which evidence is given forms part of a longer statement, or of a conversation or part of an isolated document, or is contained in a document which forms part of a book, or of a connected series of letters or papers, evidence shall be given of so much and no more of the statement, conversation, document, book or series of letters or papers as the Court considers necessary in that particular case to the full understanding of the nature</p>	<p>30. When any statement of which evidence is given forms part of a longer statement, or of a conversation or part of an isolated document, or is contained in a document which forms part of a book, or of a connected series of letters or papers, evidence shall be given of so much and no more of the statement, conversation, document, book or series of letters or papers as the Court considers necessary in that particular case to the full understanding of the nature</p>

	and effect of the statement, and of the circumstances under which it was made.	and effect of the statement, and of the circumstances under which it was made.
	JUDGMENTS OF COURTS OF JUSTICE WHEN RELEVANT	CHAPTER VI DECISIONS OF COURTS WHEN RELEVANT
Relevancy of certain judgments in probate, etc. jurisdiction <u><i>Recommended Marginal Note</i></u> ---- Previous judgment, degree or order bar a second suit or to cognizance of a criminal case.	40. The existence of any judgment, order or decree which by law prevents any Court from taking cognizance of a suit or holding a trial, is a relevant fact when the question is whether such Court ought to take cognizance of such suit or to hold such trial.	31. The existence of any judgment and order or decree which any law prevents any court from taking cognizance of a criminal case or entertaining a suit or holding a trial for determining a question, is a relevant fact. When the question is whether such court ought to take cognizance of the criminal case or entertain the suit or holding the trial or determining the issue.
Relevancy of certain judgments in probate, etc. jurisdiction	41. A final judgment, order or decree of a competent Court, in the exercise of probate, matrimonial,	32. A final judgment, order or decree of a competent Court, in the exercise of probate, matrimonial,

	<p>admiralty or insolvency jurisdiction, which confers upon or takes away from any person any legal character, or which declares any person to be entitled to any such character, or to be entitled to any specific thing, not as against any specified person but absolutely, is relevant when the existence of any such legal character, or the title of any such person to any such thing, is relevant.</p> <p>Such judgment, order or decree is conclusive proof- that any legal character which it confers accrued at the time when such judgment, order or decree come into operation; that any legal character, to which it declares any such person to be entitled, accrued to that person at the time when such judgment, order or decree declares it to have accrued to that person;</p> <p>that any legal character which it takes away from any</p>	<p>admiralty or insolvency jurisdiction, which confers upon or takes away from any person any legal character, or which declares any person to be entitled to any such character, or to be entitled to any specific thing, not as against any specified person but absolutely, is relevant when the existence of any such legal character, or the title of any such person to any such thing, is relevant.</p> <p>Such judgment, order or decree is conclusive proof- that any legal character which it confers accrued at the time when such judgment, order or decree come into operation; that any legal character, to which it declares any such person to be entitled, accrued to that person at the time when such judgment, order or decree declares it to have accrued to that person;</p> <p>that any legal character which it takes away from any</p>
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	<p>such person ceased at the time from which such judgment, order or decree declared that it had ceased or should cease;</p> <p>And that anything to which it declares any person to be so entitled was the property of that person at the time from which such judgment, order or decree declares that it had been or should be his property.</p>	<p>such person ceased at the time from which such judgment, order or decree declared that it had ceased or should cease;</p> <p>And that anything to which it declares any person to be so entitled was the property of that person at the time from which such judgment, order or decree declares that it had been or should be his property.</p> <p>Explanation (1) the status of person or things so decided carry no presumption about the legal status of the person or thing after the date of order or decree.</p> <p>Explanation (2) An order refusing to a probate does not come within the scope of this section.</p>
<p>Relevancy and effect of judgments, orders or decrees, other than those mentioned in</p>	<p>42. Judgments, orders or decrees other than those mentioned in section 41 are relevant if they relate to matters of a public nature relevant to the inquiry; but</p>	<p>33. Judgments, orders or decrees other than those mentioned in section 41 are relevant if they relate to matters of a public nature relevant to the inquiry; but</p>

<p>section 41</p>	<p>such judgments, orders or decrees are not conclusive proof of that which they state.</p> <p style="text-align: center;">Illustration</p> <p>A sues B for trespass on his land. B alleges the existence of a public right of way over the land, which A denies.</p> <p>The existence of a decree in favour of the defendant, in a suit by A against C for a trespass on the same land, in which C alleged the existence of the same right of way, is relevant, but it is not conclusive proof that the right of way exists.</p>	<p>such judgments, orders or decrees are not conclusive proof of that which they state.</p> <p style="text-align: center;">Illustration</p> <p>A sues B for trespass on his land. B alleges the existence of a public right of way over the land, which A denies.</p> <p>The existence of a decree in favour of the defendant, in a suit by A against C for a trespass on the same land, in which C alleged the existence of the same right of way, is relevant, but it is not conclusive proof that the right of way exists.</p>
<p>Judgments, etc. other than those mentioned in sections 40 to 42, when relevant</p>	<p>43. Judgments, orders or decrees, other than those mentioned in sections 40, 41 and 42, are irrelevant, unless the existence of such judgment, order or decree is a fact in issue, or is relevant under some other provision</p>	<p>34. Judgments, orders or decrees, other than those mentioned in sections 31, 32 and 33, are irrelevant, unless the existence of such judgment, order or decree is a fact in issue, or is relevant under some other provision</p>

	<p>of this Act.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A and B separately sue C for a libel which reflects upon each of them. C in each case says that the matter alleged to be libellous is true, and the circumstances are such that it is probably true in each case, or in neither.</p> <p>A obtains a decree against C for damages on the ground that C failed to make out his justification. The fact is irrelevant as between B and C.</p> <p>(b) A prosecutes B for adultery with C, A's wife.</p> <p>B denies that C is A's wife, but the Court convicts B of adultery.</p> <p>Afterwards, C is prosecuted for bigamy in marrying B during A's lifetime. C says that she never was A's wife.</p> <p>The judgment against B is irrelevant as against C.</p>	<p>of this Act.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A and B separately sue C for a libel which reflects upon each of them. C in each case says that the matter alleged to be libellous is true, and the circumstances are such that it is probably true in each case, or in neither.</p> <p>A obtains a decree against C for damages on the ground that C failed to make out his justification. The fact is irrelevant as between B and C.</p> <p>(b) A prosecutes B for adultery with C, A's wife.</p> <p>B denies that C is A's wife, but the Court convicts B of adultery.</p> <p>Afterwards, C is prosecuted for bigamy in marrying B during A's lifetime. C says that she never was A's wife.</p> <p>The judgment against B is irrelevant as against C.</p>
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	<p>(c) A prosecutes B for stealing a cow from him. B is convicted.</p> <p>A afterwards sues C for the cow, which B had sold to him before his conviction. As between A and C, the judgment against B is irrelevant.</p> <p>(d) A has obtained a decree for the possession of land against B. C, B's son, murders A in consequence. The existence of the judgment is relevant, as showing motive for a crime.</p> <p>(e) A is charged with theft and with having been previously convicted of theft. The previous conviction is relevant as a fact in issue.</p> <p>(f) A is tried for the murder of B. The fact that B prosecuted A for libel and that A was convicted and sentenced is relevant under section 8 as showing the</p>	<p>(c) A prosecutes B for stealing a cow from him. B is convicted.</p> <p>A afterwards sues C for the cow, which B had sold to him before his conviction. As between A and C, the judgment against B is irrelevant.</p> <p>(d) A has obtained a decree for the possession of land against B. C, B's son, murders A in consequence. The existence of the judgment is relevant, as showing motive for a crime.</p> <p>(e) A is charged with theft and with having been previously convicted of theft. The previous conviction is relevant as a fact in issue.</p> <p>(f) A is tried for the murder of B. The fact that B prosecuted A for libel and that A was convicted and sentenced is relevant under section 6 as showing the</p>
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	motive for the fact in issue.	motive for the fact in issue.
Fraud or collusion in obtaining judgment, or incompetency of Court, may be proved	44. Any party to a suit or other proceeding may show that any judgment, order or decree which is relevant under section 40, 41 or 42, and which has been proved by the adverse party, was delivered by a Court not competent to deliver it, or was obtained by fraud or collusion.	35. Any party to a suit or other proceeding may show that any judgment, order or decree which is relevant under section 31, 32 or 33 , and which has been proved by the adverse party, was delivered by a Court not competent to deliver it, or was obtained by fraud or collusion.
	OPINIONS OF THIRD PERSONS WHEN RELEVANT	CHAPTER VII OPINIONS OF THIRD PERSONS WHEN RELEVANT
Opinion of experts	45. When the Court has to form an opinion upon a point of foreign law, or of science, or art, or as to identity of hand writing or finger impressions, the opinions upon that point of persons specially skilled in such foreign law, science or art, or in questions as to identity of handwriting or finger impressions are relevant facts.	36. When the Court has to form an opinion upon a point of foreign law, or of science, or art, or as to identity of hand writing or finger impressions, the opinions upon that point of persons specially skilled in such foreign law, science or art, or in questions as to identity of handwriting or finger impressions are relevant facts.

<p><u>Recommended Marginal Note-</u> Supply of Expert's Report</p>	<p>Such persons are called experts.</p> <p style="text-align: center;">Illustrations</p> <p>(a) The question is, whether the death of A was caused by poison.</p> <p>The opinion of experts as to the symptoms produced by the poison by which A is supposed to have died, are relevant.</p> <p>(b) The questions is, whether A, at the time of doing a certain act, was, by reason of unsoundness of mind, incapable of knowing the nature of the act, or that he was doing what was either wrong of contrary to law.</p> <p>The opinions of experts upon the question whether the symptoms exhibited by A commonly show unsoundness of mind, and whether such unsoundness of mind usually renders persons incapable of knowing</p>	<p>Such persons are called experts.</p> <p>36A. (1) Except by leave of the Court, a witness shall not testify as an expert unless a copy of his report has, pursuant to subsections (2) and (3), been given to all the parties.</p> <p>(2) An expert's report shall be addressed to the Court and not to the party on whose behalf he is examined and he shall owe a duty to help the Court and this duty shall override any obligation to the party on whose behalf he is examined.</p> <p>(3) An expert's report must –</p> <p>(a) give details of the expert's qualifications;</p> <p>(b) give details of any literature or other material which the expert has relied on, in making the report;</p>
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	<p>the nature of the acts which they do, or of knowing that what they do is either wrong or contrary to law, are relevant.</p> <p>(c) The question is whether a certain document was written by A. Another document is produced which is proved or admitted to have been written by A.</p> <p>The opinions of experts on the question whether the two documents were written by the same person or by different persons, are relevant.</p>	<p>(c) state who carried out any test or experiment which the expert has used for the report and whether or not the test or experiment has been carried out under the expert’s supervision and the reasons if any, given by the person who conducted the test;</p> <p>(d) give the qualifications of the person who carried out any such test or experiment;</p> <p>(e) where there is a range of opinion on the matters dealt with in the report –</p> <p style="padding-left: 40px;">(i) summarise the range of opinion, and</p> <p style="padding-left: 40px;">(ii) give reasons for his own opinion;</p> <p>(f) contain a summary of conclusions reached;</p> <p>(g) contain a statement that the expert understood his duty to the Court and has complied with that</p>
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		<p>duty;</p> <p>(h) Contain a statement setting out the substance of all material instructions (whether written or oral) of the party on whose behalf he is examined;</p> <p>(i) be verified by a statement of truth as follows: “I believe that the facts I have stated in the report are true and that the opinion I have expressed are correct ; and</p> <p>(j) Contain a statement that the expert is conscious that if the report contained any false statement without an honest belief about its truth, proceedings may be brought for prosecution or for contempt of Court, with the permission and under the directions of Court.</p> <p>36B. (1) A party to a suit or other civil proceeding</p>
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<p><u>Recommended Marginal Note-</u> Procedure to prove foreign law and Court's power</p>		<p>who intends to raise an issue concerning the law of a foreign country shall give notice in his pleadings or other reasonable written notice.</p> <p>(2) The Court, in determining a question of foreign law, in any particular case may, after notifying the parties, consider any relevant material or source, including evidence, whether or not submitted by a party, and the decision of the Court shall be treated as a decision on a question of law.</p> <p style="text-align: center;">Illustrations</p> <p>(a) The question is, whether the death of A was caused by poison.</p> <p>The opinion of experts as to the symptoms produced by the poison by which A is supposed to have died, are</p>
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		<p>relevant.</p> <p>(b) The questions is, whether A, at the time of doing a certain act, was, by reason of unsoundness of mind, incapable of knowing the nature of the act, or that he was doing what was either wrong of contrary to law.</p> <p>The opinions of experts upon the question whether the symptoms exhibited by A commonly show unsoundness of mind, and whether such unsoundness of mind usually renders persons incapable of knowing the nature of the acts which they do, or of knowing that what they do is either wrong or contrary to law, are relevant.</p> <p>(c) The question is whether a certain document was written by A. Another document is produced which is proved or admitted to have been written by A.</p>
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		<p>The opinions of experts on the question whether the two documents were written by the same person or by different persons, are relevant.</p>
<p>Facts bearing upon Opinions of experts</p>	<p>46. Facts, not otherwise relevant, are relevant if they support or are inconsistent with the opinions of experts, when such opinions are relevant.</p> <p style="text-align: center;">Illustrations</p> <p>(a) The question is, whether A was poisoned by a certain poison.</p> <p>The fact that other persons, who were poisoned by that poison, exhibited certain symptoms which experts affirm or deny to be the symptoms of that poison, is relevant.</p>	<p>37. Facts, not apparently relevant, are relevant if they corroborate or rebut an expert opinion.</p> <p style="text-align: center;">Illustrations</p> <p>(a) The question is, whether A was poisoned by a certain poison.</p> <p>The fact that other persons, who were poisoned by that poison, exhibited certain symptoms which experts affirm or deny to be the symptoms of that poison, is relevant.</p> <p>(b) The question is, whether an obstruction to a</p>

	<p>(b) The question is, whether an obstruction to a harbour is caused by a certain sea-wall.</p> <p>The fact that other harbours similarly situated in other respects, but where there were no such sea-walls, began to be obstructed at about the same time, is relevant.</p>	<p>harbour is caused by a certain sea-wall.</p> <p>The fact that other harbours similarly situated in other respects, but where there were no such sea-walls, began to be obstructed at about the same time, is relevant.</p>
<p>Opinion as to handwriting, when relevant</p>	<p>47. When the Court has to form an opinion as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the person by whom it is supposed to be written or signed that it was or was not written or signed by that person, is a relevant fact.</p> <p>Explanation. A person is said to be acquainted with the handwriting of another person when he has seen that person write, or when he has received documents purporting to be written by that person in answer to</p>	<p>38. When the Court has to form an opinion as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the person by whom it is supposed to be written or signed that it was or was not written or signed by that person, is a relevant fact.</p> <p>Explanation. A person is said to be acquainted with the handwriting and signature of another person when he has seen that person write, or when he has received documents purporting to be written by that</p>

documents written by himself or under his authority and addressed to that person, or when, in the ordinary course of business, documents purporting to be written by that person have been habitually submitted to him.

Illustration

The question is, whether a given letter is in the handwriting of A, a merchant in London.

B is a merchant in Chittagong, who has written letters addressed to A and received letters purporting to be written by him. C is B's clerk, whose duty it was to examine and file B's correspondence. D is B's broker, to whom B habitually submitted the letters purporting to be written by A for the purpose of advising with him thereon.

The opinions of B, C and D on the question whether

person in answer to documents written by himself or under his authority and addressed to that person, or when, in the ordinary course of business, documents purporting to be written by that person have been habitually submitted to him.

Handwriting includes signature and writing.

Illustration

(a) The question is, whether a given letter is in the handwriting of A, a merchant in London.

