LAWS OF THE NEW SUDAN

THE EVIDENCE ACT, 2003

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(PROVISIONAL ORDER)

Laws of the New Sudan

The Evidence Act, 2003

Chapter I

Preliminary

Section 1. **Title and Commencement:-** This Act may be cited as the Evidence Act, 2003 and shall come into effect on the date of signature by the Chairman.

Section 2. **Application:-**

1) The Provisions of this Act shall apply to all the judicial proceedings in or before any court, but not to proceedings before an arbitrator.
2) Subject to the provisions of any other Act or of any rules of court, this Act shall apply to affidavits presented to any court.

Section 3. **Definitions:-**

1) In this Act, unless the context otherwise requires; the following words and expressions shall carry the meanings assigned to them:-

"Admissible" means admissible in evidence;

"Advocate" has the meaning ascribed to that expression in the Advocacy Act, 2003 and includes any person entitled, to act as an advocate, whilst so acting in connection with the duties of his office;

"Bank" means a person or company or other body of persons carrying on, any banking business whether on his or their own behalf or as agent for another;

"Banker's book" includes a ledger, day book, cash book, account book, and any other book used in the ordinary business of the bank;

"Court" includes all judges, magistrates, and all persons, legally authorized to take evidence except arbitrators;

"Evidence" denotes the means by which an alleged matter of fact, the truth of which is submitted to investigation, is proved or disproved; and, without prejudice to the foregoing generality, includes statements by accused persons, admission and observation by the court in its judicial capacity;

"Facts" includes:-

(a) any thing, state of things; or relation of things, capable of being perceived by the senses; and

(b) any mental condition of which any person is conscious;

"Fact in Issue" means any fact from which, either by itself or in connection with other facts, the existence, non-existence, nature or extent of any right, liability or disability, asserted or denied in any suit or proceeding, necessarily follows;

"Gazette" means the official Gazette of the New Sudan;
"Public Servant", except in section 81, includes an officer in the service of a public institution.

2) A fact is 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, in the circumstances of the particular case, to act upon the supposition that it exists.
3) A fact is 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 reasonable man ought, in the circumstances of the particular case, to act upon the supposition that it does not exist.
4) A fact is not proved when it is neither proved nor disproved.

Section 4. Presumptions of Facts:-

1) Whenever it is provided by law 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.
2) Whenever it is directed by law that the court shall presume a fact, it may either regard such fact as proved, unless and until it is disproved.
3) When one fact is declared by law 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.

Section 5. General Restriction on Admissibility of Evidence:-

Subject to the provisions of this Act and of any other law, no evidence shall be given in any suit or proceeding except evidence of the existence or non-existence of a fact in issue, and of any other fact declared by any provision of this Act to be relevant.

Section 6. Facts Forming Part of same Transaction:-

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 same time and place or at different times and places.

Section 7. Facts causing or caused by other facts:-

Facts which are the occasion, 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.

Section 8. Facts Relating to Motive, Preparation and Conduct:-

1) Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.

2) The conduct of any party, or of any agent of a 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 is an offence against whom the subject of any proceeding is relevant if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto.

3) When evidence of the conduct of a person is relevant any statement made to him, or in his presence and hearing which affects such conduct, is relevant.
4) The word "conduct" in this section does not include statements accompanying and explaining acts other than statements.

Section 9. Explanatory and Introductory Facts, etc.:-

Facts necessary to explain or introduce a fact in issue or relevant fact, or which support or rebut an inference suggested by such a fact, or which establish the identity of any thing or person whose identity is relevant, or fix 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.

Section 10. Statements and Actions Referring to Common Intention:-

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 as 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.

Section 11. Facts Inconsistent with, or Affecting Probability of, other facts:-

Facts not otherwise relevant are relevant:-

(a) if they are inconsistent with any fact in issue or relevant fact; or
(b) 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.

Section 12. Facts Affecting Quantum of Damages:-

In suits in which damages are claimed, any fact which will enable the court to determine the amount of damages which ought to be awarded is relevant.

Section 13. Facts Affecting Existence of Right or Custom:-

Where the existence of any right or custom is in question, the following facts are relevant:-

(a) any transaction by which the right or custom is in question was created, claimed, modified, recognized, asserted or denied, or which was inconsistent with its existence; or
(b) particular instances in which the right or custom was claimed, recognized, or in which its exercise was disputed, asserted or departed from.

Section 14. Facts Showing State of Mind:-

1) 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.

2) A fact relevant within the meaning of subsection (1) as showing the existence of a state of mind must show that the state of mind exists, not generally, but in reference to the particular matter in question.
3) 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 subsection (1), the previous conviction of such person is also relevant.

Section 15. Facts Showing System:-

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.

Section 16. Facts Showing Course of Business:-

When there is a question whether a particular act was done, the existence of any course of business, according to which it would have naturally been done, is relevant.

Admissions

Section 17. Admissions Defined Generally:-

An admission is a statement, oral or documentary, which suggests any inference as to a fact in issue or relevant fact, and which is made by any of the persons and in the circumstances hereinafter mentioned.

Section 18. Statements by Party to Suit or Agent or Interested Person:-

1) Statements made by a party to the proceeding, or by an agent to any such party, whom the court regards in the circumstances of the case as expressly or impliedly authorized by him to make them, are admissions.
2) Statements made by parties to suits, suing or being sued in a representative character, are not admissions unless they were made while the party making them held that character.
3) Statements made by:-
   (a) persons who have any proprietary or pecuniary interest in the subject-matter of the proceeding, and who make the statement in the character of persons so interested; or
   (b) persons from whom the parties to a suit have derived their interest in the subject-matter of the suit, are admissions if they are made during the continuance of interest of the persons making the statements.

Section 19. Statements by Persons whose Position or Liability must be Proved as against Party to Suit:-

Statements made by persons whose position or liability it is necessary to prove as against any party to a suit, are admissions if such statements would be admissible 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.

Section 20. Statements by Persons Expressly Referred to by Party to Suit:-

Statements made by persons to whom a party to the suit has expressly referred to information in reference to a matter in dispute are admissions.

Section 21. Proof of Admissions against persons making them, and by or on their behalf:-

Subject to the provisions of this Act, an admission may be proved as against the person who makes it or his representative in interest; but an admission cannot be proved by or on behalf of the person who makes it or by his representative in interest, except in the following cases:-

(a) when it is of such a nature that, if the person making it were dead, it would be admissible as between third persons under section 33;

(b) when it consists of a 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;

(c) if it is relevant otherwise than as an admission.

Section 22. Oral Admissions as to Contents of Documents:-

Oral admissions as to the contents of a document may not be proved unless and until the party proposing to prove them shows that he is entitled to give secondary evidence of the contents of such document under this Act or unless the genuineness of a document produced is in question.

