



Criminal Evidence Act 1898

1898 CHAPTER 36

An Act to amend the Law of Evidence.

[12th August 1898]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1 Competency of witnesses in criminal cases

Every person charged with an offence, and the wife or husband, as the case may be, of the person so charged, shall be a competent witness for the defence at every stage of the proceedings, whether the person so charged is charged solely or jointly with any other person. Provided as follows :—

- (a) A person so charged shall not be called as a witness in pursuance of this Act except upon his own application :
- (b) The failure of any person charged with an offence, or of the wife or husband, as the case may be, of the person so charged, to give evidence shall not be made the subject of any comment by the prosecution :
- (c) The wife or husband of the person charged shall not, save as in this Act mentioned, be called as a witness in pursuance of this Act except upon the application of the person so charged:
- (d) Nothing in this Act shall make a husband compellable to disclose any communication made to him by his wife during the marriage, or a wife compellable to disclose any communication made to her by her husband during the marriage :
- (e) A person charged and being a witness in pursuance of this Act may be asked any question in cross-examination notwithstanding that it would tend to criminate him as to the offence charged:
- (f) A person charged and called as a witness in pursuance of this Act shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of or been charged with any

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offence other than that wherewith he is then charged, or is of bad character, unless—

- (i) the proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of the offence wherewith he is then charged ; or
 - (ii) he has personally or by his advocate asked questions of the witnesses for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or the witnesses for the prosecution ; or
 - (iii) he has given evidence against any other person charged with the same offence :
- (g) Every person called as a witness in pursuance of this Act shall, unless otherwise ordered by the court, give his evidence from the witness box or other place from which the other witnesses give their evidence :
- (h) Nothing in this Act shall affect the provisions of section eighteen of the Indictable Offences Act, 1848, or any right of the person charged to make a statement without being sworn.

2 Evidence of person charged

Where the only witness to the facts of the case called by the defence is the person charged, he shall be called as a witness immediately after the close of the evidence for the prosecution.

3 Right of reply

In cases where the right of reply depends upon the question whether evidence has been called for the defence, the fact that the person charged has been called as a witness shall not of itself confer on the prosecution the right of reply.

4 Calling of wife or husband in certain cases

- (1) The wife or husband of a person charged with an offence under any enactment mentioned in the schedule to this Act may be called as a witness either for the prosecution or defence and without the consent of the person charged.
- (2) Nothing in this Act shall affect a case where the wife or husband of a person charged with an offence may at common law be called as a witness without the consent of that person.

5 Application of Act to Scotland

In Scotland, in a case where a list of witnesses is required, the husband or wife of a person charged shall not be called as a witness for the defence, unless notice be given in the terms prescribed by section thirty-six of the Criminal Procedure (Scotland) Act, 1887.

6 Provision as to previous Acts

- (1) This Act shall apply to all criminal proceedings, notwithstanding any enactment in force at the commencement of this Act, except that nothing in this Act shall affect the Evidence Act, 1877.
- (2) But this Act shall not apply to proceedings in courts martial unless so applied—
 - (a) as to courts martial under the Naval Discipline Act, by general orders made in pursuance of section sixty-five of that Act; and
 - (b) as to courts martial under the Army Act by rules made in pursuance of section seventy of that Act.

7 Extent, commencement, and short title

- (1) This Act shall not extend to Ireland.
- (2) This Act shall come into operation on the expiration of two months from the passing thereof.
- (3) This Act may be cited as the Criminal Evidence Act, 1898.

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SCHEDULE

Section 4.

ENACTMENTS REFERRED TO

| Session and Chapter. | Short Title. | Enactments referred to. |
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| 5 Geo. 4. c. 83. | The Vagrancy Act, 1824. | The enactment punishing a man for neglecting to maintain or deserting his wife or any of his family. |
| 8 & 9 Vict. c. 83. | The Poor Law (Scotland) Act, 1845. | Section eighty. |
| 24 & 25 Vict. c. 100. | The Offences against the Person Act, 1861. | Sections forty-eight to fifty-five. |
| 45 & 46 Vict. c. 75. | The Married "Women's Property Act, 1882. | Section twelve and section sixteen. |
| 48 & 49 Vict. c. 69. | The Criminal Law Amendment Act, 1885. | The whole Act. |
| 57 & 58 Vict. c. 41. | The Prevention of Cruelty to Children Act, 1894. | The whole Act. |