B is a merchant in Chittagong, who has written letters addressed to A and received letters purporting to be written by him. C is B's clerk, whose duty it was to examine and file B's correspondence. D is B's broker, to whom B habitually submitted the letters purporting to be written by A for the purpose of advising with

	<p>the letter is in the handwriting of A are relevant, though neither B, C or D ever saw A write.</p>	<p>him thereon.</p> <p>The opinions of B, C and D on the question whether the letter is in the handwriting of A are relevant, though neither B, C or D ever saw A write.</p> <p>(b) A son, daughter, wife, parents and close friends who are literate and have seen the writing, signature of the person and received letters, the opinion of those persons are relevant.</p>
<p>Opinion as to existence of right or custom, when relevant</p>	<p>48. When the Court has to form an opinion as to the existence of any general custom or right, the opinions, as to the existence of such custom or right, of persons who would be likely to know of its existence if it existed, are relevant.</p> <p>Explanation. The expression "general custom or right" includes customs or rights common to any considerable class of persons.</p>	<p>39. When the Court has to form an opinion as to the existence of any general or public right or custom or any matter of general or public interest, the opinions, as to the existence of such right or custom or such matter, of persons who are likely to know of its existence if it existed or of that matter, as the case may be, are relevant.</p> <p>Explanation: The expression ‘general or public</p>

	<p style="text-align: center;">Illustration</p> <p>The right of the villagers of a particular village to use the water of a particular well is a general right within the meaning of this section.</p>	<p>right or custom or any matter of general or public interest` includes rights or customs or matters common to any considerable class of persons.</p> <p style="text-align: center;">Illustration</p> <p>The right of the villagers of a particular village to use the water of a particular well is a general right within the meaning of this section.</p>
<p>Opinion as to usages, tenets , etc. when relevant</p>	<p>49. When the court has to form an opinion as to the usages and tenets of any body of men or family, the constitution and government of any religious or charitable foundation or,</p> <p>the meaning of words or terms used in particular districts or by particular classes of people,</p> <p>The opinions of persons having special means of knowledge thereon, are relevant facts.</p>	<p>40. When the court has to form an opinion as to the usages and tenets of any body of men or family, the constitution and government of any religious or charitable foundation or,</p> <p>the meaning of words or terms used in particular districts or by particular classes of people,</p> <p>The opinions of persons having special means of knowledge thereon, are relevant facts.</p>

<p>Opinion on relationship when relevant</p>	<p>50. When the Court has to form an opinion as to the relationship of one person to another the opinion, expressed by conduct, as to the existence of such relationship, of any person who, as a member of the family or otherwise, has special means of knowledge on the subject, is a relevant fact:</p> <p>Provided that such opinion shall not be sufficient to prove a marriage in proceedings under the Divorce Act, or in prosecutions under section 494, 495, 497 or 498 of the ¹⁸[* * *] Penal Code.</p> <p style="text-align: center;">Illustrations</p> <p>(a) The question is, whether A and B were married.</p> <p>The fact that they were usually received and treated by their friends as husband and wife, is relevant.</p>	<p>41. When the Court has to form an opinion as to the relationship of one person to another the opinion, expressed by conduct, as to the existence of such relationship, of any person who, as a member of the family or otherwise, has special means of knowledge on the subject, is a relevant fact:</p> <p style="text-align: center;">Illustrations</p> <p>(a) The question is, whether A and B were married.</p> <p>The fact that they were usually received and treated by their friends as husband and wife, is relevant.</p> <p>(b) The question is, whether A was the legitimate son of B. The fact that A was always treated as such by members of the family, is relevant.</p>
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	The question is, whether A was the legitimate son of B. The fact that A was always treated as such by members of the family, is relevant.	(c) The opinion of a domestic help as to the relationship between the different members of a family is relevant.
Grounds of opinion when relevant	<p>51. Whenever the opinion of any living person is relevant the grounds on which such opinion is based are also relevant.</p> <p style="text-align: center;">Illustration</p> <p>An expert may give an account of experiments performed by him for the purpose of forming his opinion.</p>	<p>42. Whenever the opinion of any living person is relevant the grounds on which such opinion is based are also relevant.</p> <p style="text-align: center;">Illustration</p> <p>An expert may give an account of experiments performed by him for the purpose of forming his opinion.</p>
	CHARACTER WHEN RELEVANT	FACTS AS TO CHARACTER OF PARTIES
In civil cases, character to prove conduct	52. In civil cases the fact that the character of any person concerned is such as to render probable or	43. In civil cases evidence as to the character of a party can only be given if it is a factor in deciding

<p>imputed irrelevant</p>	<p>improbable any conduct imputed to him is irrelevant, except in so far as such character appears from facts otherwise relevant</p>	<p>the case as stated in the pleadings of the parties.</p> <p style="text-align: center;">Illustration</p> <p>A lady patient files a case against a physician for misconduct with her during her examination. In this case the previous conduct of the physician as well as of the lady are relevant in deciding this case.</p>
<p>In criminal previous good character relevant</p>	<p>53. In criminal proceedings the fact that the person accused is of a good character is relevant.</p>	<p>44. In criminal proceedings the fact that the person accused is of a good character is relevant.</p>
<p>Previous bad character not relevant, except in reply</p>	<p>54. In criminal proceedings the fact that the accused person has a bad character is irrelevant, unless evidence has been given that he has a good character, in which case it becomes relevant.</p> <p>Explanation 1. This section does not apply to cases in</p>	<p>45. In criminal proceeding the fact that the accused has a bad character is irrelevant but when the evidence has been given whether through witnesses for defense or through cross examination of witnesses of the prosecution or any other manners</p>

	<p>which the bad character of any person is itself a fact in issue.</p> <p>Explanation 2. A previous conviction is relevant as evidence of bad character.</p>	<p>that the accused has a good character is relevant.</p> <p>Explanation 1. This section does not apply to cases in which the bad character of any person is itself a fact in issue.</p> <p>Explanation 2. A previous conviction is relevant as evidence of bad character.</p>
<p>Character as affecting damages</p>	<p>55. In civil cases the fact that the character of any person is such as to affect the amount of damages which he ought to receive, is relevant.</p> <p>Explanation. In sections 52, 53, 54 and 55, the word "character" includes both reputation and disposition; but, except as provided in section 54, evidence may be</p>	<p>46. In civil cases the fact that the character of any person is such as to affect the amount of damages which he ought to receive, is relevant.</p> <p>Explanation. In sections 43, 44, 45 and 46, the word "character" includes both reputation and disposition; but, except as provided in section 45 evidence may be</p>

	given only of general reputation and general disposition, and not of particular acts by which reputation or disposition were shown.	given only of general reputation and general disposition, and not of particular acts by which reputation or disposition were shown.
	PART II ON PROOF CHAPTER III FACTS WHICH NEED NOT BE PROVED	PART II ON PROOF CHAPTER VIII FACTS WHICH NEED NOT BE PROVED
Facts judicially noticeable need not be proved	56. No fact of which the Court will take judicial notice need be proved.	47. Judicial notice means to take notice without any proof by the court. No fact of which the Court will take judicial notice need be proved.
Facts of which court must take judicial notice	57. The Court shall take judicial notice of the following facts:- ¹⁹ [(1) All Bangladesh Laws:] (2) [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act,	48. The Court shall take judicial notice of the following facts:- (1) All Bangladesh Laws. (2)Articles of War for the Armed Forces.

	<p>1973 (Act No. VIII of 1973).]</p> <p>(3) Articles of War for the Armed Forces:</p> <p>(4) The course of proceeding of Parliament and of ²⁰[any Legislature which had Power to legislate in respect of territories now comprised in Bangladesh].</p> <p>Explanation. [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]</p> <p>(5) [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]</p> <p>²¹[(6) The seals of all the Courts in Bangladesh: the</p>	<p>(3)The course of proceeding of Parliament and of any Legislature which had Power to legislate in respect of territories now comprised in Bangladesh.</p> <p>(4) The seals of all the Courts in Bangladesh: the seals of Courts of Admiralty and Maritime Jurisdiction and of Notaries Public, and all seals which any person is authorized to use by any law in force in Bangladesh.</p> <p>(5)The accession to office, names, titles, functions and signatures of the persons filling for the time being any public office in Bangladesh, if the fact of their appointment to such office is notified in any official Gazette:</p> <p>(6) The existence, title and national flag of every State or Sovereign recognized by the Government:</p> <p>(7) The divisions of time, the geographical divisions</p>
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	<p>seals of Courts of Admiralty and Maritime Jurisdiction and of Notaries Public, and all seals which any person is authorized to use by any law in force in Bangladesh:]</p> <p>(7) The accession to office, names, titles, functions and signatures of the persons filling for the time being any public office in Bangladesh, if the fact of their appointment to such office is notified in any official Gazette:</p> <p>(8) The existence, title and national flag of every State or Sovereign recognized by the Government:</p> <p>(9) The divisions of time, the geographical divisions of the world, and public festivals, fasts and holidays notified in the official Gazette:</p> <p>(10) The territories ²²[* * *] of Bangladesh:</p>	<p>of the world, and public festivals, fasts and holidays notified in the official Gazette:</p> <p>(8) The territories of Bangladesh:</p> <p>(9) The commencement, continuance and termination of hostilities between Bangladesh and any other State or body of persons:</p> <p>(10) The names of the members and officers of the Court and of their deputies and subordinate officers and assistants, and also of all officers acting in execution of its process, and of all advocates and other persons authorized by law to appear or act before it:</p> <p>(11) The rule of the road on land or at sea.</p> <p>In all these cases and also on all matters of public history, literature, science or art, the Court may resort</p>
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	<p>(11) The commencement, continuance and termination of hostilities between Bangladesh and any other State or body of persons:</p> <p>(12) The names of the members and officers of the Court and of their deputies and subordinate officers and assistants, and also of all officers acting in execution of its process, and of all advocates ²³[* * *] and other persons authorized by law to appear or act before it:</p> <p>(13) The rule of the road on land or at sea.</p> <p>In all these cases and also on all matters of public history, literature, science or art, the Court may resort for its aid to appropriate books or documents of reference.</p> <p>If the Court is called upon by any person to take</p>	<p>for its aid to appropriate books or documents of reference.</p> <p>If the Court is called upon by any person to take judicial notice of any fact, it may refuse to do so unless and until such person produces any such book or document as it may consider necessary to enable it to do so</p>
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	<p>judicial notice of any fact, it may refuse to do so unless and until such person produces any such book or document as it may consider necessary to enable it to do so</p>	
<p>Facts admitted need not to be proved</p>	<p>58. No fact need be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule or pleading in force at the time they are deemed to have admitted by their pleadings:</p> <p>Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.</p>	<p>49. No fact need be proved in any proceeding other than a criminal proceeding which the parties thereto or their agents admit or agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule or pleading in force at the time they are deemed to have admitted by their pleadings:</p> <p>Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.</p>
	<p style="text-align: center;">CHAPTER IV</p> <p style="text-align: center;">OF ORAL EVIDENCE</p>	<p style="text-align: center;">CHAPTER IX</p> <p style="text-align: center;">OF ORAL EVIDENCE</p>

Proof of facts by oral evidence	59. All facts, except the contents of documents, may be proved by oral evidence.	50. All facts, except the contents of documents, may be proved by oral evidence.
Oral evidence must be direct	60. Oral evidence must, in all cases whatever, be direct; that is to say- if it refers to a fact which could be seen, it must be the evidence of a witness who says he saw it; if it refers to a fact which could be heard, it must be the evidence of a witness who says he heard it; if it refers to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived it by that sense or in that manner; if it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds: Provided that the opinions of experts expressed in any	51. Oral evidence must, in all cases whatever, be direct; that is to say- if it refers to a fact which could be seen, it must be the evidence of a witness who says he saw it; if it refers to a fact which could be heard, it must be the evidence of a witness who says he heard it; if it refers to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived it by that sense or in that manner; if it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds: Provided that the opinions of experts expressed in any

	<p>treatise commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatises if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the Court regards as unreasonable:</p> <p>Provided also that, if oral evidence refers to existence or condition of any material thing other than a document, the Court may, if it thinks fit, require the production of such material thing for its inspection.</p>	<p>treatise commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatises if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the Court regards as unreasonable:</p> <p>Provided also that, if oral evidence refers to existence or condition of any material thing other than a document, the Court may, if it thinks fit, require the production of such material thing for its inspection.</p>
	<p>CHAPTER V</p> <p>OF DOCUMENTARY EVIDENCE</p>	<p>CHAPTER X</p> <p>DOCUMENTARY EVIDENCE</p>
Proof of contents of documents	61. The contents of documents may be proved either by primary or by secondary evidence.	52. The contents of documents may be proved either by primary or by secondary evidence.
Primary evidence	62. Primary evidence means the document itself	53. Primary evidence means the document itself

	<p>produced for the inspection of the Court.</p> <p>Explanation 1.-Where a document is executed in several parts, each part is primary evidence of the document.</p> <p>Where a document is executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart is primary evidence as against the parties executing it.</p> <p>Explanation 2.-Where a number of documents are all made by one uniform process, as in the case of printing, lithography or photography, each is primary evidence of the contents of the rest; but, where they are all copies of a common original, they are not primary evidence of the contents of the original.</p>	<p>produced for the inspection of the Court.</p> <p>Explanation 1.-Where a document is executed in several parts, each part is primary evidence of the document.</p> <p>Where a document is executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart is primary evidence as against the parties executing it.</p> <p>Explanation 2.-Where a number of documents are all made by one uniform process, as in the case of printing, lithography or photography, each is primary evidence of the contents of the rest; but, where they are all copies of a common original, they are not primary evidence of the contents of the original.</p>
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	Illustration	Illustration
	A person is shown to have been in possession of a number of placards, all printed at one time prove one original. Any one of the placards is primary evidence of the contents of any other, but no one of them is primary evidence of the contents of the original.	A person is shown to have been in possession of a number of placards, all printed at one time prove one original. Any one of the placards is primary evidence of the contents of any other, but no one of them is primary evidence of the contents of the original.
Secondary evidence	<p>63. Secondary evidence means and includes-</p> <p>(1) certified copies given under the provision hereinafter contained;</p> <p>(2) copies made from the original by mechanical processes which in themselves insure the accuracy of the copy, and copies compared with such copies;</p> <p>(3) copies made from or compared with the original;</p> <p>(4) counterparts of documents as against the parties</p>	<p>54. Secondary evidence means and includes-</p> <p>(1) certified copies given under the provisions hereinafter contained;</p> <p>(2) copies made from the original by mechanical processes which in themselves insure the accuracy of the copy, and copies compared with such copies;</p> <p>(3) copies made from or compared with the original;</p> <p>(4) counterparts of documents as against the parties</p>

	<p>who did not execute them;</p> <p>(5) oral accounts of the contents of a document given by some person who has himself seen it.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A photograph of an original is secondary evidence of its contents, though the two have not been compared, if it is proved that the thing photographed was the original.</p> <p>(b) A copy, compared with a copy of a letter made by a copying machine is secondary evidence of the contents of the letter, if it is shown that the copy made by the copying machine was made from the original.</p> <p>(c) A copy transcribed from a copy, but</p>	<p>who did not execute them;</p> <p>(5) oral accounts of the contents of a document given by a skilled person who himself has read it.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A photograph of an original is secondary evidence of its contents, though the two have not been compared, if it is proved that the thing photographed was the original.</p> <p>(b) A copy, compared with a copy of a letter made by a copying machine is secondary evidence of the contents of the letter, if it is shown that the copy made by the copying machine was made from the original.</p> <p>(c) copy transcribed from a copy, but afterwards compared with the original is secondary evidence;</p>
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	<p>afterwards compared with the original is secondary evidence; but the copy not so compared is not secondary evidence of the original, although the copy from which it was transcribed was compared with the original.</p> <p>(d) Neither an oral account of a copy compared with the original, nor an oral account of a photograph or machine-copy of the original, is secondary evidence of the original.</p>	<p>but the copy not so compared is not secondary evidence of the original, although the copy from which it was transcribed was compared with the original.</p> <p>(d) Neither an oral account of a copy compared with the original, nor an oral account of a photograph or machine-copy of the original, is secondary evidence of the original.</p>
Proof of documents by primary evidence	64. Documents must be proved by primary evidence except in the cases hereinafter mentioned.	55. Documents must be proved by primary evidence except in the cases hereinafter mentioned.
Cases in which secondary evidence relating to documents may be given	65. Secondary evidence may be given of the existence, condition or contents of a document in the following cases: when the original is shown or appears to be in the	56. Secondary evidence may be given of the existence, condition or contents of a document in the following cases: (a) when the original is shown or appears to be in the

	<p>possession or power-</p> <p>of the person against whom the document is sought to be proved, or of any person out of reach of, or not subject to, the process of the Court, or</p> <p>of any person legally bound to produce it, and when, after the notice mentioned in section 66, such person does not produce it;</p> <p>when the existence, condition or contents of the original have been proved to be admitted in writing by the person against whom it is proved or by his representative in interest;</p> <p>when the original has been destroyed or lost, or when the party offering evidence of its contents cannot, for any other reason not arising from his own default or neglect, produce it in reasonable time;</p>	<p>possession or power-</p> <p>of the person against whom the document is sought to be proved, or of any person out of reach of, or not subject to, the process of the Court, or</p> <p>of any person legally bound to produce it, and when, after the notice mentioned in section 66, such person does not produce it;</p> <p>(b) when the existence, condition or contents of the original have been proved to be admitted in writing by the person against whom it is proved or by his representative in interest;</p> <p>(c) when the original has been destroyed or lost, or when the party offering evidence of its contents cannot, for any other reason not arising from his own default or neglect, produce it in reasonable</p>
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	<p>when the original is of such a nature as not to be easily moveable;</p> <p>when the original is a public document within the meaning of section 74;</p> <p>when the original is a document of which a certified copy is permitted by this Act, or by any other law in force in Bangladesh to be given in evidence;</p> <p>when the originals consist of numerous accounts or other documents which cannot conveniently be examined in Court, and the fact to be proved is the general result of the whole collection.</p> <p>In cases (a), (c), and (d), any secondary evidence of the contents of the document is admissible.</p> <p>In case (b), the written admission is admissible.</p>	<p>time;</p> <p>(d) when the original is of such a nature as not to be easily moveable;</p> <p>(e) when the original is a public document within the meaning of section 62;</p> <p>(f) when the original is a document of which a certified copy is permitted by this Act, or by any other law in force in Bangladesh to be given in evidence;</p> <p>(g) when the originals consist of numerous accounts or other documents which cannot conveniently be examined in Court, and the fact to be proved is the general result of the whole collection.</p>
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	<p>In case (e) or (f), a certified copy of the document, but no other kind of secondary evidence, is admissible.</p> <p>In case (g), evidence may be given as to the general result of the documents by any person who has examined them, and who is skilled in the examination of such documents.</p>	<p>In cases (a), (c), and (d), any secondary evidence of the contents of the document is admissible.</p> <p>In case (b), the written admission is admissible.</p> <p>In case (e) or (f), a certified copy of the document, but no other kind of secondary evidence, is admissible.</p> <p>In case (g), evidence may be given as to the general result of the documents by any person who has examined them, and who is skilled in the examination of such documents.</p>
<p>Rules as to notice to produce</p>	<p>66. Secondary evidence of the contents of the documents referred to in section 65, clause (a), shall not be given unless the party proposing to give such secondary evidence has previously given to the party in whose possession or power the document is, or to his Advocate, such notice to produce it as is prescribed by law; and if no notice is prescribed by</p>	<p>57. Secondary evidence of the contents of the documents referred to in section 56, clause (a), shall not be given unless the party proposing to give such secondary evidence has previously given to the party in whose possession or power the document is, or to his Advocate, such notice to produce it as is prescribed by law; and if no notice is prescribed by law, then</p>