Section 23. Admissions made without Prejudice in Civil Suits:-

1) In civil suits no admission may be proved if it is made either upon an express condition that evidence of it is not to be given or in circumstances from which the court can infer that the parties agreed together that evidence of it should not be given.
2) Nothing in subsection (1) shall be taken to exempt any advocate from giving evidence of any matter of which he may be compelled to give evidence under section 134 of this Act.

Section 24. Effect of Admissions:-

Admissions are not conclusive proof of the matters admitted, but they may operate as estoppels under the provisions hereinafter contained.

Confessions

Section 25. Confession Defined:-

A confession comprises words or conduct, or a combination of words and conduct, from which, whether taken alone or in conjunction with other facts proved, an inference may reasonably be drawn that the person making it has committed an offence.

Section 26. Confessions and Admissions caused by Inducement, Threat or Promise:-

A confession or any admission of a fact tending to be the proof of guilt made by an accused person is not admissible in a criminal proceeding if the making of the confession or admission appears to the court to have been caused by any inducement, torture, duress, 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.

Section 27. Confessions made after Removal of impression caused by Inducement, Threat or promise:-

If such a confession as is referred to in section 26 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 admissible.

Section 28. Confession of Accused while in Custody of Police Officer:-

No confession made by any person whilst he is in the custody of a police officer shall be proved as against such person, unless it be made in the immediate presence of:-

(a) a magistrate; or

(b) a police officer of or above the rank of, or a rank equivalent to, Lt. Colonel.

Section 29. Confessions to Police Officers:-

No confession made to a police officer shall be proved against a person accused of any offence unless such officer is of or above the rank of, or a rank equivalent to, a Lt. Colonel.

Section 30. Confession otherwise Admissible not to become Inadmissible because of Promise of Secrecy, etc.:-

If a confession made by an accused person is otherwise admissible it does not cease to be so merely because it was made under a promise of secrecy, or in consequence of a deception practiced on him for the purpose of obtaining it, or when he was drunk, or because it was made in answer to questions which he 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.

Section 31. Information from accused Leading to Discovery of Facts:-
Notwithstanding the provisions of sections 26, 28 and 29, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.

Section 32. Confession Implicating Co-accused:-

1) When two or more persons 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 the confession into consideration as against such other person as well as against the person who made the confession.
2) In this section "confession" means any words or conduct, or combination of words and conduct, which has the effect of admitting in terms either an offence or substantially all the facts which constitute an offence;

"Offence" includes the abetment of, or an attempt to commit, the offence.

Statements by Persons who Cannot be Called as Witnesses

Section 33. Statement by Deceased Person:-
Statements, written or oral, of admissible 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 in the circumstances of the case appears to the court unreasonable, are themselves admissible in the following cases:-

Relating to cause of death

(a) when the statement is made by a 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 and such statements are admissible 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;

Made in the course if business

(b) when the statement was made by such person in the ordinary course of business, and in particular when it consists of an entry or memorandum made by him in books or records 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;

Against the interest of maker

(c) 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;

An opinion as to public right or custom

(d) 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 had arisen;

Relating to existence of relationship

(e) when the statement relates to the existence of any relationship by blood, marriage, or adoption between persons 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;

Relation to family affairs

(f) 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 statement was made before the question in dispute was raised;

Relating to a transaction creating or asserting, etc., a custom.

(g) when the statement is contained in any deed or other document which relates to any such transaction as mentioned in section 13 (a); made by several persons and expressing feelings;

(h) when the statement was made by a number of persons, expressing feelings or impressions on their part relevant to the matter in question.

Section 34. Admissibility of Evidence given in Previous Proceedings:-

1) Evidence given by a witness in a judicial proceeding is admissible in a subsequent judicial proceeding, or at a later stage in the same proceeding, for the purpose of proving the facts which it states, in the following circumstances:-
   (a) where 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 where his presence cannot be obtained without an amount of delay or expense which in the circumstances of the case the court considers unreasonable;

   and where, in the case of a subsequent proceeding:-

   (b) the proceeding is between the same parties or their representatives in interest; and
   (c) the adverse party in the first proceeding had the right and opportunity to cross-examine; and
   (e) the questions in issue were substantially the same in the first as in the second proceeding.

2) For the purposes of this section:-
   (a) the expression "judicial proceeding" shall be deemed to include any proceeding in which evidence is taken by a person authorized by law to take that evidence on oath; and
   (b) a criminal trial or inquiry shall be deemed to be a proceeding between the prosecutor and the accused.

Statements in Documents Produced in Civil Proceedings

Section 35. Admissibility of Documentary Evidence as to facts in Issue:-

1) In any civil proceedings where direct oral evidence of a fact would be admissible, any statement made by a person in a document and tending to establish that fact shall, on production of the original document, be admissible as evidence of that fact if the following conditions are satisfied, that is to say:-
   (a) if the maker of the statement either:-
      (i) had personal knowledge of the matters dealt with by the statement; or

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

(b) if the maker of the statement is called as a witness in the proceedings:

Provided that the condition that the maker of the statement shall be called as a witness need not be satisfied if he is dead, or cannot be found, or is incapable of giving evidence, or if his attendance cannot be procured without an amount of delay or expense which in the circumstances of the case appears to the court unreasonable.

2) In any civil proceedings, the court may at any stage of the proceedings, if having regard to all the circumstances of the case it is satisfied that undue delay or expense would otherwise be caused, order that such a statement as mentioned in subsection (1) shall be admissible or may, without any such order having been made, admit such a statement in evidence:-
   (a) notwithstanding that the maker of the statement is available but is not called as a witness;
   (b) notwithstanding that the original document is not produced, if in lieu thereof there is produced a copy of the original document or of the material part thereof certified to be a true copy in such manner as may be specified in the order or the court may approve, as the case may be.

3) Nothing in this section shall render admissible any statement made by a person interested at a time when proceedings were pending or anticipated involving a dispute as to any fact which the statement might tend to establish.
4) For the purposes of this section, a statement in a document shall not be deemed to have been made by a person unless the document or the material part thereof was written, made or produced by him with his own hand, or was signed or initialed by him or otherwise recognized by him in writing as one for the accuracy of which he is responsible.
5) For the purpose of deciding whether or not a statement is admissible by virtue of this section, the court may draw any reasonable inference from the form or contents or the document in which the statement is contained, or from any other circumstances, and may, in deciding whether or not a person is fit to attend as a witness, act on a certificate purporting to be the certificate of a medical practitioner.

Section 36. Weight to be Attached to Statement Admissible under Section 35:-

1) In estimating the weight, if any, to be attached to statement rendered admissible by section 35, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement, and in particular to the question whether or not the statement was made contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not the maker of the statement had any incentive to conceal or misrepresent facts.

