

EVIDENCE.

5° Elizabeth II., No. XVI.

No. 16 of 1956.

AN ACT to amend the Evidence Act, 1906.

[Assented to 26th October, 1956.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Evidence Act Amendment Act, 1956.* Short title and citation.

(2) In this Act, the Evidence Act, 1906,

Act No. 28 of 1906 reprinted as amended by Acts Nos. 16 of 1913 and 19 of 1921 in the Appendix to the Sessional Volume of Statutes for the year 1928 and further amended by Acts Nos. 34 of 1930 and 73 of 1948,

is referred to in this Act as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Evidence Act, 1906-1956.

New s. 19.
Cf. No. 73 of
1948, s. 3.

2. The principal Act is amended by inserting in place of section nineteen, which was repealed by sub-section (2) of section three of the Matrimonial Causes and Personal Status Code, 1948, the following heading and section—

Spouses Competent to Give Evidence as to Non-access.

Evidence of
non-access.
Cf. S.A.
No. 36 of
1949, s. 3
(s. 34h).
Cf. No. 73
of 1948,
s. 33.

19. In any proceedings including proceedings pending at the commencement of the Evidence Act Amendment Act, 1956, either party to a marriage may give evidence proving or tending to prove that the parties to the marriage did not have sexual relations with each other at any particular time notwithstanding that such evidence would show or tend to show that any child born to the wife during the marriage was illegitimate.

S. 47
amended.

3. Section forty-seven of the principal Act is amended by—

(a) adding after subsection (1) the following subsection—

Proof of
identity.
Cf. S.A.
No. 40 of
1940, s. 5;
Tas. 7
Geo. VI
No. 40, s. 2;
and N.S.W.
No. 35
of 1954,
s. 2(e).
Cf. s. 23 ante.

Sixth
Schedule

(1a) For the purpose of proving the identity of a person alleged to have been convicted, whether before or after the commencement of the Evidence Act Amendment Act, 1956, an affidavit substantially in the form in the Sixth Schedule to this Act shall be admissible in evidence in all courts and shall be *prima facie* evidence that the person whose finger-prints are exhibited there-
to—

(a) is the person who, in any document exhibited to the affidavit and purporting to be a record or abstract or certificate of conviction

or a certified copy of a record or abstract or certificate of conviction, is referred to as having been convicted;

(b) has been convicted of the offences mentioned in the affidavit;

(b) adding after the word "acquittal" appearing in subsection (5) firstly in line one, and secondly in line four, the words, "or identity".

4. Paragraph (b) of section fifty-six of the principal Act is amended by adding after the word "Governor" in line three, the passage "Minister of the Crown".

S. 56
amended.

5. Paragraph (a) of subsection (1) of section fifty-seven of the principal Act is amended by substituting for the word "proclamation" in line one, the word, "production".

S. 57
amended.

SIXTH SCHEDULE.

S. 47 (1a).

Western Australia.

THE EVIDENCE ACT, 1906.

(In the (a).....)
 (b)
 IN THE MATTER of (c) by.....
 against.....
 I.....
 of.....
, a fingerprint expert attached to
 the (d).....
 make oath and say as follows:—

((a) Designation of Court.)
 ((b) Parties.)
 ((c) Description of legal proceedings, e.g. "an action", "a complaint", "an indictment", "an information")
 ((d) Designation of department.)

1. I have examined the fingerprint card, now produced and shown to me marked "A." The fingerprints on the card are identical with those on a fingerprint card, portion of the records of the (d).....
 being the fingerprints of
 one..... alias.....

2. According to those records, which I believe to be accurate, the said..... has been convicted of the offences set out below, namely:—

(Here insert description of offences, the Courts in which the convictions took place and the dates of the convictions.)

3. From an examination of those records I believe that the person referred to as having been convicted, in the document(s) now shown to me and marked respectively "B" ("C", "D", etc.), is identical with the person whose fingerprints are on the card marked "A".

Sworn at..... }
this..... day of }
..... 195 . }

Before me

.....
A person having authority to take affidavits in
.....