	<p>law, then such notice as the Court considers reasonable under the circumstances of the case:</p> <p>Provided that such notice shall not be required in order to render secondary evidence admissible in any of the following cases, or in any other case in which the Court thinks fit to dispense with it:</p> <p>(1) when the document to be proved is itself a notice;</p> <p>(2) when, from the nature of the case, the adverse party must know that he will be required to produce it;</p> <p>(3) when it appears or is proved that the adverse party has obtained possession of the original by fraud or force;</p> <p>(4) when the adverse party or his agent has the</p>	<p>such notice as the Court considers reasonable under the circumstances of the case:</p> <p>Provided that such notice shall not be required in order to render secondary evidence admissible in any of the following cases, or in any other case in which the Court thinks fit to dispense with it:</p> <p>(1) when the document to be proved is itself a notice;</p> <p>(2) when, from the nature of the case, the adverse party must know that he will be required to produce it;</p> <p>(3) when it appears or is proved that the adverse party has obtained possession of the original by fraud or force;</p> <p>(4) when the adverse party or his agent has the original in</p>
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	<p>original in Court;</p> <p>(5) when the adverse party or his agent has admitted the loss of the document;</p> <p>(6) When the person in possession of the document is out of reach of, or not subject to, the process of the Court.</p>	<p>Court;</p> <p>(5) when the adverse party or his agent has admitted the loss of the document;</p> <p>(6) When the person in possession of the document is out of reach of, or not subject to, the process of the Court.</p>
		CHAPTER XI
		PROOFS OF EVIDENCE
Proof of signature and handwriting of person alleged to have signed or written document produced	<p>67. If a document is alleged to be signed or to have been written wholly or in part by any person, the signature or the handwriting of so much of the document as is alleged to be in that person's handwriting must be proved to be in his handwriting.</p>	<p>58. If a document is alleged to be signed or to have been written wholly or in part by any person, the signature or the handwriting of so much of the document as is alleged to be in that person's handwriting must be proved to be in his handwriting.</p>

<p>Proof of execution of document required by law to be attested</p>	<p>68. If a document is required by law to be attested, it shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive, and subject to the process of the Court and capable of giving evidence:</p> <p>Provided that it shall not be necessary to call an attesting witness in proof of the execution of any document, not being a will, which has been registered in accordance with the provisions of the Registration Act, 1908, unless its execution by the person by whom it purports to have been executed is specifically denied.</p>	<p>59. (1) If a document is required by law to be attested, it shall not be used as evidence of any testamentary disposition until one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive and subject to the process of the Court and capable of giving evidence.</p> <p>(2) Notwithstanding anything contained in subsection (1), an attester need not be called as a witness to prove the execution of a will if,-</p> <p>(a) the attesting witness is incapable of giving evidence; or is kept out of the way by the opposite party or by another person in collusion with that party or is one whose presence cannot be obtained</p>

		<p>without an amount of delay or expense which, under the circumstances of the case, the Court considers unreasonable; or (b) the will is in the possession of the opposite party; or (c) a party wants to refer to any collateral fact contained in the will; or (d) the provisions of section 76 or section 77 apply.</p> <p>Explanation: Document includes will.</p>
Proof where no attesting witness found	<p>69. If no such attesting witness can be found, or if the document purports to have been executed in the United Kingdom, it must be proved that the attestation of one attesting witness at least is in his handwriting, and that the signature of the person executing the document is in the handwriting of that person.</p>	<p>60. If no such attesting witness can be found as specified under sub-section (1) of section 59, it must be proved that the attestation of attesting witness at least his hand writing and the signature of the person executing the document is in the hand writing of the executant.</p>
Admission of execution by party to attested document	<p>70. The admission of a party to an attested document of its execution by himself shall be sufficient proof of</p>	<p>61. The admission of the executant of execution of an attested document or a document required by</p>

	<p>its execution as against him, though it be a document required by law to be attested.</p>	<p>law to be attested shall be sufficient proof of its execution, But in the case of will, this admission must be made in the life time of the executant in a pleading or in a judicial proceeding.</p> <p>Provided, if there is no such admission by the executant, it may be proved by a handwriting expert or by a person acquainted with the signature or handwriting of the executant or by the court also, if corroborated with some admitted or previously proved signature or seal or if the person is present in court or within the court or to direct him to appear in the court to write any words, signatures and to give finger impression for comparison.</p>
<p>Proof when attesting witness denies the execution</p>	<p>71. If the attesting witness denies or does not recollect the execution of the document, its execution may be</p>	<p>Section 71, 72 and 73 are covered by proviso of section 61</p>

	proved by other evidence.	
Proof of document not required by law to be attested	72. An attested document not required by law to be attested may be proved as if it was unattested.	Section 71, 72 and 73 are covered by proviso of section 61
Comparison of signature, writing or seal with others, admitted or proved	73. In order to ascertain whether a signature, writing or seal is that of the person by whom it purports to have been written or made, any signature, writing or seal admitted or proved to the satisfaction of the Court to have been written or made by that person may be compared with the one which is to be proved, although that signature, writing or seal has not been produced or proved for any other purpose. The Court may direct any person present in Court to write any words or figures for the purpose of enabling the Court to compare the words or figures so written with any words or figures alleged to have been written	Section 71, 72 and 73 are covered by proviso of section 61

	<p>by such person.</p> <p>This section applies also, with any necessary modifications, to finger-impressions.</p>	
	<p>PUBLIC DOCUMENTS</p>	<p>CHAPTER XII</p> <p>PROOF OF PUBLIC DOCUMENT</p>
<p>Public document</p>	<p>74. The following documents are public documents:</p> <p>(1) documents forming the acts or records of the acts-</p> <p>(i) of the sovereign authority,</p> <p>(ii) of official bodies and tribunals, and</p> <p>(iii) of public officers, legislative, judicial and executive of any part of Bangladesh or of the Commonwealth, or of a foreign country;</p> <p>(2) public records kept in Bangladesh of private</p>	<p>62. The following documents are public documents:</p> <p>(1) documents forming the acts or records of the acts-</p> <p>(I) of the sovereign authority,</p> <p>(II)of official bodies and tribunals, and</p> <p>(III) of public officers, legislative, judicial and executive of any part of Bangladesh or of the Commonwealth, or of a foreign country;</p> <p>(3) Public records kept in Bangladesh of private</p>

	documents.	documents. Explanation: Records forming parts of a case leading to a judgment of a court or an order of an officer prejudicial to any other person, shall be deemed to be public documents.
Private documents	75. All other documents are private.	63. All other documents are private.
Certified copies of public documents	76. Every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees therefor, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use of a seal, and	64. Every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees therefor, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use of a seal, and

<p>such copies so certified shall be called certified copies.</p> <p>Explanation.-Any officer who, by the ordinary course of official duty, is authorized to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section.</p>	<p>such copies so certified shall be called certified copies.</p> <p>Explanation 1.-Any officer who, by the ordinary course of official duty, is authorized to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section.</p> <p>Explanation 2: For the purposes of this section, it is not necessary that the public should have a right to inspect the document and it is sufficient if the person demanding a copy has a right to inspect the document of which the copy is demanded.</p> <p>Explanation 3: Where a person has by law a right to inspect a document or to a copy thereof, or where a rule or order made by the Government allows a copy to be given, this section applies notwithstanding any provision of law requiring that the document shall be treated as confidential</p>
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		in regard to other persons.
Proof of documents by production of certified copies	77. Such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies.	<p>65. Such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies.</p> <p>Explanation: - a. If a certified copy is in fact issued, the same shall be admissible irrespective of whether it has been issued pursuant to a right to inspect or a right to obtain a certified copy.</p> <p>b. If a photo copy is obtained duly signed and sealed by a person authorized to sign and use seal showing the designation of the person as true copy shall be admissible, though the higher authority may take such a step as considers necessary against that person signed and sealed, if that person was not authorized to do so.</p>
Proof of other official documents	78. The following public documents may be proved as	66. The following public documents may be proved as

	<p>follows:</p> <p>²⁴[(1) Acts, orders or notifications of the Government or any other Government that functioned within the territories now comprised in Bangladesh or any departments thereof by the records of the departments, certified by the heads of those departments, or by any document purporting to be printed by order of any such Government:]</p> <p>(2) the proceeding of the ²⁵[Parliament and of any legislature which had power to legislate in respect of territories now comprised in Bangladesh,] by the journals of those bodies respectively, or by published Acts or abstracts, or by copies purporting to be printed by order of the Government ²⁶[* * *]:</p>	<p>follows:</p> <p>(1) Acts, orders or notifications of the Government or any other Government that functioned within the territories now comprised in Bangladesh or any departments thereof by the records of the departments, certified by the heads of those departments, or by any document purporting to be printed by order of any such Government.</p> <p>(2) the proceeding of the Parliament and of any legislature which had power to legislate in respect of territories now comprised in Bangladesh, by the journals of those bodies respectively, or by published Acts or abstracts, or by copies purporting to be printed by order of the Government</p> <p>(3) the Acts of the Executive or the proceedings of the</p>
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	<p>(3) [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]</p> <p>(4) the Acts of the Executive or the proceedings of the Legislature of a foreign country, - by journals published by their authority, or commonly received in that country as such, or by a copy certified under the seal of the country or sovereign, or by a recognition thereof in some ²⁷[Act of Parliament]:</p> <p>(5) the proceedings, of a municipal body in Bangladesh, by a copy of such proceedings, certified by the legal keeper thereof, or by a printed book purporting to be published by the authority of such</p>	<p>Legislature of a foreign country, - by journals published by their authority, or commonly received in that country as such, or by a copy certified under the seal of the country or sovereign, or by a recognition thereof in some Act of Parliament,</p> <p>(4) the proceedings, of a municipal body in Bangladesh, by a copy of such proceedings, certified by the legal keeper thereof, or by a printed book purporting to be published by the authority of such body:</p> <p>(5) public documents of any other class in a foreign country, by the original, or by a copy certified by the legal keeper thereof, with a certificate under the seal of a notary public, or of a Bangladesh Consul or diplomatic agent, that the copy is duly certified by the officer having the legal custody of the original, and upon proof of the character of the document according to the law of the foreign country.</p>
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	<p>body:</p> <p>(6) public documents of any other class in a foreign country, by the original, or by a copy certified by the legal keeper thereof, with a certificate under the seal of a notary public, or of a Bangladesh Consul or diplomatic agent, that the copy is duly certified by the officer having the legal custody of the original, and upon proof of the character of the document according to the law of the foreign country.</p>	
	PRESUMPTION AS TO DOCUMENTS	CHAPTER XIII PRESUMPTION AS TO DOCUMENTS
Presumption as to genuineness of certified copies	79. The Court shall presume every document purporting to be a certificate, certified copy or other document, which is by law declared to be admissible as evidence of any particular fact and which purports	67. The Court shall presume every document purporting to be a certificate, certified copy or other document, which is by law declared to be admissible as evidence of any particular fact and which purports

	<p>to be duly certified by any officer of the ²⁸[Government] to be genuine: Provided that such document is substantially in the form and purports to be executed in the manner directed by law in that behalf.</p> <p>The Court shall also presume that any officer by whom any such document purports to be signed or certified, held, when he signed it, the official character which he claims in such paper.</p>	<p>to be duly certified by any officer of the Government to be genuine: Provided that such document is substantially in the form and purports to be executed in the manner directed by law in that behalf.</p> <p>The Court shall also presume that any officer by whom any such document purports to be signed or certified, held, when he signed it, the official character which he claims in such paper.</p>
<p>Presumption as to documents produced as record of evidence</p>	<p>80. Whenever any document is produced before any Court, purporting to be a record or memorandum of the evidence, or of any part of the evidence, given by a witness in a judicial proceeding or before any officer authorized by law to take such evidence or to be a statement or confession by any prisoner or accused</p>	<p>68. Whenever any document is produced before any Court, purporting to be a record or memorandum of the evidence, or of any part of the evidence, given by a witness in a judicial proceeding or before any officer authorized by law to take such evidence or to be a statement or confession by any prisoner or accused</p>

	<p>person, taken in accordance with law, and purporting to be signed by any Judge or Magistrate, or by any such officer as aforesaid, the Court shall presume- that the document is genuine; that any statements as to the circumstances under which it was taken, purporting to be made by the person signing it, are true, and that such evidence, statement or confession was duly taken.</p>	<p>person, taken in accordance with law, and purporting to be signed by any Judge or Magistrate, or by any such officer as aforesaid, the Court shall presume- that the document is genuine; that any statements as to the circumstances under which it was taken, purporting to be made by the person signing it, are true, and that such evidence, statement or confession was duly taken.</p>
	<p>81. [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]</p>	
<p>Presumption as to document admissible in England without proof seal or signature</p>	<p>82. When any document is produced before any Court, purporting to be a document which, by the law in force for the time being in England and Ireland, would be admissible in proof of any particular in any Court of Justice in England or Ireland, without proof</p>	<p>69. When any document is produced before any Court, purporting to be a document which, by the law in force for the time being in England and Ireland, would be admissible in proof of any particular in any Court of Justice in England or Ireland, without proof of the seal</p>

	<p>of the seal or stamp or signature authenticating it, or of the judicial or official character claimed by the person by whom it purports to be signed, the Court shall presume that such seal, stamp or signature is genuine, and that the person signing it held, at the time when he signed it, the judicial or official character which he claims,</p> <p>And the document shall be admissible for the same purpose for which it would be admissible in England or Ireland.</p>	<p>or stamp or signature authenticating it, or of the judicial or official character claimed by the person by whom it purports to be signed, the Court shall presume that such seal, stamp or signature is genuine, and that the person signing it held, at the time when he signed it, the judicial or official character which he claims,</p> <p>And the document shall be admissible for the same purpose for which it would be admissible in England or Ireland.</p>
Presumption as to maps or plans made by authority of Government	<p>83. The Court shall presume that maps or plans purporting to be made by the authority of the Government were so made, and are accurate; but maps or plans made for the purposes of any cause must be proved to be accurate.</p>	<p>70. The Court shall presume that maps or plans purporting to be made by the authority of the Government were so made, and are accurate; but maps or plans made for the purposes of any cause must be proved to be accurate.</p>
Presumption as to collections of	<p>84. The Court shall presume the genuineness of ²⁹[</p>	<p>71. The Court shall presume the genuineness of every</p>

<p>laws and reports of decisions</p>	<p>every book or Gazette] purporting to be printed or published under the authority of the Government of any country, and to contain any of the laws of that country,</p> <p>and of ³⁰[every book or Gazette] purporting to contain reports of decisions of the Courts of such country.</p>	<p>book or Gazette purporting to be printed or published under the authority of the Government of any country, and to contain any of the laws of that country,</p> <p>and of every book or Gazette purporting to contain reports of decisions of the Courts of such country.</p>
<p>Presumption as to power of attorney</p>	<p>85. The Court shall presume that every document purporting to be a power-of-attorney, and to have been executed before, and authenticated by, a notary public, or any Court, Judge, Magistrate, Bangladesh Consul or Vice-Consul, or representative of the Government, was so executed and authenticated.</p>	<p>72. The Court shall presume that every document purporting to be a power-of-attorney, and to have been executed before, and authenticated by, a notary public, or any Court, Judge, Magistrate, Bangladesh Consul or Vice-Consul, or representative of the Government, was so executed and authenticated.</p>
<p>Presumption as to certified copies of foreign judicial records</p>	<p>86. The Court may presume that any document purporting to be a certified copy of any judicial record of any country not forming part of Bangladesh is</p>	<p>73. The Court may presume that any document purporting to be a certified copy of any judicial record of any country not forming part of Bangladesh is</p>

	genuine and accurate, if the document purports to be certified in any manner which is certified by any representative of the Government in or for such country to be the manner commonly in use in that country for the certification of copies of judicial records.	genuine and accurate, if the document purports to be certified in any manner which is certified by any representative of the Government in or for such country to be the manner commonly in use in that country for the certification of copies of judicial records.
Presumption as to books, maps and charts	87. The Court may presume that any book to which it may refer for information on matters of public or general interest, and that any published map or chart, the statements of which are relevant facts and which is produced for its inspection, was written and published by the person and at the time and place, by whom or at which it purports to have been written or published.	74. The Court may presume that any book to which it may refer for information on matters of public or general interest, and that any published map or chart, the statements of which are relevant facts and which is produced for its inspection, was written and published by the person and at the time and place, by whom or at which it purports to have been written or published.
Presumption as to telegraphic messages	88. The Court may presume that a message, forwarded from a telegraph office to the person to whom such message purports to be addressed, corresponds with a	75. The Court may presume that a message, forwarded from a telegraph office to the person to whom such message purports to be addressed, corresponds with a

	message delivered for transmission at the office from which the message purports to be sent; but the Court shall not make any presumption as to the person by whom such message was delivered for transmission.	message delivered for transmission at the office from which the message purports to be sent; but the Court shall not make any presumption as to the person by whom such message was delivered for transmission.
Presumption as to due execution, etc., of documents not produced	89. The Court shall presume that every document, called for and not produced after notice to produce, was attested, stamped and executed in the manner required by law.	76. The Court shall presume that every document, called for and not produced after notice to produce, was attested, stamped and executed in the manner required by law.
Presumption as to documents thirty years old	90. Where any document, purporting or proved to be thirty years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the signature and every other part of such document, which purports to be in the handwriting of any particular person, is in that	77. Where any document, purporting or proved to be thirty years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the signature and every other part of such document, which purports to be in the handwriting of any particular person, is in that