2) For the purpose of any rule of law or practice requiring evidence to be corroborated or regulating the matter in which uncorroborated evidence is to be treated, a statement rendered admissible by section 35 shall not be treated as corroboration of evidence given by the maker of the statement.

Statements under Special Circumstances

Section 37. Entries in Books of Account:-

Entries in books of account regularly kept in the course of business are admissible 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.

Section 38. Entries in Public Records:-

An entry in any public or other official book, register or record, stating a fact in issue or a 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 county in which such book, register or record is kept, is in itself admissible.

Section 39. Statements, etc., in Maps, Charts and Plans:-

Statements and representations 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 any Government, as to matters usually stated or represented in such maps, charts or plans, are themselves admissible.

Section 40. Statement of Fact Contained in Laws and Official-Gazettes, etc.:-

When the court has to form an opinion as to the existence of any fact of a public nature, any statement which is made of it shall be admissible:-

(a) in any written law of the New Sudan, or in any notice purporting to be made in pursuance of any such written law, where the law or notice (as the case may be) purports to be printed by or under the authority of the New Sudan; or

(b) in any written law in force in any country, or in any notice purporting to be made in pursuance of any such written law, where the law or notice (as the case may be) purports to be printed or published by or under the authority of the Government of that country.

Section 41. Statements as to Law Contained in Books:-

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 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 admissible.

Extent to Which Statement is Admissible

Section 42. Extent of Admissibility:-

When any statement of which evidence is given forms part of a longer statement, or of a conversation, or 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 such longer statement, or of such conversation, document, book or series, as the court considers necessary in the particular case to a full understanding of the nature and effect of the statement, and of the circumstances in which it was made.

Judgements

Section 43. Judgements, etc., Excluding Jurisdiction:-

The existence of any judgement, order or decree which by law prevents any court from taking cognizance of a suit or holding a trial, may be proved when the question is whether such court ought to take cognizance of such suit or to hold such trial.

Section 44. Judgements in Rem.

1) A final judgement, order or decree of a competent court which confers upon or takes away from any person any legal character, or which declares any person to be entitled to any specific thing, not as against any specific person but absolutely, is admissible when the existence of any such thing, is admissible.
2) Such judgement, order or decree is conclusive proof:-
    (a) that any legal character which it confers accrued at the time when such judgement, order or decree came into operation;
    (b) that any legal character to which it declares any such person to be entitled accrued to that person at the time when such judgement, order or decree declares it to have accrued to that person;
    (c) that any legal character which it takes away from any such person ceased at the time from which such judgement, order or decree declared that it had ceased or should cease;
    (d) that anything to which it declares any person to be so entitled was the property of that person at the time from which such judgement, order or decree declares that it had been or should be his property.

Section 45. Other Judgements of a Public Nature:-

Judgements, orders or decrees, other than those mentioned in section 44, are admissible if they relate to matters of a public nature relevant to the inquiry, but such judgements, orders or decrees are not conclusive proof of that which they state.

Section 46. Inadmissible Judgements:-

Judgements, orders or decrees other than those mentioned in section 43, 44 and 45 are inadmissible except where the existence of such judgement, order or decree is a fact in issue or is relevant under some other provision of this Act.

Section 47. Proof that Judgement was incompetent or obtained by fraud or collusion:-

Any party to a suit or other proceeding may show that any judgement, order or decree which is admissible under the provisions of this Act 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.

Section 48. Proof of Guilt:-

A final judgement or a competent court in any criminal proceedings which declares any person to be guilty of a criminal offence shall, after the expiry of the time limited for an appeal against such judgement or after the date of the decision of any appeal therein, whichever is the latest, be taken as conclusive evidence that the person so convicted was guilty of that offence as charged.

Opinions

Section 49. Opinions of Experts:-

1) When the court has to form an opinion upon a point of foreign law, or of science or art, or as to identity or genuineness of handwriting or finger or other impressions, opinions upon that point are admissible if made by persons specially skilled in such foreign law, science, art, or in questions as to identity or genuineness of handwriting or finger or other impressions.
2) Such persons are called experts.

Section 50. Facts Bearing upon Opinions of Experts:-

Facts not otherwise admissible are admissible if they support or are inconsistent with the opinions of experts, when such opinions are admissible.

Section 51. Opinion as to Handwriting:-

1) 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 admissible.
2) For the purposes of subsection (1), and without prejudice to any other means of determining the question, a person is said to be acquainted with the hand-writing 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 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.

Section 52. Opinion Relating to Customs and Rights:-

1) 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 admissible.
2) For the purposes of this subsection (1) the expression "general custom or right" includes customs or rights common to any class of persons.

Section 53. Opinions of Persons with Special Knowledge:-

When the court has to form an opinion as to:-

(a) the usages and tenets of any association, body of men or family; or
(b) the constitution and government of any religious or charitable foundation; or
(c) the meaning of words or terms used in particular districts or by particular classes of people, the opinions of persons having special means of knowledge thereon are admissible.

Section 54. Opinion on Relationship:-

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 admissible:

Provided that such an opinion shall not be sufficient to prove a marriage in a prosecution for adultery or in proceedings for a divorce, or in any proceedings for damages against an adulterer.

Section 55. Grounds of Opinion:-

Whenever the opinion of any living person is admissible, the grounds on which such opinion is based are also admissible.

Character

Section 56. Character in Civil Suits:-

1) In civil suits, the fact that the character of any person concerned is such as to render probable or improbable any conduct imputed to him is inadmissible except in so far as such character appears from facts otherwise admissible.
2) In civil suits, the fact that the character of any person is such as to effect the amount of damages, is admissible.

Section 57. Good Character in Criminal Cases:-

In criminal proceedings, the fact that the person accused is of good character is admissible.

Section 58. Bad Character in Criminal Cases:-

1) In criminal proceedings the fact that the accused person has committed or been convicted of or charged with any offence other than that with which he is then charged, or is of bad character, is inadmissible unless:-
   (a) such evidence is otherwise admissible as evidence of a fact in issue or is directly relevant to a fact in issue; or
   (b) the proof that he has committed or been convicted of such other offence is admissible under section 14 or section 15 to show that he is guilty of the offence with which he is then charged; or
   (c) he has personally or by his advocate asked questions of a witness for the prosecution with a view to establishing his own character, or has given evidence of his own good character; or
   (d) the nature or conduct of the defence is such as to involve imputations on the character of the complainant or of a witness for the prosecution; or
   (e) he has given evidence against any other person charged with the same offence:

   Provided that the court may, in its discretion, direct that specific evidence on the ground of the exception referred to in paragraph (d) shall not be led if, in the opinion of the court, the prejudicial effect of such evidence upon the person accused will so outweigh the damage done by imputations on the character of the complainant or of any witness for the prosecution as to prevent a fair trial.