<p>person's handwriting, and, in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested.</p> <p>Explanation.-Documents are said to be in proper custody if they are in the place in which, and under the care of the person with whom, they would naturally be; but no custody is improper if it is proved to have had a legitimate origin, or if the circumstances of the particular case are such as to render such an origin probable.</p> <p>This explanation applies also to section 81.</p> <p style="text-align: center;">Illustrations</p> <p>A has been in possession of landed property for a long time. He produces from his custody deeds relating to</p>	<p>person's handwriting, and, in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested.</p> <p>Explanation.-Documents are said to be in proper custody if they are in the place in which, and under the care of the person with whom, they would naturally be; but no custody is improper if it is proved to have had a legitimate origin, or if the circumstances of the particular case are such as to render such an origin probable.</p> <p>This explanation applies also to section 81.</p> <p>Provided if a registered certified copy of the thirty years old of the document is produced, The court may presume that the signature and every other part of such document which purports to be in the hand</p>
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	<p>the land, showing his titles to it. The custody is proper.</p> <p>A produces deeds relating to landed property of which he is the mortgagee. The mortgagor is in possession. The custody is proper.</p> <p>A, a connection of B, produces deeds relating to lands in B's possession which were deposited with him by B for safe custody. The custody is proper.</p>	<p>writing of that person of any particular person, is in that persons hand writing and In case of a document executed and attested that it has been duly executed and attested by the person by whom it purports to have been executed and attested.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A has been in possession of landed property for a long time. He produces from his custody deeds relating to the land, showing his titles to it. The custody is proper.</p> <p>(b) A produces deeds relating to landed property of which he is the mortgagee. The mortgagor is in possession. The custody is proper.</p>
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		A, a connection of B, produces deeds relating to lands in B's possession which were deposited with him by B for safe custody. The custody is proper.
	CHAPTER VI OF THE EXCLUSION OF ORAL BY DOCUMENTARY EVIDENCE	CHAPTER XIV OF THE EXCLUSION OF ORAL BY DOCUMENTARY EVIDENCE
Evidence of terms of contracts, grants and other dispositions of property reduced to form of document	91. When the terms of a contract, or of a grant, or of any other disposition of property, have been reduced to the form of a document, and in all cases in which any matter is required by law to be reduced to the form of a document, no evidence shall be given in proof of the terms of such contract, grant or other disposition of property, or of such matter, except the document itself, or secondary evidence of its contents in cases in which secondary evidence is admissible under the provisions hereinbefore contained.	78. When the terms of a contract, or of a grant, or of any other disposition of property, have been reduced to the form of a document, and in all cases in which any matter is required by law to be reduced to the form of a document, no evidence shall be given in proof of the terms of such contract, grant or other disposition of property, or of such matter, except the document itself, or secondary evidence of its contents in cases in which secondary evidence is admissible under the provisions hereinbefore contained.

	<p>Exception 1. When a public officer is required by law to be appointed in writing, and when it is shown that any particular person has acted as such officer, the writing by which he is appointed need not be proved.</p> <p>Exception 2. Wills admitted to probate in Bangladesh may be proved by the probate.</p> <p>Explanation 1. This section applies equally to cases in which the contracts, grants or dispositions of property referred to are contained in one document and to cases in which they are contained in more documents than one.</p> <p>Explanation 2. Where there are more originals than</p>	<p>Exception 1. When a public officer is required by law to be appointed in writing, and when it is shown that any particular person has acted as such officer, the writing by which he is appointed need not be proved.</p> <p>Exception 2. Wills admitted to probate in Bangladesh may be proved by the probate.</p> <p>Explanation 1. This section applies equally to cases in which the contracts, grants or dispositions of property referred to are contained in one document and to cases in which they are contained in more documents than one.</p> <p>Explanation 2. Where there are more originals than</p>
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	<p>one, one original only need be proved.</p> <p>Explanation 3. The statement, in any document whatever, of a fact other than the facts referred to in this section, shall not preclude the admission of oral evidence as to the same fact.</p> <p style="text-align: center;">Illustrations</p> <p>(a) If a contract be contained in several letters all the letters in which it is contained must be proved.</p> <p>(b) If a contract is contained in a bill of exchange, the bill of exchange must be proved.</p> <p>(c) If a bill of exchange is drawn in a set of three, one only need be proved.</p> <p>(d) A contracts, in writing, with B, for the delivery of indigo upon certain terms. The contract mentions the</p>	<p>one, one original only need be proved.</p> <p>Explanation 3. The statement, in any document whatever, of a fact other than the facts referred to in this section, shall not preclude the admission of oral evidence as to the same fact.</p> <p style="text-align: center;">Illustrations</p> <p>(a) If a contract be contained in several letters all the letters in which it is contained must be proved.</p> <p>(b) If a contract is contained in a bill of exchange, the bill of exchange must be proved.</p> <p>(c) If a bill of exchange is drawn in a set of three, one only need be proved.</p> <p>(d) A contracts, in writing, with B, for the delivery of indigo upon certain terms. The</p>
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	<p>fact that B had paid A the price of other indigo contracted for verbally on another occasion.</p> <p>Oral evidence is offered that no payment was made for the other indigo. The evidence is admissible.</p> <p>(e) A gives B a receipt for money paid by B.</p> <p>Oral evidence is offered of the payment.</p> <p>The evidence is admissible.</p>	<p>contract mentions the fact that B had paid A the price of other indigo contracted for verbally on another occasion.</p> <p>Oral evidence is offered that no payment was made for the other indigo. The evidence is admissible.</p> <p>(e) A gives B a receipt for money paid by B.</p> <p>Oral evidence is offered of the payment.</p> <p>The evidence is admissible.</p>
<p>Exclusion of evidence of oral agreement</p>	<p>92. When the terms of any such contract, grant or other disposition of property, or any matter required by law to be reduced to the form of a document, have been proved according to the last section, no evidence of any oral agreement or statement shall be admitted,</p>	<p>79. When the terms of any such contract, grant or other disposition of property as is referred to in section 78 or any matter required by law to be reduced to the form of a document and constituting a transaction between two or more parties, have</p>

	<p>as between the parties to any such instrument or their representatives in interest, for the purpose of contradicting, varying, adding to, or subtracting from, its terms:</p> <p>Proviso (1). Any fact may be proved which would invalidate any document, or which would entitle any person to any decree or order relating thereto; such as fraud, intimidation, illegality, want of due execution, want of capacity in any contracting party, want or failure of consideration, or mistake in fact or law.</p> <p>Proviso (2). The existence of any separate oral agreement as to any matter on which a document is silent, and which is not inconsistent with its terms, may be proved. In considering whether or not this</p>	<p>been proved according to section 78, no evidence of any oral agreement or statement shall be admitted-</p> <p>(a) as between the parties to any such contract, grant or other disposition of property or their representatives in interest, for the purpose of contradicting, varying, adding to, or subtracting from, the terms of the document, or</p> <p>(b) as between the parties to such transaction, or their representatives in interest, for the purpose of contradicting, varying, adding to, or subtracting from the terms of the document in which the matter required by law to be reduced to the form of a document is recorded, as the case may be.</p> <p>Provided When any matter required by law to be reduced to the form of a document, and not</p>
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	<p>proviso applies, the Court shall have regard to the degree of formality of the document.</p> <p>Proviso (3). The existence of any separate oral agreement constituting a condition precedent to the attaching of any obligation under any such contract, grant or disposition of property, may be proved.</p> <p>Proviso (4). The existence of any distinct subsequent oral agreement to rescind or modify any such contract, grant or disposition of property, may be proved, except in cases in which such contract, grant or disposition of property is by law required to be in writing, or has been registered according to the law in force for the time being as to the registration of documents.</p>	<p>constituting a transaction between parties, such as a confession of an accused, the statement of a witness, a court proceeding (other than judgments, decree or order), a resolution of a company required to be in writing, has been so reduced to writing and proved according to section 78, no evidence of any oral statement shall be admitted for the purpose of contradicting, varying, adding to, or subtracting from the contents of the document.</p> <p>B Illustrations</p> <p>(A) A policy of insurance is effected on goods "in ships from Chittagong to London". The goods are shipped in a particular ship which is lost. The fact that that particular ship was orally excepted from the policy cannot be proved.</p>
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	<p>Proviso (5). Any usage or custom by which incidents not expressly mentioned in any contract are usually annexed to contracts of that description, may be proved: Provided that the annexing of such incident would not be repugnant to, or inconsistent with, the express terms of the contract.</p> <p>Proviso (6). Any fact may be proved which shows in what manner the language of a document is related to existing facts.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A policy of insurance is effected on goods "in ships from Chittagong to London". The goods are</p>	<p>(B) A agrees absolutely in writing to pay B Taka 1,000 on the first March, 1873. The fact that, at the same time an oral agreement was made that the money should not be paid till the thirty-first March cannot be proved.</p> <p>(C) An estate called "the Rampore tea estate" is sold by a deed which contains a map of the property sold. The fact that land not included in the map had always been regarded as part of the estate and was meant to pass by the deed cannot be proved.</p> <p>(D) A enters into a written contract with B to work certain mines, the property of B, upon certain terms. A was induced to do so by a misrepresentation of B's as to their value. This fact may be proved.</p> <p>(E) A institutes a suit against B for the specific</p>
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	<p>shipped in a particular ship which is lost. The fact that that particular ship was orally excepted from the policy cannot be proved.</p> <p>(b) A agrees absolutely in writing to pay B Taka 1,000 on the first March, 1873. The fact that, at the same time an oral agreement was made that the money should not be paid till the thirty-first March cannot be proved.</p> <p>(c) An estate called "the Rampore tea estate" is sold by a deed which contains a map of the property sold. The fact that land not included in the map had always been regarded as part of the estate and was meant to pass by the deed cannot be proved.</p> <p>(d) A enters into a written contract with B to work certain mines, the property of B, upon certain terms. A was induced to do so by a misrepresentation of B's as</p>	<p>performance of a contract, and also prays that the contract may be reformed as to one of its provisions, as that provision was inserted in it by mistake. A may prove that such a mistake was made as would by law entitle him to have the contract reformed.</p> <p>(F) An orders goods of B by a letter in which nothing is said as to the time of payment, and accepts the goods on delivery. B sues A for the price. A may show that the goods were supplied on credit for a term still unexpired.</p> <p>(G) A sells B a horse and verbally warrants him sound. A gives B a paper in these words: "Bought of A a horse for Taka 500". B may prove the verbal warranty.</p> <p>(H) A hires lodgings of B, and gives a card on which</p>
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<p>to their value. This fact may be proved.</p> <p>(e) A institutes a suit against B for the specific performance of a contract, and also prays that the contract may be reformed as to one of its provisions, as that provision was inserted in it by mistake. A may prove that such a mistake was made as would by law entitle him to have the contract reformed.</p> <p>(f) A orders goods of B by a letter in which nothing is said as to the time of payment, and accepts the goods on delivery. B sues A for the price. A may show that the goods were supplied on credit for a term still unexpired.</p> <p>(g) A sells B a horse and verbally warrants him sound. A gives B a paper in these words: "Bought of A a horse for Taka 500". B may prove the verbal warranty.</p>	<p>is written-"Rooms Taka 200 a month". A may prove a verbal agreement that these terms were to include partial board.</p> <p>A hires lodgings of B for a year, and a regularly stamped agreement, drawn up by an attorney, is made between them. It is silent on the subject of board. A may not prove that board was included in the term verbally.</p> <p>(I) A applies to B for a debt due to A by sending a receipt for the money. B keeps the receipt and does not send the money. In a suit for the amount A may prove this.</p> <p>(J) A and B make a contract in writing to take effect upon the happening of a certain contingency. The writing is left with B, who sues A upon it. A may</p>
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<p>(h) A hires lodgings of B, and gives a card on which is written-"Rooms Taka 200 a month". A may prove a verbal agreement that these terms were to include partial board.</p> <p>A hires lodgings of B for a year, and a regularly stamped agreement, drawn up by an attorney, is made between them. It is silent on the subject of board. A may not prove that board was included in the term verbally.</p> <p>(i) A applies to B for a debt due to A by sending a receipt for the money. B keeps the receipt and does not send the money. In a suit for the amount A may prove this.</p> <p>(j) A and B make a contract in writing to take effect upon the happening of a certain contingency. The writing is left with B, who sues A upon it. A may</p>	<p>show the circumstances under which it was delivered.</p>
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	show the circumstances under which it was delivered.	
Exclusion of evidence to explain or amend ambiguous document	<p>93. When the language used in a document is, on its face, ambiguous or defective, evidence may not be given of facts which would show its meaning or supply its defects.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A agrees, in writing, to sell a horse to B for Taka 1,000 or Taka 1,500. Evidence cannot be given to show which price was to be given.</p>	<p>80. When the language used in a document is, on its face, ambiguous or defective, evidence may not be given of facts which would show its meaning or supply its defects.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A agrees, in writing, to sell a horse to B for Taka 1,000 or Taka 1,500. Evidence cannot be given to show which price was to be given.</p>
Exclusion of evidence against application of document of existing facts	<p>94. When language used in a document is plain in itself, and when it applies accurately to existing facts, evidence may not be given to show that it was not meant to apply to such facts.</p>	<p>81. When language used in a document is plain in itself, and when it applies accurately to existing facts, evidence may not be given to show that it was not meant to apply to such facts.</p>

	Illustration	Illustration
	A sells to B, by deed, "my estate at Rangpur containing 100 bighas". A has an estate at Rangpur containing 100 bighas. Evidence may not be given of the fact that the estate meant to be sold was one situated at a different place and of a different size.	A sells to B, by deed, "my estate at Rangpur containing 100 bighas". A has an estate at Rangpur containing 100 bighas. Evidence may not be given of the fact that the estate meant to be sold was one situated at a different place and of a different size.
Evidence as to document unmeaning in reference to existing facts	95. When language used in a document is plain in itself, but is unmeaning in reference to existing facts, evidence may be given to show that it was used in a peculiar sense. Illustrations	82. When language used in a document is plain in itself, but is unmeaning in reference to existing facts, evidence may be given to show that it was used in a peculiar sense. Illustrations

	<p>A sells to B, by deed "my house in ³¹[Dhaka]".</p> <p>A had no house in ³²[Dhaka], but it appears that he had a house at ³³[Narayanganj], of which B had been in possession since the execution of the deed.</p> <p>These facts may be proved to show that the deed related to the house at ³⁴[Narayanganj].</p>	<p>A sells to B, by deed "my house in Dhaka.</p> <p>A had no house in Dhaka, but it appears that he had a house at Narayanganj, of which B had been in possession since the execution of the deed.</p> <p>These facts may be proved to show that the deed related to the house at Narayanganj.</p>
<p>Evidence as to application of language which can apply to one only of several persons</p>	<p>96. When the facts are such that the language used might have been meant to apply to any one, and could not have been meant to apply to more than one, of several persons or things, evidence may be given of facts which show which of those persons or things it was intended to apply to.</p> <p style="text-align: center;">Illustrations</p>	<p>83. When the facts are such that the language used might have been meant to apply to any one, and could not have been meant to apply to more than one, of several persons or things, evidence may be given of facts which show which of those persons or things it was intended to apply to.</p> <p style="text-align: center;">Illustrations</p>