2) Notwithstanding the provisions of subsection (1), evidence of previous conviction for an offence may be given in a criminal trial after conviction of the accused person, for the purpose of affecting the sentence to be awarded by the court.

Section 59. Definition of "Character":-

In sections 55, 56, and 57 the word "character" includes both reputation and disposition; but, except as provided in section 57, evidence may be given only of general reputation and general disposition, and not of particular acts by which reputation or disposition were shown.

Chapter II

Proof

Facts Requiring No Proof

Section 60. Facts Judicially Noticed.

No fact of which the court shall take judicial notice need be probed.

Section 61. Facts of which Court shall take Judicial Notice.

1) The courts shall take judicial notice of the following facts:-

a) all written laws, and all laws, rules and principles, written or unwritten, having the force of law, whether in force or having such force as aforesaid before, at or after the commencement of this Act, in any part of the New Sudan.

b) the general course of proceedings and privileges of Legislative organ of the New Sudan, but not the transaction in their journals;

c) Articles of War for the SPLA Forces;

d) the public seal of the New Sudan; the seals of all the courts of the New Sudan; and all seals which any person is authorized by any written law to use;

e) the accession to office, name, titles, functions and signatures of public officers, if the fact of their appointment is notified in the Gazette;

f) the existence, title and national flag of every Sovereign State recognized by the New Sudan Authority;

g) natural and artificial divisions of time, and geographical divisions of the world, and public holidays;

h) the extent of the territories comprised in all countries.

i) the commencement, continuance and termination of hostilities between the New Sudan and any other state or body of persons;

j) the names of the members and officers of the court and of their deputies, subordinate officers and assistants, and all officers acting in execution of its process, and also of all advocates and other persons authorized by law to appear or act before it;

k) the rule of the road on land or at sea or in the air;

l) the ordinary course of nature;

m) the meaning of English words;

n) all matters of general or local notoriety;

o) all other matters of which it is directed by any written law to take judicial notice.

2) In all cases within subsection (1), 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.

3) 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 considers necessary to enable it to do so.

Section 62. Facts Admitted in Civil Proceedings.
No fact needs to be proved in any civil proceeding in which the parties thereto or their agents agree to admit at the hearing, or which before the hearing they agreed, by writing under their hands, to admit, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings:

Provided that the court may in its discretion require the facts admitted to be proved otherwise than by such admissions.

Oral Evidence

Section 63. Oral Evidence.
All facts, except the contents of documents, may be proved by oral evidence.

Section 64. Oral Evidence must be Direct.
1) Oral evidence must in all cases be direct evidence.

2) For the purposes of subsection (1), "direct evidence" means:-

a) with reference to a fact which could be seen, the evidence of a witness who says he saw it;

b) with reference to a fact which could be heard, the evidence of a witness who says he heard it;

c) with reference to a fact which could be perceived by any other sense or in any other manner, the evidence of a witness who says he perceived it by that sense or in that manner

d) with reference to an opinion or to the grounds on which that opinion is held, the evidence of the person who holds that opinion or, as the case may be, who holds it on those grounds:

Provided that the opinion of an expert expressed in any treatise commonly offered for sale, and the grounds on which such opinion is held, may be proved by the production of such treaties 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.

3) If oral evidence refers to the 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 inspection.

Documentary Evidence

Section 65. Proof of Contents of Documents.
The contents of documents may be proved either by primary or by secondary evidence.

Section 66. Primary Evidence.
1) Primary evidence means the document itself produced for the inspection of the court.

2) Where a document is executed in several parts, each part is a primary evidence of the document.

3) Where a document is executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart is a primary evidence as against the parties executing it.

4) Where a number of documents are all made by one uniform process, as in the case of printing, lithography or photography, each is a 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.

Section 67. Secondary Evidence.
Secondary evidence includes:-

a) certified copies given under the provisions hereinafter contained;

b) copies made from the original by mechanical processes which in themselves ensure the accuracy of the copy, and copies compared with such copies;

c) copies made from or compared with the original;

d) counterparts of documents as against the parties who did not execute them;

e) oral accounts of the contents of a document given by some person who has himself seen it.

Section 68. Proof of Documents by Primary Evidence.
Documents must be proved by primary evidence except in the cases hereinafter mentioned.

Section 69. Proof of Documents by Secondary Evidence.
1) 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 possession or power of :-
   i) the person against whom the document is sought to be proved; or
   ii) a person out of reach of, or not subject to, the process of the court; or
   iii) any person legally bound to produce it, and when, after the notice required by section 70 of this Act has been given, such person refuses or fails to produce it;

b) when the existence, condition or contents of the original are proved to be admitted in writing by the person against whom it is proved, or by his representative in interest;

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 a reasonable time;

d) when the original is of such a nature as not to be easily movable;

e) when the original is a public document within the meaning of section 70;

f) when the original is a document of which a certified copy is permitted by this Act or by any written law to be given in evidence;

g) when the original consists 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.

2) a) In the cases mentioned in paragraphs (a), (c) and (d) of subsection (1), any secondary evidence of the contents of the document is admissible.
   b) In the case mentioned in subsection (1) (b), the written admission is admissible.
   c) In the cases mentioned in paragraphs (e) and (f) of subsection (1), a certified copy of the document, but no other kind of secondary evidence, is admissible.
   d) In the case mentioned in subsection (1) (g), evidence may be given as to the general result of the accounts or documents by any person who has examined them, and who is skilled in the examination of such accounts or documents.

Section 70. Notice to Produce a Document.

Secondary evidence of the contents of the documents referred to in section 69 (1) (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 required by law or such notice as the court considers reasonable in the circumstances of the case:

Provided that such notice shall not be required in order to render secondary evidence admissible in any of the following cases:-

i) when the document to be proved is itself a notice;
ii) when from the nature of the case, the adverse party must know that he will be required to produce it;
iii) when it appears or is proved that the adverse party has obtained possession of the original by fraud or force;
iv) when the adverse party or his agent has the original in court;
v) when the adverse party or his agent has admitted the loss of the document;
vi) when the person in possession of the document is out of reach of, or not subject to, the process of the court;
vii) in any other case in which the court thinks fit to dispense with the requirement.

Section 71. Proof of Allegation that Persons Signed or Wrote a Document.

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.

Section 72. Proof of Execution of Document Required by Law to be Attested.

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 is an attesting witness alive and subject to the process of the court and capable of giving evidence:

Provided that it shall not be necessary to call an attesting witness in proof of the execution of any document which has been registered in accordance with the provisions of any written law, unless its execution by the person by whom it purports to have been executed is specifically denied.

Section 73. Proof Where no Attesting Witness Found.