	<p>(a) A agrees to sell to B, for Taka 1,000, "my white horse". A has two white horses. Evidence may be given of facts which show which of them was meant.</p> <p>A agrees to accompany B to ³⁵[Saidpur]. Evidence may be given of facts showing whether ³⁶[Saidpur in Khulna or Saidpur in Rangpur] was meant.</p>	<p>(b) A agrees to sell to B, for Taka 1,000, "my white horse". A has two white horses. Evidence may be given of facts which show which of them was meant.</p> <p>A agrees to accompany B to Saidpur. Evidence may be given of facts showing whether Saidpur in Khulna or Saidpur in Rangpur was meant.</p>
<p>Evidence as to application of language to one of two sets of facts, to neither of which the whole correctly applies</p>	<p>97. When the language used applies partly to one set of existing facts, and partly to another set of existing facts, but the whole of it does not apply correctly to either, evidence may be given to show to which of the two it was meant to apply.</p> <p style="text-align: center;">Illustration</p> <p>A agrees to sell to B "my land at X in the occupation of Y". A has land at X, but not in the occupation of Y,</p>	<p>84. When the language used applies partly to one set of existing facts, and partly to another set of existing facts, but the whole of it does not apply correctly to either, evidence may be given to show to which of the two it was meant to apply.</p> <p style="text-align: center;">Illustration</p> <p>A agrees to sell to B "my land at X in the occupation of Y". A has land at X, but not in the occupation of Y,</p>

	and he has land in the occupation of Y, but it is not at X. Evidence may be given of facts showing which he meant to sell.	and he has land in the occupation of Y, but it is not at X. Evidence may be given of facts showing which he meant to sell.
Evidence as to meaning of illegible characters etc.	<p>98. Evidence may be given to show the meaning of illegible or not commonly intelligible characters, of foreign, obsolete, technical, local and provincial expressions, of abbreviations and of words used in a peculiar sense.</p> <p style="text-align: center;">Illustration</p> <p>A, a sculptor, agrees to sell to B, "all my mods". A has both models and modeling tools. Evidence may be given to show which he meant to sell.</p>	<p>85. Evidence may be given to show the meaning of illegible or not commonly intelligible characters, of foreign, obsolete, technical, local and provincial expressions, of abbreviations and of words used in a peculiar sense.</p> <p style="text-align: center;">Illustration</p> <p>A, a sculptor, agrees to sell to B, "all my mods". A has both models and modeling tools. Evidence may be given to show which he meant to sell.</p>
Who may give evidence of agreement varying	99. Persons who are not parties to a document, or their representatives in interest, may give evidence of any	86. Evidence of any fact tending to show a contemporaneous agreement contradicting,

<p>terms of document</p>	<p>facts tending to show a contemporaneous agreement varying the terms of the document.</p> <p style="text-align: center;">Illustration</p> <p>A and B make a contract in writing that B shall sell A certain cotton, to be paid for on delivery. At the same time they make an oral agreement that three months' credit shall be given to A. This could not be shown as between A and B, but it might be shown by C, if it affected his interests.</p>	<p>varying, adding to, or subtracting from the terms of a document may be given –</p> <p>(a) as between persons who are not parties to the document or their representatives in interest;</p> <p style="text-align: center;">or</p> <p>(b) as between a person who is a party to the document or his representative in interest and a person who is not such party or representative in interest:</p> <p>Provided that no such evidence shall be given where the matter is required by law to be reduced to writing.</p> <p style="text-align: center;">Illustration</p> <p>A and B make a contract in writing that B shall</p>
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		<p>sell certain cotton, to be paid for on delivery. At the same time they make an oral agreement that three months' credit shall be given to A. This could not be shown as between A and B, but it might be shown by C, if it affected his interests.</p>
<p>Saving of provisions of Succession Act relating to wills</p>	<p>100. Nothing in this Chapter contained shall be taken to affect any of the provisions of the ³⁷[Succession Act, 1925] as to the construction of wills.</p>	<p>87. Nothing in this Chapter contained shall be taken to affect any of the provisions of the Succession Act, 1925 as to the construction of wills.</p>
	<p style="text-align: center;">PART III PRODUCTION AND EFFECT OF EVIDENCE CHAPTER VII OF THE BURDEN OF PROOF</p>	<p style="text-align: center;">PART III PRODUCTION AND EFFECT OF EVIDENCE CHAPTER XV OF THE BURDEN OF PROOF</p>
<p>Burden of proof</p>	<p>101. Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.</p>	<p>88. Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.</p>

	<p>When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A desires a Court to give judgment that B shall be punished for a crime which A says B has committed. A must prove that B has committed the crime.</p> <p>(b) A desires a Court to give judgment that he is entitled to certain land in the possession of B, by reason of facts which he asserts, and which B denies, to be true. A must prove the existence of those facts.</p>	<p>When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A desires a Court to give judgment that B shall be punished for a crime which A says B has committed. A must prove that B has committed the crime.</p> <p>(b) A desires a Court to give judgment that he is entitled to certain land in the possession of B, by reason of facts which he asserts, and which B denies, to be true. A must prove the existence of those facts.</p>
On whom burden of proof lies	102. The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all	89. The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were

	<p>were given on either side.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A sues B for land of which B is in possession, and which, as A asserts, was left to A by the will of C, B's father.</p> <p>If no evidence were given on either side, B would be entitled to retain his possession. Therefore the burden of proof is on A.</p> <p>(b) A sues B for money due on a bond.</p> <p>The execution of the bond is admitted, but B says that it was obtained by fraud, which A denies.</p> <p>If no evidence were given on either side, A would succeed as the bond is not disputed and the fraud is not proved.</p> <p>Therefore the burden of proof is on B.</p>	<p>given on either side.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A sues B for land of which B is in possession, and which, as A asserts, was left to A by the will of C, B's father.</p> <p>If no evidence were given on either side, B would be entitled to retain his possession. Therefore the burden of proof is on A.</p> <p>(b) A sues B for money due on a bond.</p> <p>The execution of the bond is admitted, but B says that it was obtained by fraud, which A denies.</p> <p>If no evidence were given on either side, A would succeed as the bond is not disputed and the fraud is not proved.</p> <p>Therefore the burden of proof is on B.</p>
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<p>Burden of proof as to particular fact</p>	<p>103. The burden of proof as to any particular fact lies on that person who wishes the Court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.</p> <p style="text-align: center;">Illustration</p> <p>(a) A prosecutes B for theft, and wishes the Court to believe that B admitted the theft to C. A must prove the admission.</p> <p>B wishes the Court to believe that, at the time in question, he was elsewhere. He must prove it.</p>	<p>90. The burden of proof as to any particular fact lies on that person who wishes the Court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.</p> <p style="text-align: center;">Illustration</p> <p>(a) A prosecutes B for theft, and wishes the Court to believe that B admitted the theft to C. A must prove the admission.</p> <p>B wishes the Court to believe that, at the time in question, he was elsewhere. He must prove it.</p>
<p>Burden of proving fact to be proved to make evidence admissible</p>	<p>104. The burden of proving any fact necessary to be proved in order to enable any person to give evidence of any other fact is on the person who wishes to give such evidence.</p>	<p>91. The burden of proving any fact necessary to be proved in order to enable any person to give evidence of any other fact is on the person who wishes to give such evidence.</p>

	<p style="text-align: center;">Illustrations</p> <p>(a) A wishes to prove a dying declaration by B. A must prove B's death.</p> <p>(b) A wishes to prove, by secondary evidence, the contents of a lost document.</p> <p>A must prove that the document has been lost.</p>	<p style="text-align: center;">Illustrations</p> <p>(a) A wishes to prove a dying declaration by B. A must prove B's death.</p> <p>(b) A wishes to prove, by secondary evidence, the contents of a lost document.</p> <p>A must prove that the document has been lost.</p>
<p>Burden of proving that case of accused comes within exceptions</p>	<p>105. When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the General Exceptions in the ³⁸[* * *] Penal Code, or within any special exception or proviso contained in any other part of the same Code, or in any law defining the offence, is upon him, and the Court shall presume the absence of such circumstances.</p>	<p>92. When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the General Exceptions in the Penal Code, or within any special exception or proviso contained in any other part of the same Code, or in any law defining the offence, is upon him, and the Court shall presume the absence of such circumstances.</p>

	Illustrations	Illustrations
	<p>(a) A, accused of murder, alleges that, by reason of unsoundness of mind, he did not know the nature of the act.</p> <p>The burden of proof is on A.</p> <p>A, accused of murder, alleges that, by grave and sudden provocation, he was deprived of the power of self-control.</p> <p>The burden of proof is on A.</p> <p>(b) Section 325 of the ³⁹[* * *] Penal Code provides that whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be subject to certain punishments.</p>	<p>(a) A, accused of murder, alleges that, by reason of unsoundness of mind, he did not know the nature of the act.</p> <p>The burden of proof is on A.</p> <p>A, accused of murder, alleges that, by grave and sudden provocation, he was deprived of the power of self-control.</p> <p>The burden of proof is on A.</p> <p>(b) Section 325 of the Penal Code provides that whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be subject to certain punishments.</p>

	<p>A is charged with voluntarily causing grievous hurt under section 325.</p> <p>The burden of proving the circumstances bringing the case under section 335 lies on A.</p>	<p>A is charged with voluntarily causing grievous hurt under section 325.</p> <p>The burden of proving the circumstances bringing the case under section 335 lies on A.</p>
<p>Burden of proving fact especially within knowledge</p>	<p>106. When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.</p> <p style="text-align: center;">Illustrations</p> <p>(a) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him.</p> <p>(b) A is charged with traveling on a railway without a ticket. The burden of proving that he had a ticket is on</p>	<p>93. When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.</p> <p style="text-align: center;">Illustrations</p> <p>(a) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him.</p> <p>(b) A is charged with traveling on a railway without a ticket. The burden of proving that he</p>

	him.	had a ticket is on him.
Burden of proving death of person known to have been alive within thirty years	107. When the question is whether a man is alive or dead, and it is shown that he was alive within thirty years, the burden of proving that he is dead is on the person who affirms it.	94. When the question is whether a man is alive or dead, and it is shown that he was alive within thirty years, the burden of proving that he is dead is on the person who affirms it. Provided that when the question is whether a man is alive or dead, and it is proved that he has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is shifted to the person who affirms it.
Burden of proving that person is alive who has not been	108. Provided that when the question is whether a man is alive or dead, and it is proved that he has not	Inserted in section 96 as its proviso

heard of for seven years	been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is shifted to the person who affirms it.	
Burden of proof as to relationship in the cases of partners, landlord and tenant, principal and agent	109. When the question is whether persons are partners, landlord and tenant, or principal and agent, and it has been shown that they have been acting as such, the burden of proving that they do not stand, or have ceased to stand, to each other in those relationships respectively, is on the person who affirms it.	95. When the question is whether persons are partners, landlord and tenant, or principal and agent, and it has been shown that they have been acting as such, the burden of proving that they do not stand, or have ceased to stand, to each other in those relationships respectively, is on the person who affirms it.
Burden of proof as to ownership	110. When the question is whether any person is owner of anything of which he is shown to be in possession, the burden of proving that he is not the	96. When the question is whether any person is owner of anything of which he is shown to be in possession, the burden of proving that he is not the owner is on the

	owner is on the person who affirms that he is not the owner.	person who affirms that he is not the owner.
Proof of good faith in transactions where one party is in relation of active confidence	<p>111. Where there is a question as to the good faith of a transaction between parties, one of whom stands to the other in a position of active confidence, the burden of proving the good faith of the transaction is on the party who is in a position of active confidence.</p> <p style="text-align: center;">Illustrations</p> <p>(a) The good faith of a sale by a client to an attorney is in question in a suit brought by the client. The burden of proving the good faith of the transaction is on the attorney.</p> <p>(b) The good faith of a sale by a son just come of age</p>	<p>97. Where there is a question as to the good faith of a transaction between parties, one of whom stands to the other in a position of active confidence, the burden of proving the good faith of the transaction is on the party who is in a position of active confidence.</p> <p style="text-align: center;">Illustrations</p> <p>(a) The good faith of a sale by a client to an attorney is in question in a suit brought by the client. The burden of proving the good faith of the transaction is on the attorney.</p> <p>(b) The good faith of a sale by a son just come of</p>

	<p>to a father is in question in a suit brought by the son.</p> <p>The burden of proving the good faith of the transaction is on the father.</p>	<p>age to a father is in question in a suit brought by the son. The burden of proving the good faith of the transaction is on the father.</p>
<p>Birth during marriage conclusive proof of legitimacy</p>	<p>112. The fact that any person was born during the continuance of a valid marriage between his mother and any man, or within two hundred and eighty days after its dissolution, the mother remaining unmarried, shall be conclusive proof that he is the legitimate son of that man, unless it can be shown that the parties to the marriage had no access to each other at any time when he could have been begotten.</p>	<p>98. The fact that any child was born during the continuance of a valid marriage between its mother and any man, or within two hundred and eighty days,</p> <p>(i) after the marriage was declared nullity, the mother remaining unmarried, or</p> <p>(ii) after the marriage was avoided by dissolution, the mother remaining unmarried,</p> <p>shall be conclusive proof that such person is the legitimate child of that man, unless</p> <p>(a) it can be shown that the parties to the marriage had no access to each other at any time when the child could have been begotten; or</p>

		<p>(b) it is conclusively established, by tests conducted at the expense of that man, namely,</p> <p>(i) medical tests, that, at the relevant time, that man was impotent or sterile, and is not the father of the child; or</p> <p>(ii) blood tests conducted with the consent of that man and his wife and in the case of the child, by permission of the Court, that that man is not the father of the child; or</p> <p>(iii) DNA genetic printing tests conducted with the consent of that man and in the case of the child, by permission of the Court, that that man is not the father of the child; and</p> <p>Provided that the Court is satisfied that the test under sub clause (i) or sub-clause (ii) or sub-clause (iii) has been conducted in a scientific manner</p>
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		<p>according to accepted procedures, and in the case of each of these sub-clauses (i) or (ii) or (iii) of clause (b), at least two tests have been conducted, and they resulted in an identical verdict that that man is not the father of the child.</p> <p>Provided further that where that man refuses to undergo the tests under sub clauses (i) or (ii) or (iii), he shall, without prejudice to the provisions of clause (a), be deemed to have waived his defense to any claim of paternity made against him.</p> <p>Explanation I: For the purpose of sub clause (iii) of clause (b), the words ‘DNA genetic printing tests’ shall mean the tests conducted by way of samples relatable to the husband and child and the words ‘DNA’ mean ‘Deoxyribo-Nucleic Acid’.</p>
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		<p>Explanation II: For the purposes of this section, the words ‘valid marriage’ shall mean a void marriage till it is declared nullity or a voidable marriage till it is avoided by dissolution, where, by any enactment for the time being in force, it is provided that the children of such marriages which are declared nullity or avoided by dissolution, shall nevertheless be legitimate.</p>
<p>Court may presume existence of certain facts</p>	<p>114. The court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.</p> <p style="text-align: center;">Illustrations</p> <p>The Court may presume</p>	<p>99. The court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.</p> <p style="text-align: center;">Illustrations</p> <p>The Court may presume</p>

<p>(a)that a man who is in possession of stolen goods soon after the theft, is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession;</p> <p>(b)that an accomplice is unworthy of credit, unless he is corroborated in material particulars;</p> <p>(c)that a bill of exchange, accepted or endorsed, was accepted or endorsed for good consideration;</p> <p>(d)that a thing or state of things which has been shown to be in existence within a period shorter than that within which such things or states of things usually cease to exist, is still in existence;</p> <p>(e)that judicial and official acts have been regularly performed;</p> <p>(f)that the common course of business has been</p>	<p>(a)that a man who is in possession of stolen goods soon after the theft, is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession;</p> <p>(b)that an accomplice is unworthy of credit, unless he is corroborated in material particulars;</p> <p>(c)that a bill of exchange, accepted or endorsed, was accepted or endorsed for good consideration;</p> <p>(d)that a thing or state of things which has been shown to be in existence within a period shorter than that within which such things or states of things usually cease to exist, is still in existence;</p> <p>(e)that judicial and official acts have been regularly performed;</p> <p>(f)that the common course of business has been</p>
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	<p>followed in particular cases;</p> <p>(g)that evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it;</p> <p>(h)that, if a man refuses to answer a question which he is not compelled to answer by law, the answer, if given, would be unfavourable to him;</p> <p>(i) that when a document creating an obligation is in the hands of the obligor, the obligation has been discharged.</p> <p>But the Court shall also have regard to such facts as the following, in considering whether such maxims do or do not apply to the particular case before it:</p> <p>as to illustration (a) A shop-keeper has in his till a marked Taka soon after it was stolen, and cannot account for its possession specifically, but is</p>	<p>followed in particular cases;</p> <p>(g)that evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it;</p> <p>(h)that, if a man refuses to answer a question which he is not compelled to answer by law, the answer, if given, would be unfavourable to him;</p> <p>(i) that when a document creating an obligation is in the hands of the obligor, the obligation has been discharged.</p> <p>But the Court shall also have regard to such facts as the following, in considering whether such maxims do or do not apply to the particular case before it:</p> <p>as to illustration (a) A shop-keeper has in his till a marked Taka soon after it was stolen, and cannot account for its possession specifically, but is</p>
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	<p>continually receiving Taka in the course of his business:</p> <p>as to illustration (b) A, a person of the highest character, is tried for causing a men's death by an act of negligence in arranging certain machinery. B, a person of equally good character, who also took part in the arrangement, describes precisely what was done, and admits and explains the common carelessness of A and himself:</p> <p>as to illustration (b) a crime is committed by several persons. A, B and C, three of the criminals, are captured on the spot and kept apart from each other. Each gives an account of the crime implicating D, and the accounts corroborate each other in such a manner as to render previous concert highly improbable:</p> <p>as to illustration (c) A, the drawer of a bill of</p>	<p>continually receiving Taka in the course of his business:</p> <p>as to illustration (b) A, a person of the highest character, is tried for causing a men's death by an act of negligence in arranging certain machinery. B, a person of equally good character, who also took part in the arrangement, describes precisely what was done, and admits and explains the common carelessness of A and himself:</p> <p>as to illustration (b) a crime is committed by several persons. A, B and C, three of the criminals, are captured on the spot and kept apart from each other. Each gives an account of the crime implicating D, and the accounts corroborate each other in such a manner</p>
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<p>exchange, was a man of business. B, the acceptor, was a young and ignorant person, completely under A's influence:</p> <p>as to illustration (d) it is proved that a river ran in a certain course five years ago, but it is known that there have been floods since that time which might change its course:</p> <p>as to illustration (e) a judicial act, the regularity of which is in question, was performed under exceptional circumstances:</p> <p>as to illustration (f) the question is, whether a letter was received. It is shown to have been posted, but the usual course of the post was interrupted by disturbances:</p> <p>as to illustration (g) a man refuses to produce document which would bear on a contract of small</p>	<p>as to render previous concert highly improbable:</p> <p>as to illustration (c) A, the drawer of a bill of exchange, was a man of business. B, the acceptor, was a young and ignorant person, completely under A's influence:</p> <p>as to illustration (d) it is proved that a river ran in a certain course five years ago, but it is known that there have been floods since that time which might change its course:</p> <p>as to illustration (e) a judicial act, the regularity of which is in question, was performed under exceptional circumstances:</p> <p>as to illustration (f) the question is, whether a letter was received. It is shown to have been posted, but the usual course of the post was interrupted by disturbances:</p>
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	<p>importance on which he is sued, but which might also injure the feelings and reputation of his family:</p> <p>as to illustration (h) a man refuses to answer a question which he is not compelled by law to answer, but the answer to it might cause loss to him in matters unconnected with the matter in relation to which it is asked:</p> <p>as to illustration (i) a bond is in possession of the obligor, but the circumstances of the case are such that he may have stolen it.</p>	<p>as to illustration (g) a man refuses to produce document which would bear on a contract of small importance on which he is sued, but which might also injure the feelings and reputation of his family:</p> <p>as to illustration (h) a man refuses to answer a question which he is not compelled by law to answer, but the answer to it might cause loss to him in matters unconnected with the matter in relation to which it is asked:</p> <p>as to illustration (i) a bond is in possession of the obligor, but the circumstances of the case are such that he may have stolen it.</p>
	<p>CHAPTER VIII</p> <p>ESTOPPEL</p>	<p>CHAPTER XVI</p> <p>ESTOPPEL</p>
Estoppel	115. When one person has, by his declaration, act or	100. When one person has, by his declaration, act or

	<p>Omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing.</p> <p style="text-align: center;">Illustration</p> <p>A intentionally and falsely leads B to believe that certain land belongs to A, and thereby induces B to buy and pay for it.</p> <p>The land afterwards becomes the property of A, and A seeks to set aside the sale on the ground that, at the time of the sale, he had no title. He must not be allowed to prove his want of title.</p>	<p>Omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing.</p> <p>Provided that nothing contained in this section shall apply to minors or persons of unsound mind for enforcing any liability arising out of a representation by such persons.</p> <p style="text-align: center;">Illustration</p> <p>A intentionally and falsely leads B to believe that certain land belongs to A, and thereby induces B to buy and pay for it.</p> <p>The land afterwards becomes the property of A, and A</p>
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		<p>seeks to set aside the sale on the ground that, at the time of the sale, he had no title. He must not be allowed to prove his want of title.</p>
<p>Estoppel of tenant And of licensee of person in possession</p>	<p>116. No tenant of immovable property, or person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property; and no person who came upon any immovable property by the license of the person in possession thereof shall be permitted to deny that such person had a title to such possession at the time when such license was given.</p>	<p>101. No tenant of immovable property, or person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property; and no person who came upon any immovable property by the license of the person in possession thereof shall be permitted to deny that such person had a title to such possession at the time when such license was given.</p> <p>Where a tenant in possession of immoveable property is attorned to another, the tenant or any person claiming through him shall not, during the</p>

		<p>continuance of the tenancy, or at any time thereafter if the tenant or the person claiming through him continues in possession after termination of the tenancy, be permitted to deny that the person to whom the tenant was attorned had, on the date of the attornment, title to such immoveable property; but nothing in this sub-section shall preclude the tenant or the person claiming through him from producing evidence to the effect that the attornment was made under mistake or was procured by fraud.</p>
<p>Estoppel of acceptor of bill of exchange, Bailee or licensee</p>	<p>117. No acceptor of a bill of exchange shall be permitted to deny that the drawer had authority to draw such bill or to endorse it; nor shall any bailee or licensee be permitted to deny that his bailor or licensor had, at the time when the bailment or license commenced, authority to make such bailment or grant such license.</p> <p>Explanation (1). The acceptor of a bill of exchange may deny that the bill was really drawn by the person</p>	<p>102. No acceptor of a bill of exchange shall be permitted to deny that the drawer had authority to draw such bill or to endorse it; nor shall any bailee or licensee be permitted to deny that his bailor or licensor had, at the time when the bailment or license commenced, authority to make such bailment or grant such license.</p> <p>Explanation (1). The acceptor of a bill of exchange may deny that the bill was really drawn by the person by whom it purports to have been drawn.</p>

	<p>by whom it purports to have been drawn.</p> <p>Explanation (2). If a bailee delivers the goods bailed to a person other than the bailor, he may prove that such person had a right to them as against the bailor.</p>	<p>Explanation (2). If a bailee delivers the goods bailed to a person other than the bailor, he may prove that such person had a right to them as against the bailor.</p>
	<p>CHAPTER IX</p> <p>OF WITNESSES</p>	<p>CHAPTER XII</p> <p>OF WITNESSES</p>
<p>Who may testify</p>	<p>118. All persons shall be competent to testify unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind.</p> <p>Explanation. Lunatic is not incompetent to testify, unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to</p>	<p>103. All persons shall be competent to testify unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind.</p> <p>Explanation. Lunatic is not incompetent to testify, unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to</p>

	them.	them.
Dumb witness	119. A witness who is unable to speak may give his evidence In any other manner in which he can make it intelligible as by writing or by signs; but such writing Must be written and the signs made in open Court. Evidence so given shall be e deemed to be oral evidence.	104. A witness who is unable to speak may give his evidence In any other manner in which he can make it intelligible as by writing or by signs; but such writing Must be written and the signs made in open Court. Evidence so given shall be e deemed to be oral evidence.
Parties to civil suit, and their wives or husbands. Husband or wife of person under criminal trail	120. In all civil proceedings the parties to the suit, and the husband or wife of any party to the suit, shall be competent witnesses. In criminal proceedings against any person, the husband or wife of such person, respectively, shall be a competent witness.	105. In all civil proceedings the parties to the suit, and the husband or wife of any party to the suit, shall be competent witnesses. In criminal proceedings against any person, the husband or wife of such person, respectively, shall be a competent witness. Explanation: The spouse of an accused cannot be

		compelled to give evidence against the other
Judges and Magistrate	<p>121. No Judge or Magistrate shall, except upon the special order of some Court to which he is Sub-ordinate be compelled to answer any questions to his own conduct in court as such judge and Magistrate, or as to or as to anything which came to his knowledge in as such Judge or Magistrate: but he may be examined other matters which occurred in his presence whilst he was so acting.</p> <p style="text-align: center;">Illustrations</p> <p>a. A, on his trial before the Court of Session, says that a deposition was improperly taken by B, the Magistrate. B cannot be compelled to answer questions as to this, except upon the special order of a superior Court.</p> <p>b. A is accused before the Court of Session of having given false evidence before B, a</p>	<p>106. No Judge or Magistrate shall, except upon the special order of some Court to which he is Subordinate be compelled to answer any questions to his own conduct in court as such judge and Magistrate, or as to or as to anything which came to his knowledge in as such Judge or Magistrate only to that court or to the High Court Division: but he may be examined other matters which occurred in his presence whilst he was so acting.</p> <p style="text-align: center;">Illustrations</p> <p>a. A, on his trial before the Court of Session, says that a deposition was improperly taken by B, the Magistrate. B cannot be compelled to answer questions as to this, except upon the special order of that court he is sub- ordinate or the High Court Division:</p>

	<p>Magistrate. B cannot be asked what A said, except upon the special order of the superior Court.</p> <p>c. A is accused before the Court of Session of attempting to murder a police-officer whilst on his trial before B, a Sessions Judge. B may be examined as to what occurred.</p>	<p>b. A is accused before the Court of Session of having given false evidence before B, a Magistrate. B cannot be asked what A said, except upon the special order of that court he is sub- ordinate or the High Court Division:</p> <p>c. A is accused before the Court of Session of attempting to murder a police-officer whilst on his trial before B, a Sessions Judge. B may be examined as to what occurred.</p> <p>d. A civil court trying a case may be compelled to explain his conduct or utterances in court only by the order of the District Judge or the High Court Division.</p>
<p>Communicati on during marriage</p>	<p>122. No person who is or has been married shall be compelled to disclose any communication made to him during marriage by any person to whom he is or has</p>	<p>107. No person who is or has been married shall be compelled to disclose any communication made to him during marriage by any person to whom he is or has been</p>

	<p>been married: nor shall he be permitted to disclose any such communication, unless the person who made it, or his representative in interest, consents, except in suits between married persons, or proceedings in which one married person is prosecuted for any crime committed against the other.</p>	<p>married: nor shall he be permitted to disclose any such communication, unless the person who made it, or his representative in interest, consents, except in suits between married persons, or proceedings in which one married person is prosecuted for any crime committed against the other.</p> <p>And also in proceedings in which one married person is prosecuted for an offence committed against a child of the other person or a child of the first mentioned person or a child to whom either of them stands in the position of a parent</p>
<p>Evidence as to affairs of State</p>	<p>123. No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who</p>	<p>108. No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who</p>

	shall give or withhold such permission as he thinks fit.	shall give or withhold such permission as he thinks fit.
Official communication	124. No public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interests would suffer by the disclosure.	<p>109. No public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interests would suffer by the disclosure.</p> <p>Explanation: There is no special class of documents and information which bear special protection from the scrutiny by the high court Division. The court if it thinks fit may call for production of the document or information for its inspection and taking evidence balancing the injury to public interest and administration of justice.</p>
Information as to commission	125. No Magistrate or Police-officer shall be	110. No Magistrate or Police-officer shall be

<p>of offences</p>	<p>compelled to say whence he got any information as to the commission of any offence, and no Revenue-officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue.</p> <p>Explanation. "Revenue-officer" in this section means any officer employed in or about the business of any branch of the public revenue.</p>	<p>compelled to say whence he got any information as to the commission of any offence, and no Revenue-officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue.</p> <p>Provided nothing in this section shall apply where it appears to the Court that giving of the information is a deciding factor on which the reliability of a party or a person depends, and the Court for reasons to be recorded and in the interest of justice, directs the disclosure of such information by the Magistrate, law enforcing agencies or the Anti-corruption Commission or the Revenue Officers.</p> <p>Explanation. "Revenue-officer" in this section means any officer employed in or about the business of any</p>
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		branch of the public revenue.
Professional communications	<p>126. No ⁴⁰[Advocate] shall at any time be permitted, unless with his client's express consent, to disclose any communication made to him in the course and for the purpose of his employment as such Advocate by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment, or to disclose any advice given by him to his client in the course and for the purpose of such employment:</p> <p>Provided that nothing in this section shall protect from disclosure.</p> <p>(1) any such communication made in furtherance</p>	<p>111. No Advocate shall at any time be permitted, unless with his client's express consent, to disclose any communication made to him in the course and for the purpose of his employment as such Advocate by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment, or to disclose any advice given by him to his client in the course and for the purpose of such employment:</p> <p>Provided that nothing in this section shall protect from disclosure.</p> <p>(1) any such communication made in furtherance</p>

	<p>of any illegal purpose:</p> <p>(2) any fact observed by any ⁴¹[Advocate], in the course of his employment as such, showing that any crime of fraud has been committed since the commencement of his employment.</p> <p>It is immaterial whether the attention of such ⁴²[Advocate] was or was not directed to such fact by or on behalf of his client.</p> <p>Explanation. The obligation stated in this section continues after the employment has ceased.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A, a client, says to B, an ⁴³[advocate]"I have committed forgery and I wish you to defend me."</p> <p>As the defense of a man known to be guilty is not a criminal purpose, this communication is protected from</p>	<p>of any illegal purpose:</p> <p>(2) any fact observed by any Advocate, in the course of his employment as such, showing that any crime of fraud has been committed since the commencement of his employment.</p> <p>It is immaterial whether the attention of such Advocate was or was not directed to such fact by or on behalf of his client.</p> <p>Explanation. The obligation stated in this section continues after the employment has ceased.</p> <p style="text-align: center;">Illustrations</p> <p>(a)A, a client, says to B, an advocate "I have committed forgery and I wish you to defend me."</p> <p>As the defense of a man known to be guilty is not a criminal purpose, this communication is protected from</p>
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<p>disclosure.</p> <p>(b) A, a client, says to B, an [Advocate] - "I wish to obtain possession of property by the use of a forged deed on which I request you to sue."</p> <p>The communication, being made in furtherance of a criminal purpose, is not protected from disclosure.</p> <p>(c) A, being charged with embezzlement, retains B, an [advocate], to defend him. In the course of the proceedings, B observes that an entry has been made in A's account book, charging A with the sum said to have been embezzled, which entry was not in the book at the commencement of his employment.</p> <p>This being a fact observed by B in the course of his employment, showing that a fraud has been committed since the commencement of the</p>	<p>disclosure.</p> <p>(b)A, a client, says to B, an Advocate - "I wish to obtain possession of property by the use of a forged deed on which I request you to sue."</p> <p>The communication, being made in furtherance of a criminal purpose, is not protected from disclosure.</p> <p>(c) A, being charged with embezzlement, retains B, an advocate, to defend him. In the course of the proceedings, B observes that an entry has been made in A's account book, charging A with the sum said to have been embezzled, which entry was not in the book at the commencement of his employment.</p> <p>This being a fact observed by B in the course of his employment, showing that a fraud has been committed since the commencement of the proceedings, it is not</p>
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	proceedings, it is not protected from disclosure.	protected from disclosure.
Section 113 to apply to interpreters, etc	127. The provisions of section 113 shall apply to interpreters and the clerks or servants of Advocate.	112. The provisions of section 111 shall apply to interpreters and the clerks or servants of Advocate.
Privilege not waived by volunteering evidence	128. If any party to a suit gives evidence therein at his own instance or otherwise, he shall not be deemed to have consented thereby to such disclosure as is mentioned in section 126; and, if any party to a suit or proceeding calls any such [Advocate] as a witness, he shall be deemed to have consented to such disclosure only if he questions such [Advocate] on matters which, but for such question, he would not be at liberty to disclose.	113. If any party to a suit gives evidence therein at his own instance or otherwise, he shall not be deemed to have consented thereby to such disclosure as is mentioned in section 111; and, if any party to a suit or proceeding calls any such Advocate as a witness, he shall be deemed to have consented to such disclosure only if he questions such Advocate on matters which, but for such question, he would not be at liberty to disclose.
Confidential communications with legal advisers	129. No one shall be compelled to disclose to the Court any confidential communication which has	114. No one shall be compelled to disclose to the Court any confidential communication which has

	<p>taken place between him and his legal professional adviser, unless he offers himself as a witness, in which case he may be compelled to disclose any such communications as may appear to the Court necessary to be known in order to explain any evidence which he has given, but no others.</p>	<p>taken place between him and his legal professional adviser, unless he offers himself as a witness, in which case he may be compelled to disclose any such communications as may appear to the Court necessary to be known in order to explain any evidence which he has given, but no others.</p>
<p>Production of title-deed of witness, not a party</p>	<p>130. No witness who is not a party to a suit shall be compelled to produce his title-deeds to any property or any document in virtue of which he holds any property as pledgee or mortgagee or any document the production of which might tend to criminate him, unless he has agreed in writing to produce them with the person seeking the production of such deeds or some person through whom he claims.</p>	<p>115. No witness who is not a party to a suit shall be compelled to produce his title-deeds to any property or any document in virtue of which he holds any property as pledgee or mortgagee or any document the production of which might tend to criminate him, unless he has agreed in writing to produce them with the person seeking the production of such deeds or some person through whom he claims.</p>

<p>Production of documents which another person having possession, could refuse to produce</p>	<p>131. No one shall be compelled to produce documents in his possession, which any other person would be entitled to refuse to produce if they were in his possession, unless such last-mentioned person consents to their production.</p>	<p>116. No person who is in possession or control of documents or electronic records belonging to another, shall be compelled to produce the said documents or electronic records, if the person to whom they belonged, would have been entitled to refuse to produce these, if these were in the possession or control of that person:</p> <p>Provided that the person in possession or control of such documents or electronic records belonging to another, may be compelled to produce these, if the person to whom these belonged, consents to its production.</p>
<p>Witness not excused from answering on ground that answer will criminate</p>	<p>132. A witness shall not be excused from answering any question as to any matter relevant to the matter in issue in any suit or in any civil or criminal proceeding, upon the ground that the answer to such question will</p>	<p>117. (1) A witness shall not be excused from answering any question as to any matter relevant to the matter in issue in any suit or in any civil or criminal proceeding, upon the ground that the</p>