Where evidence is required of a document which is required by law to be attested, and none of the attesting witnesses can be found, or where such witness is incapable of giving evidence or cannot be called as a witness without an amount of delay or expense which the court regards as unreasonable, 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.

Section 74. Admission of Execution of Attested Document.

The admission of a party to an attested document, of its execution by himself, shall be sufficient proof of its execution as against him, though it be a document required by law to be attested.

Section 75. Proof where Attesting Witness Denies Execution.

If the attesting witness denies or does not recollect the execution of a document, its execution may be proved by other evidence.

Section 76. Proof of Document not Required to be Attested.

An attested document not required by law to be attested may be proved as if it was unattested.

Section 77. Comparison of Signatures, Seals, etc.

1) 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 by a witness or by the court with the one which is to be proved, although that signature, writing or seal has not been produced or proved for any purpose.

2) 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 by such person.

3) This section applies with necessary modifications to finger impressions.

Section 78. Reports by Government Analysts and Geologists.

1) In criminal proceedings any document purporting to be a report under the hand of a Government analyst or of any geologist employed in the public service upon any matter or thing submitted to him for examination or analysis may be used in evidence.

2) The court may presume that the signature to any such document is genuine and that the person signing it held the office and qualifications which he professed to hold at the time when he signed it.

3) When any report is so used the court may, if it thinks fit, summon the analyst or geologist, as the case may be, and examine him as to the subject matter thereof.

Section 79. Photographic Evidence:- Admissibility of Certificate.

1) In criminal proceedings a certificate in the form in the Schedule to this Act, given under the hand of an officer appointed by order of the Commissioner for Legal Affairs and Attorney General for the purpose, who shall have prepared a photographic print or a photographic enlargement from exposed film submitted to him, shall be admissible, together with any photographic prints, photographic enlargements and any other annex referred to therein, and shall be evidence of all facts stated therein.

2) The court may presume that the signature to any such certificate is genuine.

3) When a certificate is received in evidence under this section the court may, if it thinks fit, summon and examine the person who gave it.

Public Documents

Section 80. Distinction between Public and Private Documents.

1) The following documents are public documents:-
   a) documents forming the acts or records of the acts:-
      i) of the sovereign authority; or
      ii) of official bodies and tribunals; or
      iii) of public officers, legislative, judicial or executive, whether of the New Sudan or of any other country;

   b) public records kept in the New Sudan of private documents.

2) All documents other than public documents are private.

Section 81. Certified Copies of Public Documents.

1) 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, 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 such copies so certified shall be called certified copies.

2) Any officer who by the ordinary course of official duty is authorized to deliver copies of public documents shall be deemed to have the custody of such documents within the meaning of this section.

Section 82. Proof by Certified Copies.

Certified copies of public documents may be produced in proof of the contents of the documents or parts of the documents of which they purport to be copies.

Section 83. Proof of Certain Public Documents.

Without prejudice to any other mode of proof, prima facie evidence of the following public documents may be given in the manner hereinafter shown, that is to say:-

a) proceedings of the legislature of any country, by the journal thereof, or, in the case of such legislature as aforesaid, by copies of such journals purporting to be printed or published by or under the authority of such legislature, or by or under the authority of the government of any such country;

b) acts, orders or notifications of the executive organ of the New Sudan, organization of any service thereof, or any local authority, or of a Secretariat or department of any of the foregoing:-
   i) by the records of the service, Secretariat or department certified by the head of the service or department, or, in the case of a Secretariat, by the Under Secretary thereof; of

ii) by any document purporting to be printed or published by or under the authority of CANS.

c) proceedings of any local authority, or of any corporate body created by an Act, by a copy of the proceedings certified by the person having the lawful custody of the original thereof, or by a public document purporting to be printed or published by or by the authority of such authority or corporate body;

d) proclamations, treaties and other acts of state or any foreign country, and judgements, decrees, orders and other judicial proceedings of any court of justice in such country, and all affidavits, pleadings and other legal documents filed or deposited in any such court;

e) public documents of any other class in a foreign country, by the original, or by a copy thereof bearing a certificate under the seal of a notary public or of the New Sudan consular officer or diplomatic representative that the copy is duly certified by the officer having the lawful custody of the original thereof, and upon proof of the character of the document according to the law of that foreign country.

Presumptions as to Documents

Section 84. Certified Documents.

1) The court shall presume to be genuine every document purporting to be a certificate, certified copy or other document which is:-
   a) declared by law to be admissible as evidence of any particular fact; and

   b) substantially in the form, and purporting to be executed in the manner, directed by law in that behalf; and

   c) purporting to be duly certified by a public officer.

2) 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 document.

Section 85. Records of Evidence.

Whenever any document is produced before any court, purporting to be a record or memorandum of any evidence given in a judicial proceeding or before any officer authorized by law to take such evidence, and purporting to be signed by a judge or magistrate of any such officer as aforesaid, the court shall presume:-

a) that the document is genuine;

b) that any statements as to the circumstances in which it was taken, purporting to be made by the person signing it, are true; and

c) that such evidence was duly taken.

Section 86. Gazette, etc., to be Prima Facie Evidence.

The production of a copy of any written law, or of a copy of the Gazette containing any written law or any notice purporting to be made in pursuance of a written law, where such law or notice (as the case may be) purports to be printed by, or under the authority of CANS, shall be prima facie evidence in all courts and for all purposes whatsoever of the due making and tenor of such written law or notice.

Section 87. Gazettes, Newspapers, and Documents produced from Proper Custody.

1) The court shall presume the genuineness of every document purporting to be:-
   a) the official Gazette of any country;
   b) a newspaper or journal;
   c) a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper custody.

2) 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.

Section 88. Publications Generally.

Where any publication or part thereof indicates or purports to indicate the name of any person by or on behalf or under the sponsorship of whom, or the place at which or date on which, such publication or any part thereof was edited, printed or published or any part thereof was contributed, it shall, in any proceedings for an offence under any written law or for contempt of any court, be presumed, until the contrary is proved, that such publication or part thereof was edited, printed or published, or that such part thereof was contributed, by or on behalf of or under the sponsorship of such person, or at such place or on such date, as the case may be.

Section 89. Maps or Plans.

1) The court shall presume that maps or plans purporting to be made or published by the authority of the Government, or any department of the Government, of any country were so made or published and are accurate.

2) Maps or plans specially made for the purposes of any cause or other proceeding, civil or criminal, must be proved to be accurate.

Section 90. Laws and Judicial Reports.
The court shall presume the genuineness of every book 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, and of every book purporting to contain reports of decisions of the courts of any country.

Section 91. Powers of Attorney.
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 commissioner for oaths or any court, judge, magistrate, or the New Sudan consular officer or diplomatic representative, was so executed and authenticated.