	<p>criminate, or may tend directly or indirectly to criminate, such witness, or that it will expose, or tend directly or indirectly to expose, such witness to a penalty or forfeiture of any kind:</p> <p>Provided that no such answer, which a witness shall be compelled to give, shall subject him to any arrest or prosecution, or be proved against him in any criminal proceeding, except a prosecution for giving false evidence by such answer.</p>	<p>answer to such question will criminate, or may tend directly or indirectly to criminate, such witness or the spouse of the witness or that it will expose, or tend directly or indirectly to expose, such witness or spouse to a penalty or forfeiture of any kind.</p> <p>(2) An accused person who offers himself as a witness shall not be excused from answering any question as to any matter relevant to the matter in issue in the prosecution, on the ground that the answer to such question will criminate or may tend directly or indirectly to criminate the accused or the spouse of the accused; or that it will expose, or tend directly or indirectly to expose, the accused or the spouse to a penalty or forfeiture of any kind.</p> <p>(3) Where any witness or accused is bound or feels bound to answer a question, under the provisions</p>
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		<p>of this section whether he has objected to it or not, no such answer which-</p> <p>(a) the witness gives to that question shall subject the witness or the spouse of the witness, as the case may be, to arrest or prosecution or be proved against them</p> <p>(b) the accused gives to that question shall, save as otherwise provided in sub-section (2), subject the accused or the spouse of the accused , as the case may be, to arrest or prosecution or be proved against them in any criminal proceeding,</p> <p>Provided that nothing contained in this sub-section shall apply to any answer which may amount to giving of false evidence.</p>
<p>Accomplice or Approver</p>	<p>133. An accomplice shall be a competent witness against an accused person; and a conviction is not</p>	<p>118. An accomplice shall be a competent witness against an accused person; and a conviction is not</p>

	illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.	illegal merely because it proceeds upon the uncorroborated testimony of an accomplice. Provided there is no possibility whatsoever of any corroboration.
Number of witnesses	134. No particular number of witnesses shall in any case be required for the proof of any fact.	119. No particular number of witnesses shall in any case be required for the proof of any fact. Explanation. The court shall not proceed on the uncorroborated testimony of a single witness howsoever that witness appear to be trustworthy Unless the Court finds that there is scope for examination of more than one witness.
	CHAPTER X OF THE EXAMINATION OF WITNESSES	CHAPTER XIII OF THE EXAMINATION OF WITNESSES
Order of production and examination of witnesses	135. The order in which witnesses are produced and examined shall be regulated by the law and practice for the time being relating to civil and criminal	120. The order in which witnesses are produced and examined shall be regulated by the law and practice for the time being relating to civil and criminal procedure

	<p>procedure respectively, and, in the absence of any such law, by the discretion of the Court.</p>	<p>respectively, and, in the absence of any such law, by the discretion of the Court.</p> <p>Explanation: As a rule of practice, the plaintiff or the prosecutor who comes to the Court shall examine the witness first unless for very special reasons the Judge directs otherwise.</p>
<p>Judge to decide as to admissibility of evidence</p>	<p>136. When either party proposes to give evidence of any fact, the Judge may ask the party proposing to give the evidence in what manner the alleged fact, if proved, would be relevant; and the Judge shall admit the evidence if he thinks that the fact, if proved, would be relevant and not otherwise.</p> <p>If the fact proposed to be proved is one of which evidence is admissible only upon proof of some other fact, such last-mentioned fact must be proved before evidence is given of the fact first mentioned, unless</p>	<p>121. When either party proposes to give evidence of any fact, the Judge may ask the party proposing to give the evidence in what manner the alleged fact, if proved, would be relevant; and the Judge shall admit the evidence if he thinks that the fact, if proved, would be relevant and not otherwise.</p> <p>If the fact proposed to be proved is one of which evidence is admissible only upon proof of some other fact, such last-mentioned fact must be proved before evidence is given of the fact first mentioned, unless</p>

	<p>the party undertakes to give proof of such fact, and the Court is satisfied with such undertaking.</p> <p>If the relevancy of on alleged fact depends upon another alleged fact being first proved, the Judge may, in his discretion, either permit evidence of the first fact to be given before the second fact is proved, or require evidence to be given of the second fact before evidence is given of the first fact.</p> <p style="text-align: center;">Illustrations</p> <p>(a) It is proposed to prove a statement about a relevant fact by a person alleged to be dead, which statement is relevant under section 32.</p> <p>The fact that the person is dead must be proved by the Person proposing to prove the statement, before evidence is given of the statement.</p> <p>(b) It is proposed to prove, by a copy, the contents</p>	<p>the party undertakes to give proof of such fact, and the Court is satisfied with such undertaking.</p> <p>If the relevancy of on alleged fact depends upon another alleged fact being first proved, the Judge may, in his discretion, either permit evidence of the first fact to be given before the second fact is proved, or require evidence to be given of the second fact before evidence is given of the first fact.</p> <p style="text-align: center;">Illustration</p> <p>(a) It is proposed to prove a statement about a relevant fact by a person alleged to be dead, which statement is relevant under section 32.</p> <p>The fact that the person is dead must be proved by the Person proposing to prove the statement, before evidence is given of the statement.</p> <p>(b)It is proposed to prove, by a copy, the contents of a</p>
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<p>of a document said to be lost.</p> <p>The fact that the original is lost must be proved by the person proposing to produce the copy, before the copy is produced.</p> <p>(c) A is accused of receiving stolen property knowing it to have been stolen.</p> <p>It is proposed to prove that he denied the possession of the property.</p> <p>The relevancy of the denial depends on the identity of the property. The Court may, in its discretion, either require the property to be identified before the denial of the possession is proved, or permit the denial of possession to be proved before the property is identified.</p> <p>(d) It is proposed to prove a fact (A) which is said to have been the cause or effect of a fact in issue. There</p>	<p>document said to be lost.</p> <p>The fact that the original is lost must be proved by the person proposing to produce the copy, before the copy is produced.</p> <p>(c)A is accused of receiving stolen property knowing it to have been stolen.</p> <p>It is proposed to prove that he denied the possession of the property.</p> <p>The relevancy of the denial depends on the identity of the property. The Court may, in its discretion, either require the property to be identified before the denial of the possession is proved, or permit the denial of possession to be proved before the property is identified.</p> <p>(d)It is proposed to prove a fact (A) which is said to have been the cause or effect of a fact in issue. There are</p>
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	are several intermediate facts (B, C and D) which must be shown to exist before the fact (A) can be regarded as the cause or effect of the fact in issue. The Court may either permit A to be proved before B, C or D is proved, or may require proof of B, C and D before permitting proof of A.	several intermediate facts (B, C and D) which must be shown to exist before the fact (A) can be regarded as the cause or effect of the fact in issue. The Court may either permit A to be proved before B, C or D is proved, or may require proof of B, C and D before permitting proof of A.
Examination-in chief	137. The examination of a witness by the party who calls him shall be called his examination-in-chief.	122. The examination of a witness by the party who calls him shall be called his examination-in-chief.
Cross Examination	The examination of a witness by the adverse party shall be called his cross-examination	The examination of a witness by the adverse party shall be called his cross-examination
Re-examination	The examination of a witness, subsequent to the cross-examination by the party who called him, shall be called	The examination of a witness, subsequent to the cross-examination by the party who called him, shall be called his re-examination. But in the cross examination need

	his re-examination.	not be always confined to the facts to which the witness testified in his examination in chief. The court may in his discretion allow questions not testified in examination in chief.
Order of examinations	138. Witnesses shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, then (if the party calling him so desires) re-examined. The examination and cross-examination must relate to relevant facts but the cross-examination need not be confined to the facts to which the witness testified on his examination-in-chief.	123. Witnesses shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, then (if the party calling him so desires) re-examined. The examination and cross-examination must relate to relevant facts but the cross-examination need not be confined to the facts to which the witness testified on his examination-in-chief.
Direction of reexamination	The re-examination shall be directed to the explanation of matters referred to in cross-examination; and, if new matter is, by permission of	The re-examination shall be directed to the explanation of matters referred to in cross-examination; and, if new matter is, by permission of

	the Court, introduced in re-examination, the adverse party may further cross-examine upon that matter.	the Court, introduced in re-examination, the adverse party may further cross-examine upon that matter. Explanation: Re- examination is not a right of the party. A prayer has to be made to the court on the points, the re-examination is sought for. If the court is satisfied, the permission may be given. Re-examination cannot be allowed to nullify the statement made in cross examination. If a re-examination is allowed, the adverse party has the right to cross examine.
Cross examination of person called to produce a document	139. A person summoned to produce a document does not become a witness by the mere fact that he produces it and cannot be cross-examined unless and until he is called as a witness.	124. A person summoned to produce a document does not become a witness by the mere fact that he produces it and cannot be cross-examined unless and until he is called as a witness.
Witnesses to character	140. Witnesses to character may be cross-examined	125. Witnesses to character may be cross-examined

	and reexamined.	and reexamined and further re- examined.
Leading questions	141. Any question suggesting the answer which the person putting it wishes or expects to receive is called a leading question.	126. Any question suggesting the answer which the person putting it wishes or expects to receive is called a leading question.
When they must not be asked	142. Leading questions must not, if objected to by the adverse party be asked in an examination-in-chief, or in a re-examination, except with the permission of the Court. The Court shall permit leading questions as to matters which are introductory or undisputed, or which have, in its opinion, been already sufficiently proved.	127. Leading questions must not, if objected to by the adverse party be asked in examination-in-chief, or in re-examination, except with the permission of the Court. The Court shall permit leading questions as to matters which are introductory or undisputed.
When they may be asked	143. Leading questions may be asked in cross-examination.	128. Leading questions may be asked in cross-examination. Provided that the question is not the deciding fact of the case and the Court may forbid asking leading

		question considering the manner of the interrogator while cross examining the witness.
Evidence as to matters in writing	<p>144. Any witness may be asked, whilst under examination, whether any contract, grant or other disposition of property, as to which he is giving evidence, was not contained in a document, and if he says that it was, or if he is about to make any statement as to the contents of any document, which in the opinion of the Court, ought to be produced, the adverse party may object to such evidence being given until such document is produced, or until facts have been proved which entitle the party who called the witness to give secondary evidence of it.</p> <p>Explanation. A witness may give oral evidence of</p>	<p>129. Any witness may be asked, whilst under examination, whether any contract, grant or other disposition of property, as to which he is giving evidence, was not contained in a document, and if he says that it was, or if he is about to make any statement as to the contents of any document, which in the opinion of the Court, ought to be produced, the adverse party may object to such evidence being given until such document is produced, or until facts have been proved which entitle the party who called the witness to give secondary evidence of it.</p> <p>Explanation. A witness may give oral evidence of</p>

	<p>statements made by other persons about the contents of documents if such statements are in themselves relevant facts.</p> <p style="text-align: center;">Illustration</p> <p>The question is, whether A assaulted B.</p> <p>C deposes that he heard A says to D-"B wrote a letter accusing me of theft, and I will be revenged on him."</p> <p>This statement is relevant, as showing A's motive for the assault, and evidence may be given of it, though no other evidence is given about the letter.</p>	<p>statements made by other persons about the contents of documents if such statements are in themselves relevant facts.</p> <p style="text-align: center;">Illustration</p> <p>The question is, whether A assaulted B.</p> <p>C deposes that he heard A says to D-"B wrote a letter accusing me of theft, and I will be revenged on him."</p> <p>This statement is relevant, as showing A's motive for the assault, and evidence may be given of it, though no other evidence is given about the letter.</p>
<p>Cross examination as to previous statements in writing</p>	<p>145. A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved; but, if it is intended to contradict him by the writing,</p>	<p>130. A witness may be cross-examined as to previous statements made by him in writing or recorded by mechanical process or through electronic devices or reduced into writing, and relevant to matters in question, without such writing being shown to him, or</p>

	<p>his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him.</p>	<p>being proved; but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him.</p>
<p>Questions lawful in cross examination</p>	<p>146. When a witness is cross-examined, he may, in addition to the questions hereinbefore referred to, be asked any questions which tend</p> <ul style="list-style-type: none"> (1) to test his veracity, (2) to discover who he is and what is his position in life, or (3) to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to criminate him or might expose or tend directly or indirectly to expose him to a penalty or forfeiture. 	<p>131. When a witness is cross-examined, he may, in addition to the questions hereinbefore referred to, be asked any questions which tend</p> <ul style="list-style-type: none"> (1) to test his veracity, (2) to discover who he is and what is his position in life, or (3) to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to criminate him or might expose or tend directly or indirectly to expose him to a penalty or forfeiture of property.

When witness to be compelled to answer	147. If any such question relates to a matter relevant to the suit or proceeding, the provisions of section 132 shall apply thereto.	132. The witness shall not be subject to any arrest or prosecution or shall not be proved against him in any criminal proceeding or forfeiture in civil proceeding for true answer.
Court to decide when question shall be asked and when witness compelled to answer	148. If any such question relates to a matter not relevant to the suit or proceeding, except in so far as it affects the credit of the witness by injuring his character, the Court shall decide whether or not the witness shall be compelled to answer it, and may, if it thinks fit, warn the witness that he is not obliged to answer it. In exercising its discretion, the Court shall have regard to the following considerations:- (1) such questions are proper if they are of such a nature that the truth of the imputation conveyed by them would seriously affect the opinion of the Court	133. If any such question is not material to the issues in the suit or proceeding, except in so far as it affects the credit of the witness by injuring his character, the Court shall decide whether or not the witness shall be compelled to answer it, and may, if it thinks fit, warn the witness that he is not obliged to answer it. In exercising its discretion, the Court shall have regard to the following considerations:- (1) such questions are proper if they are of such a nature that the truth of the imputation conveyed by them would seriously affect the opinion of the Court

	<p>as to the credibility of the witness on the matter to which he testifies:</p> <p>(2) such questions are improper if the imputation which they convey relates to matters so remote in time, or of such a character, that the truth of the imputation would not affect, or would affect in a slight degree, the opinion of the Court as to the credibility of the witness on the matter to which he testifies:</p> <p>(3) such questions are improper if there is a great disproportion between the importance of the imputation made against the witness's character and the importance of his evidence:</p> <p>(4) The Court may, if it sees fit, draw, from the witness's refusal to answer, the inference that the</p>	<p>as to the credibility of the witness on the matter to which he testifies:</p> <p>(2) such questions are improper if the imputation which they convey relates to matters so remote in time, or of such a character, that the truth of the imputation would not affect, or would affect in a slight degree, the opinion of the Court as to the credibility of the witness on the matter to which he testifies:</p> <p>(3) such questions are improper if there is a great disproportion between the importance of the imputation made against the witness's character and the importance of his evidence:</p> <p>(4) The Court may, if it sees fit, draw, from the witness's refusal to answer, the inference that the</p>
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	answer if given would be unfavourable.	answer if given would be unfavourable.
Question not to be asked without reasonable grounds	<p>149. No such question as is referred to in section 148 ought to be asked, unless the person asking it has reasonable grounds for thinking that the imputation which it conveys is well-founded.</p> <p style="text-align: center;">Illustrations</p> <p>(a) An ⁴⁵[advocate] is instructed by a ⁴⁶[client] that an important witness is a dakait. This is a reasonable ground for asking the witness whether he is a dakait.</p> <p>(b) A pleader is informed by a person in Court that an important witness is a dakait. The informant, on being questioned by the pleader, gives satisfactory reasons for his statement. This is a reasonable ground for asking the witness whether he is a dakait.</p>	<p>134. No question respecting improprieties of conduct of a witness or degrading him or his relations shall be asked unless the person or the advocate asking it has reasonable grounds for thinking the imputations which it conveys is well founded on the basis of judgment and order of any previous case or finding of any Court.</p> <p style="text-align: center;">Illustrations</p> <p>(a) An advocate is instructed by a client that an important witness is a dakait. This is a reasonable ground for asking the witness whether he is a dakait.</p> <p>(b) An Advocate is informed by a person in Court that an important witness is a dakait. The informant, on being questioned by the pleader, gives satisfactory</p>

	<p>(c) A witness, of whom nothing whatever is known, is asked at random whether he is a dakait. There are here no reasonable grounds for the question.</p> <p>(d) A witness, of whom nothing whatever is known, being questioned as to his mode of life and means of living, gives unsatisfactory answers. This may be a reasonable ground for asking him if he is a dakait.</p>	<p>reasons for his statement. This is a reasonable ground for asking the witness whether he is a dakait.</p> <p>(c) A witness, of whom nothing whatever is known, is asked at random whether he is a dakait. There are here no reasonable grounds for the question.</p> <p>(d) A witness, of whom nothing whatever is known, being questioned as to his mode of life and means of living, gives unsatisfactory answers. This may be a reasonable ground for asking him if he is a dakait.</p>
<p>Procedure of Court in case of question being asked without reasonable grounds</p>	<p>150. If the Court is of opinion that any such question was asked without reasonable grounds, it may, if it was asked by any ⁴⁷[Advocate], report the circumstances of the case to the ⁴⁸[High Court Division] or other authority to which such ⁴⁹[</p>	<p>135. If the Court is of opinion that any such question was asked without reasonable grounds, it may, if it was asked by any Advocate, report the circumstances of the case to the authority for disciplinary action to which that advocate is subject in the exercise of his</p>