Section 92. Certified Copies of Foreign Judicial Records.
The court may presume that any document purporting to be a copy of a judgement or judicial record of any country is genuine and accurate, and that such judgment or record was pronounced or recorded by a court of competent jurisdiction, if the document purports to be certified in any manner which is certified by a New Sudan consular officer or diplomatic representative in or for such country to be in the manner commonly in use in that country for the certification of copies of judgements or judicial records.

Section 93. Books, Maps and Charts.
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 admissible 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.

Section 94. Telegraphic Electronic Mail and Fax Messages.
The court may presume that a message forwarded from a telegraph office electronic mail or fax 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.

Section 95. Presumption as to Due Execution, etc.
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 the law.

Section 96. Documents Twenty Years Old.
1) Where any document purporting or proved to be not less than twenty 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 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.

2) 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 circumstance of the particular case are such as to render such an origin probable.

Exclusion of Oral by Documentary Evidence

Section 97. Written Contracts and Grants.

1) 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 of this Act.

2) Notwithstanding the provisions of subsection (1):-

a) wills admitted to probate in the New Sudan may be proved by the probate;

b) 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.

3) Subsection (1) applies equally to cases in which contracts, grants or dispositions of property referred to are contained in one document, and to cases in which they are contained in documents more than one.

4) Where there are more originals than one, one original only needs to be proved.

5) The statement, in any document whatever, of a fact other than the facts referred to in subsection (1), shall not preclude the admission of oral evidence as to the same fact.

Section 98. Evidence of Oral Agreement.

When the terms of any contract or 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 section 97, no evidence of any oral agreement or statement shall be admitted 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:

Provided that:-

i) 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,

ii) 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, and in considering whether or not this paragraph of this proviso applies, the court shall have regard to the degree of formality of the document;
iii) 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;
iv) 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 such documents;
v) any usage or custom by which incidents not expressly mentioned in any contract, are usually annexed to contracts of that description, may be proved, if the annexing of such incident would not be repugnant to, or inconsistent with, the express terms of the contract;
vi) any fact may be proved which shows in what manner the language of a document is related to existing facts.

Section 99. Evidence to Explain a Patent Ambiguity.
When the language used in a document is on the face of it ambiguous of defective, evidence may not be given of facts which would show its meaning or supply its defects.

Section 100. Evidence to Show Inapplicability.
When language used in a document is plain, 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.

Section 101. Evidence to Explain a Latent Ambiguity.
When language used in a document is plain, but is unmeaning in reference to existing facts, evidence may be given to show that it was used in a peculiar sense.

Section 102. Evidence of Application to One of Several Subjects.
When the facts are such that the language used in a document might have been meant to apply to more than 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 to which of those persons or things it was intended to apply.

Section 103. Evidence of Application to one of Several Sets of Facts.
When the language used in a document applies partly to one set of existing facts, and partly to another, 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.

Section 104. Evidence to Explain Special Words.
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.

Section 105. Evidence of Variation given by Third Parties.
Persons who are not parties to a document, or their representatives in interest, may give evidence of any facts tending to show a contemporaneous agreement varying the terms of the document.

Section 106. Wills.
Nothing in this part shall affect the law and the customs relating to the interpretation and construction of wills or other testamentary dispositions.

Chapter III
Production And Effect Of Evidence

Burden of Proof

Section 107. Burden of Proof.
1) Whoever desires any court to give judgement as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.

2) When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person.

Section 108. Incidence of Burden.
The burden of proof in a suit or proceedings lies on that person who would fail if no evidence at all were given on either side.

Section 109. Proof of Particular Fact.
The burden of proof as to any particular fact lies on the 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.

Section 110. Proof of Admissibility.
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.

Section 111. Burden on Accused in Certain Cases.
1) When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any exception or exemption from, or qualification to, the operation of the law creating the offence with which he is charged and the burden of proving any fact especially within the knowledge of such person is upon him:

Provided further that the person accused shall be entitled to be acquitted of the offence with which he is charged if the court is satisfied that the evidence given by either the prosecution or the defence creates a reasonable doubt as to the guilt of the accused person in respect of that offence.

2) Nothing in this section shall:-

a) prejudice or diminish in any respect the obligation to establish by evidence according to law any acts, omissions or intentions which are legally necessary to constitute the offence with which the person accused is charged; or

b) impose on the prosecution the burden of proving that the circumstances or facts described in subsection (1) do not exist; or

c) affect the burden placed upon an accused person to prove a defence of intoxication or insanity.

Section 112. Proof of Special Knowledge in Civil Proceedings.

In civil proceedings, when any fact is especially within the knowledge of any party to those proceedings, the burden of proving or disproving that fact is upon him.

Section 113. Disproving Apparent Special Relationship.

When the question is whether persons are partners, landlord and tenant, or principle 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.

Section 114. Disproving Ownership.

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 person who affirms that he is not the owner.

Section 115. Proof of Good Faith.

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.

Section 116. Conclusive Proof of Legitimacy.

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 child 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.

Section 117. Presumption of Death.
Where it is proved that a person has not been heard of for seven years by those who might be expected to have heard of him if he were alive, there shall be a refutable presumption that he is dead.

Section 118. Presumption of Likely Facts.
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.

Estoppel

Section119. General Estoppel.
When one person has, by his declaration, act or omission, intentionally caused 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.

Section 120. Estoppel of Tenant or Licence.
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 licence of the person in possession thereof shall be permitted to deny that such person had a right to such possession at the time when the licence was given.

Section 121. Estoppel of Acceptor of a Bill of Exchange.
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:

Provided that the acceptor of a bill of exchange may deny that the bill was in fact drawn or endorsed by the person by whom it purports to have been drawn or endorsed.

Section 122. Estoppel of Bailee, Licensee or Agent.
No bailee, agent or licensee shall be permitted to deny that the bailor, principle or licensor, by whom any goods were entrusted to any of them respectively, was entitled to those goods at the time when they were so entrusted:

Provided that any such bailee, agent or licensee may show that he was compelled to deliver up any such goods to some person who had a right to them as against his bailor, principle or licensor, or that his bailor, principle or licensor, wrongfully, and without notice to the bailee, agent or licensee, obtained the goods from a third person who has claimed them from such bailee, agent or licensee.

Evidence of Children

Section 123. Corroboration Required in Criminal Cases.

Evidence of a child of tender years is inadmissible on behalf of the prosecution in proceeding against an accused and shall not be convicted on such evidence unless it is corroborated by other material evidence in support thereof implicating him.

Chapter IV

Witnesses

Section 124. Competency of Witnesses.

1) 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 similar cause.

2) A mentally disordered person or a lunatic is not incompetent to testify unless he is prevented by his condition from understanding the questions put to him and giving rational answers to them.

Section 125. Dumb Witnesses.

1) A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible, as for example, by writing or by sign; but such writing must be written, and the signs made, in open court.

2) Evidence so given shall be deemed to be oral evidence.

Section 126. Competency of Parties and Spouses.

1) In civil proceedings the parties to the suit, and the husband or wife of any party to the suit, shall be competent witnesses.

2) In criminal proceedings every person charged with an offence, and the wife or husband of the person charged, shall be competent witness for the defence at every stage of the proceedings, whether such person is charged alone or jointly with any other person:
    i) the person charged shall not be called as a witness except upon his own application;
    ii) save as provided in subsection (3), the wife or husband of the person charged shall not be called as a witness except upon the application of the person charged;

iii) the failure of the person charged (or of the wife or husband of that person) to give evidence shall not be made the subject of any comment by the prosecution.

3) In criminal proceedings the wife or husband of the person charged shall be a competent but not compellable witness for the person, in any case where such person is charged:-

a) with the offence of adultery;

b) with certain offences against morality under the Penal Code, 2003;

c) in respect of an act or omission affecting the person or property of the wife or husband of such person or the children of either of them, and not otherwise.

4) In this section "husband" and "wife" mean respectively the husband and wife of a marriage which is by law binding during the lifetime of both parties unless dissolved according to law, and includes customary and traditional marriages.

Compellability and Privileges of Witnesses

Section 127. Compellability of Ordinary Witnesses.

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 incriminate, or may tend directly or indirectly to incriminate, such witness, or that it will expose, or tend directly or indirectly to expose, such witness to a penalty or forfeiture of any kind, but no such answer which a witness is 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.

Section 128. Privilege of Court.

No judge or magistrate shall, except upon the special order of some court to which he is subordinate, be compelled to answer any questions as to his own conduct in court as such judge or magistrate, or as to anything which came to his knowledge in court as such judge or magistrate, but he may be examined as to other matters which occurred in his presence whilst he was so acting.

Section 129. Communications during Marriage.

1) No person shall be compelled to disclose any communication made to him or her during marriage, by the other spouse; nor shall a person be permitted to disclose such communication without the consent of the person who made it, or of his or her representative in interest, except in suits between the parties to the marriage or in any of the cases referred to in paragraphs (a), (b) and (c) of section 126 (3).

2) In this section "marriage" means a marriage, which is by law binding during the lifetime of the parties thereto unless dissolved according to law and includes customary and traditional marriages.

Section 130. Privilege Relating to Official Records.
Whenever it is stated on oath (whether by affidavit or otherwise) by a Commissioner, Public Servant, or Local Authority, that he has examined the contents of any document forming part of any unpublished official records, the production of which document has been called for in any proceedings, and that he is of the opinion that such production would be prejudicial to the public service, either by reason of the content thereof or of the fact that it belongs to a class which, on grounds of policy, should be withheld from such production, the document shall not be admissible.

Section 131. Privilege of Official Communications.
No public servant shall be compelled to disclose communications made by any person to him in the course of his duty, when he considers that the public interest would suffer by the disclosure.

Section 132. Privilege Relating to Information of Commission of Offences.
1) No Judge, Magistrate or Police Officer shall be 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 law relating to the public revenue or to income tax, customs or excise.

2) For the purposes of this section, "revenue officer" means any officer employed in or about the business of any branch of the public revenue, including any branch of the income tax, customs or excise departments.

Section 133. Privilege of Advocates.
1) 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 of and for the purpose of his professional employment, or to disclose any advice given by him to his client in the course of and for the purpose of such employment:
Provided that nothing in this section shall protect from disclosure:-
    a) any communication made in furtherance of any illegal purpose;

    b) any fact observed by any advocate in the course of his employment as such, showing that any crime or fraud has been committed since the commencement of his employment, whether the attention of such advocate was or was not directed to the fact by or on behalf of his client.

2) The protection given by subsection (1) shall continue after the employment of the advocate has ceased.

Section 134. Privilege of Interpreters, and Advocates' Clerks or Employees.
The provisions of section 133 shall apply to interpreters, and the clerks or employees of advocates.

Section 135. Waiving of Privilege of Advocates, etc.

1) If any party to a suit or proceedings 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 133 (1).

2) If any party to a suit or proceedings calls any advocate, interpreter, clerk or employee servant as a witness, he shall be deemed to have consented to such disclosure as is mentioned in section 133 (1) only if he questions such witness on matters which, but for such question, the witness would not be at liberty to disclose.

Section 136. Communications with an Advocate.

No one shall be compelled to disclose to the court any confidential communication which has taken place between him and his advocate 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.

Section 137. Title Deeds and Incrimination Documents in the Hands of Third Party.

No witness who is not a party to the suit shall be compelled to produce his title deeds to any property, or any document by virtue of which he holds any property as pledgee or mortgagee, or any document the production of which might tend to incriminate him, unless he has agreed in writing with the person seeking the production of such deeds or document, or with some person through whom he claims, to produce them.

Section 138. Privileged Document in Possession of Another.

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 other person consents to their production.

Section 139. Bankers' Books.

1) A bank, or officer of a bank, shall not, in any legal proceedings to which the bank is not a party, be compelled to produce any banker's book the contents of which can be proved under the provisions of Chapter V of this Act.

2) No bank or officer of a bank shall be summoned or called as a witness to prove any matters, transactions or accounts recorded in a banker's book except by order of a judge or magistrate made for special cause.

Section 140. Accomplices.

An accomplice shall be a competent witness against an accused person; and a conviction shall not be illegal merely because it proceeds upon the uncorroborated evidence of an accomplice.

Section 141. Privileges to Exclude Oral Evidence of Documents.

No person who is entitled to refuse to produce a document shall be compelled to give oral evidence of its contents.

Section 142. Number of Witnesses.
No particular number of witnesses shall, in the absence of any provision of law to the contrary, be required for the proof of any fact.

Examination of Witnesses

Section 143. Court to decide as to the Admissibility of Evidence.

1) When either party proposes to give evidence of any fact, the court may ask the party proposing to give the evidence in what manner the alleged fact, if proved, would be admissible.

2) The court shall admit the evidence of any fact if it thinks that the fact, if proved, would be admissible and not otherwise.

3) 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 the party undertakes to give proof of such fact and the court is satisfied with such undertaking.

4) If the admissibility of one alleged fact depends upon another alleged fact being first proved, the court may, in its 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.

Section 144. Types of Examination of Witnesses.

1) The examination of a witness by the party who calls him shall be called his examination-in-chief.

2) The examination of a witness by the adverse party shall be called his cross-examination.

3) Where a witness has been cross-examined and is then examined by the party who called him, such examination shall be called his re-examination.

Section 145. Order and Direction of Examinations.

1) Witnesses shall first be examined-in-chief, then, if the adverse party so desires, cross-examined, then, if the party calling them so desires, re-examined.