	Advocate] is subject in the exercise of his profession.	profession.
Indecent and scandalous questions	151. The Court may forbid any questions or inquiries which it regards as indecent or scandalous, although such questions or inquiries may have some bearing on the questions before the Court, unless they relate to facts in issue, or to matters necessary to be known in order to determine whether or not the facts in issue existed.	136. The Court may forbid any questions or inquiries which it regards as indecent or scandalous, although such questions or inquiries may have some bearing on the questions before the Court, unless they relate to facts in issue, or to matters necessary to be known in order to determine whether or not the facts in issue existed.
Questions intended to insult or annoy	152. The Court shall forbid any question which appears to it to be intended to insult or annoy, or which, though proper in itself, appears to the Court needlessly offensive in form.	137. The Court shall forbid any question which appears to it to be intended to insult or annoy, or which, though proper in itself, appears to the Court needlessly offensive in form.
Exclusion of evidence to contradict	153. When a witness has been asked and has answered	138. When a witness has been asked and has

<p>answers to questions testing veracity</p>	<p>any question which is relevant to the inquiry only in so far as it tends to shake his credit by injuring his character, no evidence shall be given to contradict him; but, if he answers falsely, he may afterwards be charged with giving false evidence.</p> <p>Exception 1. If a witness is asked whether he has been previously convicted of any crime and denies it, evidence may be given of his previous conviction.</p> <p>Exception 2. If a witness is asked any question tending to impeach his impartiality and answers it by denying the facts suggested, he may be contradicted.</p> <p>Illustrations</p> <p>(a) A claim against an underwriter is resisted on the ground of fraud.</p> <p>The claimant is asked whether, in a former transaction,</p>	<p>answered any question which is relevant to the inquiry only in so far as it tends to shake his credit by injuring his character, no evidence shall be given to contradict him; but, if he answers falsely, he may afterwards be charged with giving false evidence.</p> <p>Exception 1. If a witness is asked whether he has been previously convicted of any crime and denies it, evidence may be given of his previous conviction.</p> <p>Exception 2. If a witness is asked any question tending to impeach his impartiality and answers it by denying the facts suggested, he may be contradicted.</p> <p>Illustrations</p> <p>(a) A claim against an underwriter is resisted on the ground of fraud.</p> <p>The claimant is asked whether, in a former transaction,</p>
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	<p>he had not made a fraudulent claim. He denies it.</p> <p>Evidence is offered to show that he did make such a claim.</p> <p>The evidence is inadmissible.</p> <p>(b) A witness is asked whether he was not dismissed from a situation for dishonesty.</p> <p>He denies it.</p> <p>Evidence is offered to show that he was dismissed for dishonesty.</p> <p>The evidence is not admissible.</p> <p>(c) A affirms that on a certain day he saw B at ⁵⁰[Khulna].</p> <p>A is asked whether he himself was not on that day at Chittagong. He denies it.</p> <p>Evidence is offered to show that A was on that day at</p>	<p>he had not made a fraudulent claim. He denies it.</p> <p>Evidence is offered to show that he did make such a claim.</p> <p>The evidence is inadmissible.</p> <p>(b) A witness is asked whether he was not dismissed from a situation for dishonesty.</p> <p>He denies it.</p> <p>Evidence is offered to show that he was dismissed for dishonesty.</p> <p>The evidence is not admissible.</p> <p>(c) A affirms that on a certain day he saw B at Khulna.</p> <p>A is asked whether he himself was not on that day at Chittagong. He denies it.</p> <p>Evidence is offered to show that A was on that day at Chittagong.</p>
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	<p>Chittagong.</p> <p>The evidence is admissible, not as contradicting A on a fact which affects his credit, but as contradicting the alleged fact that B was seen on the day in question in ⁵¹[Khulna].</p> <p>In each of these cases the witness might, if his denial was false, be charged with giving false evidence.</p> <p>(d) A is asked whether his family has not had a blood feud with the family of B against whom he gives evidence.</p> <p>He denies it. He may be contradicted on the ground that the question tends to impeach his impartiality.</p>	<p>The evidence is admissible, not as contradicting A on a fact which affects his credit, but as contradicting the alleged fact that B was seen on the day in question in Khulna.</p> <p>In each of these cases the witness might, if his denial was false, be charged with giving false evidence.</p> <p>(d) A is asked whether his family has not had a blood feud with the family of B against whom he gives evidence.</p> <p>He denies it. He may be contradicted on the ground that the question tends to impeach his impartiality.</p>
<p>Question by party to his own witness</p>	<p>154. The Court may, in its discretion, permit the person who calls a witness to put any questions to him which might be put in cross-examination by the adverse party.</p>	<p>139. The Court may in its discretion permit the advocate or the person who has been examining a witness in chief to put any question to him which might be put in cross examinations by the adverse</p>

		<p>party that witness becomes a hostile witness and he can be cross examined by the adverse party as well.</p> <p>Explanation. The evidence of a witness remains on record like the evidence of any other witness and the parties and the court are free to refer to it and rely</p>
<p>Impeaching credit of witness</p>	<p>155. The credit of a witness may be impeached in the following ways by the adverse party, or, with the consent of the Court, by the party who calls him:-</p> <p>(1) by the evidence of persons who testify that they, from their knowledge of the witness, believe him to be unworthy of credit;</p> <p>(2) by proof that the witness has been bribed, or has accepted the offer of a bribe, or has received any other corrupt inducement to give his evidence;</p> <p>(3) by proof of former statements inconsistent</p>	<p>140. The credit of a witness may be impeached in the following ways by the adverse party, or, with the consent of the Court, by the party who calls him:-</p> <p>(1) by proof of persons who testify that they, from their knowledge of the witness, believe him to be unworthy of credit;</p> <p>(2) by proof that the witness has been bribed, or has accepted the offer of a bribe, or has received any other corrupt inducement to give his evidence;</p> <p>(3) by proof of former statements inconsistent with</p>

	<p>with any part of his evidence which is liable to be contradicted;</p> <p>(4) When a man is prosecuted for rape or an attempt to ravish, it may be shown that the prosecutrix was of generally immoral character.</p> <p>Explanation. Witness declaring another witness to be unworthy of credit may not, upon his examination-in-chief, give reasons for his belief, but he may be asked his reasons in cross-examination, and the answers which he gives cannot be contradicted, though, if they are false, he may afterwards be charged with giving false evidence.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A sues B for the price of goods sold and</p>	<p>any part of his evidence which is liable to be contradicted;</p> <p>Explanation. Witness declaring another witness to be unworthy of credit may not, upon his examination-in-chief, give reasons for his belief, but he may be asked his reasons in cross-examination, and the answers which he gives cannot be contradicted, though, if they are false, he may afterwards be charged with giving false evidence.</p> <p style="text-align: center;">Illustrations</p> <p>(a) A sues B for the price of goods sold and delivered to B. C says that A delivered the goods to B.</p> <p>Evidence is offered to show that, on a previous occasion, he said that he had not delivered the goods to</p>
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	<p>delivered to B. C says that A delivered the goods to B.</p> <p>Evidence is offered to show that, on a previous occasion, he said that he had not delivered the goods to B.</p> <p>The evidence is admissible.</p> <p>(b) A is indicted for the murder of B.</p> <p>C says that B, when dying, declared that A had given B the wound of which he died.</p> <p>Evidence is offered to show that, on a previous occasion, C said that the wound was not given by A or in his presence. The evidence is admissible.</p>	<p>B.</p> <p>The evidence is admissible.</p> <p>(b) A is indicted for the murder of B.</p> <p>C says that B, when dying, declared that A had given B the wound of which he died.</p> <p>Evidence is offered to show that, on a previous occasion, C said that the wound was not given by A or in his presence. The evidence is admissible.</p>
<p>Questions tending to corroborate evidence of relevant fact admissible</p>	<p>156. When a witness whom it is intended to corroborate gives evidence of any relevant fact, he may be questioned as to any other circumstances which he observed at or near to the time or place at</p>	<p>141. When a witness whom it is intended to corroborate gives evidence of any fact in issue or relevant fact, he may be questioned as to any other circumstances which he observed at or near to the time</p>

	<p>which such relevant fact occurred, if the Court is of opinion that such circumstances, if proved, would corroborate the testimony of the witness as to the relevant fact which he testifies.</p> <p style="text-align: center;">Illustration</p> <p>A, an accomplice, gives an account of a robbery in which he took part. He describes various incidents unconnected with the robbery which occurred on his way to and from the place where it was committed.</p> <p>Independent evidence of these facts may be given in order to corroborate his evidence as to the robbery itself.</p>	<p>or place at which such relevant fact occurred, if the Court is of opinion that such circumstances, if proved, would corroborate the testimony of the witness as to the relevant fact which he testifies.</p> <p style="text-align: center;">Illustration</p> <p>A, an accomplice, gives an account of a robbery in which he took part. He describes various incidents unconnected with the robbery which occurred on his way to and from the place where it was committed.</p> <p>Independent evidence of these facts may be given in order to corroborate his evidence as to the robbery itself.</p>
<p>Former statements of witness may be proved to corroborate later testimony as to same fact</p>	<p>157. In order to corroborate the testimony of a witness, any former statement made by such witness relating to the same fact at or about the time when the fact took place, or before any authority legally</p>	<p>142. To corroborate the testimony of a witness, any former statement made by such witness relating to the same fact at or about the time when the fact took place, or before any authority legally competent to</p>

	competent to investigate the fact, may be proved.	investigate the fact, may be proved.
What matters may be proved in connection with proved statement relevant under section 23 or 24	158. Whenever any statement, relevant under section 32 or 33, is proved, all matters may be proved either in order to contradict or to corroborate it, or in order to impeach or confirm the credit of the person by whom it was made, which might have been proved if that person had been called as a witness and had denied upon cross-examination the truth of the matter suggested.	143. Whenever any statement, relevant under section 23 or 24, is proved, all matters may be proved either in order to contradict or to corroborate it, or in order to impeach or confirm the credit of the person by whom it was made, which might have been proved if that person had been called as a witness and had denied upon cross-examination the truth of the matter suggested.
Refreshing memory	159. A witness may, while under examination, refresh his memory by referring to any writing made by himself at the time of the transaction concerning which he is questioned, or so soon afterwards that the Court considers it likely that the transaction was at	144. A witness may, while under examination, refresh his memory by referring to any document made by himself at the time of the transaction concerning which he is questioned, or so soon afterwards that the Court considers it likely that the transaction was at

<p>When witness may use copy of document to refresh memory</p>	<p>that time fresh in his memory.</p> <p>The witness may also refer to any such writing made by any other person, and read by the witness within the time aforesaid, if when he read it he knew it to be correct.</p> <p>Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the Court, refer to a copy of such document:</p> <p>Provided the Court be satisfied that there is sufficient reason for the non-production of the original.</p> <p>An expert may refresh his memory by reference to professional treatises</p>	<p>that time fresh in his memory.</p> <p>The witness may also refer to any such document made by any other person, and read by the witness within the time aforesaid, if when he read it he knew it to be correct.</p> <p>Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the Court, refer to a copy of such document:</p> <p>Provided the Court be satisfied that there is sufficient reason for the non-production of the original.</p> <p>An expert may refresh his memory by reference to professional treatises</p>
<p>Testimony to facts stated in document</p>	<p>160. A witness may also testify to facts mentioned in</p>	<p>145. A witness may also testify to facts mentioned in</p>

<p>mentioned in section 159</p>	<p>any such document as is mentioned in section 159, although he has no specific recollection of the facts themselves, if he is sure that the facts were correctly recorded in the document.</p> <p style="text-align: center;">Illustration</p> <p>A book-keeper may testify to facts recorded by him in books regularly kept in the course of business, if he knows that the books were correctly kept, although he has forgotten the particular transactions entered.</p>	<p>any such document as is mentioned in section 146, although he has no specific recollection of the facts themselves, if he is sure that the facts were correctly recorded in the document.</p> <p style="text-align: center;">Illustration</p> <p>A book-keeper may testify to facts recorded by him in books regularly kept in the course of business, if he knows that the books were correctly kept, although he has forgotten the particular transactions entered.</p>
<p>Right of adverse party as to writing used to refresh memory</p>	<p>161. Any writing referred to under the provisions of the two last preceding sections must be produced and shown to the adverse party if he requires it: such party may, if he pleases, cross examine the witness thereupon.</p>	<p>146. Any Document referred to under the provisions of the two last preceding sections must be produced and shown to the adverse party if he requires it: such party may, if he pleases, cross examine the witness thereupon.</p>
<p>Production of documents</p>	<p>162. A witness summoned to produce a document</p>	<p>147. A witness summoned to produce a document</p>

<p>Translation of documents</p>	<p>shall, if it is in his possession or power, bring it to Court, notwithstanding any objection which there may be to its production or to its admissibility. The validity of any such objection shall be decided on by the Court.</p> <p>The Court, if it sees fit, may inspect the document, unless it refers to matters of State, or take other evidence to enable it to determine on its admissibility.</p> <p>If for such a purpose it is necessary to cause any document to be translated, the Court may, if it thinks fit, direct the translator to keep the contents secret, unless the document is to be given in evidence: and, if the interpreter disobeys such direction, he shall be held to have committed an offence under section 166</p>	<p>shall, if it is in his possession or power, bring it to Court, notwithstanding any objection which there may be to its production or to its admissibility. The validity of any such objection shall be decided on by the Court.</p> <p>The Court, if it sees fit, may inspect the document, or to take other evidence to enable it to determine on its admissibility.</p> <p>If for such a purpose it is necessary to cause any document to be translated, the Court may, if it thinks fit, direct the translator to keep the contents secret, unless the document is to be given in evidence: and, if the interpreter disobeys such direction, he shall be held to have committed an offence under section 166 of the Penal Code.</p>
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	of the ⁵² [* * *] Penal Code .	
Giving, as evidence, of document called for and produced on notice	163. When a party calls for a document which he has given the other party notice to produce, and such document is produced and inspected by the party calling for its production, he is bound to give it as evidence if the party producing it requires him to do so.	148. When a party calls for a document which he has given the other party notice to produce, and such document is produced and inspected by the party calling for its production, he is bound to give it as evidence if the party producing it requires him to do so.
Using, as evidence, of document production of which was refused on notice	164. When a party refuses to produce a document which he has had notice to produce, he cannot afterwards use the document as evidence without the consent of the other party or the order of the Court. Illustration A sues B on an agreement and gives B notice to produce it. At the trial A calls for the document and B refuses to produce it. A gives secondary evidence of	149. When a party refuses to produce a document which he has had notice to produce, he cannot afterwards use the document as evidence without the consent of the other party or the order of the Court. Illustration A sues B on an agreement and gives B notice to produce it. At the trial A calls for the document and B refuses to produce it. A gives secondary evidence of

	its contents. B seeks to produce the document itself to contradict the secondary evidence given by A, or in order to show that the agreement is not stamped. He cannot do so	its contents. B seeks to produce the document itself to contradict the secondary evidence given by A, or in order to show that the agreement is not stamped. He cannot do so
Judges power to put questions or order production	<p>165. The Judge may, in order to discover or to obtain proper proof of relevant facts, ask any question he pleases, in any form, at any time, of any witness, or of the parties about any fact relevant or irrelevant; and may order the production of any document or thing: and neither the parties nor their agents shall be entitled to make any objection to any such question or order, nor, without the leave of the Court, to cross-examine any witness upon any answer given in reply to any such question:</p> <p>Provided that the judgment must be based upon facts declared by this Act to be relevant, and duly proved:</p>	<p>150. The Judge may, in order to discover or to obtain proper proof of relevant facts, ask any question he pleases, in any form, at any time, of any witness, or of the parties about any fact relevant or irrelevant; and may order the production of any document or thing: and neither the parties nor their agents shall be entitled to make any objection to any such question or order, nor, without the leave of the Court, to cross-examine any witness upon any answer given in reply to any such question:</p> <p>Provided that the judgment must be based upon facts declared by this Act to be relevant, and duly proved:</p>

	<p>Provided also that this section shall not authorize any Judge to compel any witness to answer any question or to produce any document which such witness would be entitled to refuse to answer or produce under sections 121 to 131, both inclusive, if the question were asked or the document were called for by the adverse party; nor shall the Judge ask any question which it would be improper for any other person to ask under section 148 or 149; nor shall he dispense with primary evidence of any document, except in the cases herein- before excepted.</p>	<p>Provided also that this section shall not authorize any Judge to compel any witness to answer any question or to produce any document which such witness would be entitled to refuse to answer or produce under sections 106 to 116, both inclusive, if the question were asked or the document were called for by the adverse party; nor shall the Judge ask any question which it would be improper for any other person to ask under section 133 or 134; nor shall he dispense with primary evidence of any document, except in the cases herein- before excepted.</p>
Power of jury or assessors to put questions	<p>166. In cases tried by jury or with assessors, the jury or assessors may put any questions to the witnesses, through or by leave of the Judge, which the Judge himself might put and which he considers proper.</p>	Omitted
	<p>CHAPTER XI</p> <p>OF IMPROPER ADMISSION AND REJECTION OF</p>	<p>CHAPTER XIV</p> <p>OF IMPROPER ADMISSION AND REJECTION OF</p>

	EVIDENCE	EVIDENCE
No new trial for improper admission or rejection of evidence	167. The improper admission or rejection of evidence shall not be ground of itself for a new trial or reversal of any decision in any case, if it shall appear to the Court before which such objection is raised that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence had been received, it ought not to have varied the decision.	151. The improper admission or rejection of evidence shall not be ground of itself for a new trial or reversal of any decision in any case, if it shall appear to the Court before which such objection is raised that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence had been received, it ought not to have varied the decision.
Saving clause		Notwithstanding the new enactment of 2015 the evidence already taken under the provisions of Act 1 of 1872 will remain unaffected.