2) Subject to the provisions of this Act, the examination-in-chief and cross-examination must be related to relevant facts, but the cross-examination need not be confined to the facts to which the witness testified in his examination-in-chief.

3) 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.

4) The court may in all cases permit a witness to be recalled either for further examination-in-chief or for further cross-examination, and if it does so, the parties have the right of further cross-examination and re-examination respectively.

Examination of Witnesses

Section 146. Person Called to Produce a Document.
A person called 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.

Section 147. Witness to Character.
A witness to character may be cross-examined and re-examined.

Section 148. Meaning of Leading Question.
Any question suggesting the answer which the person putting it wishes or expects to receive, or suggesting a disputed fact as to which the witness is to testify, is a leading question.

Section 149. Leading Questions in Examination-in-chief and Re-examination.
1) 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.

2) The court shall permit leading questions as to matters which are introductory or undisputed, or which have in its opinion been already sufficiently proved.

Section 150. Leading Questions in Cross-examination.
Leading question may be asked in cross-examination.

Section 151. Examination as to whether certain formal matters are contained in writing Document.
Any witness may be asked, whilst under examination, whether any contract or grant of other disposition of property as to which he is giving evidence was not contained in a document, but 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.

Section 152. Cross-examination as to Previous Written Statements.
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 a witness by a previous written statement, 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.

Section 153. Cross-examination as to Credibility.
When a witness is cross-examined he may, in addition to the questions herein before referred to, be asked any questions which tend:-

a) to test his accuracy, veracity or credibility;

b) to discover who he is and what is his position in life;

c) to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to incriminate him or might expose or tend directly or indirectly to expose him to a penalty or forfeiture.

Section 154. Compulsion to Answer Questions as to Credit.
If any question asked, under section 153 (c) for the purpose of affecting the credit of the witness relates to a matter relevant to the suit or proceeding, the provisions of section 127 shall apply thereto.

Section 155. Cross-examination of Accused Person.
A person charged with an offence and called as a witness for the defence may be asked any question in cross-examination notwithstanding that the answer may tend to incriminate him as to the offence charged.

Section 156. Discretion of Court to Compel Witness to Answer Questions as to Credit.

1) If any question asked relates to a matter not relevant to the suit or proceedings 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 does so compel him, or warn the witness that he is not obliged to answer.

2) In exercising its discretion under this section, the court shall have regard to the following considerations:-

a) 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 as to the credibility of the witness on the matter to which he testifies;

b) 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;

c) 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.

3) The court may, if it sees fit, draw from the witness's refusal to answer, the inference that the answer, if given, would be unfavourable to the witness.

Section 157. Necessity for Grounds before Attacking Character.
No such question as is referred to in section 156 ought to be asked unless the person asking it has reasonable grounds for thinking that the imputation which it conveys is well founded.

Section 158. Indecent or Scandalous Questions.
The court may not allow 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.

Section 159. Insulting or Annoying Questions.
The court shall not allow 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.

Section 160. Discretion to Allow Cross-examination of own Witness.
The court may, in its discretion, allow the person who calls a witness to put any questions to him which might be put in cross-examination by the adverse party.

Section 161. Exclusion of Evidence to Contradict a Witness.
When a witness has been asked and has answered any question which is relevant to the proceedings 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:

Provided that:-

i) 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;
ii) if a witness is asked any question tending to impeach his impartiality and answers by denying the facts suggested, evidence may be given of the facts.

Section 162. Evidence to Impeach the Credit of a Witness.
1) 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:-

a) by the evidence of persons who testify that they, from their knowledge of the witness, believe him to be unworthy of credit;

b) 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;

c) by proof of former statements, whether written or oral, inconsistent with any part of his evidence which is liable to be contradicted;

d) when a man is prosecuted for rape or an attempt to commit rape, it may be shown that the prosecutrix was of generally immoral character.

2) Any person, called as a witness pursuant to subsection (1) (a), who declares another witness to be unworthy of credit may not, upon his examination-in-chief, give reasons for his brief, 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.

Section 163. Circumstantial Questions to Confirm Evidence.
When a witness the truthfulness of whose evidence it is intended to confirm given evidence of any fact, he may be questioned as to any other circumstances which he observed at or near the time or place at which the fact occurred, if the court is of opinion that such circumstances, if proved, would tend to confirm the testimony of the witness as to the fact to which he testifies.

Section 164. Proof of Consistency by Former Statements.
In order to show that the testimony of a witness is consistent any former statement made by such witness, whether written or oral, relating to the same fact at or about the time when the fact took place, or before any authority legally competent to investigate the fact, may be proved.

Section 165. Evidence to Test statement of Person not Available as Witness.
Whenever any statement admissible under section 32 or section 33 is proved, all matters 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, may be proved either to contradict or to show consistency, or in order to impeach or confirm the credit of the person by whom it was made.

Refreshing of Memory and Production of Documents

Section 166. Refreshing Memory by Reference to Contemporaneous Writing.

1) A witness may, while under examination, refresh his memory by referring to any writing made by himself at the time of the transaction of which he is questioned, or made so soon afterwards that the court considers it likely that the transaction was at that time fresh in his memory.

2) A witness may, while under examination, refresh his memory by referring to any writing made by any other person and read by the witness within the time mentioned in subsection (1), if when he read it he knew it to be correct.

3) Whenever a witness may refresh his memory by reference to any writing, he may, with the permission of the court, refer to a copy of such writing, if the court is satisfied that there is sufficient reason for the non-production of the original.

4) An expert may refresh his memory by reference to professional treatises.

Section 167. Reference to Accurate Contemporaneous Record though facts themselves not Specially Recalled.

A witness may testify to facts mentioned in any such writing as is referred to in section 166 although he has no specific recollection of the facts themselves, if he is sure that the facts were correctly recorded in the document.

Section 168. Rights of Adverse Party as to Contemporaneous Writing.

Any writing referred to in section 166 or section 167 shall be produced and shown to the adverse party if he requires it, and such party may, if he so wishes, cross-examine the witness thereupon.

Section 169. Production of Documents of Doubtful Admissibility.

1) A witness summoned to produce a document shall, if it is in his possession or power, bring it to court notwithstanding any objection which may be to its production or to its admissibility, but the validity of any such objection shall be tried by the court.

2) (a) The court, if it thinks fit, may inspect the document, unless it is a document to which the provisions of section 130 are applied, or take other evidence to enable it to determine on its admissibility.

(b) If for such 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.

Section 170. Document produced in answer to notice to be given as evidence if required:-

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, if it is admissible.

Section 171. Consequence of Refusal to Produce Document in Answer to Notice:-

When a party refuses to produce a document for 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.

Section 172. Extended Powers of Court for Purpose of Obtaining Proper Evidence.

1) A judge or magistrate may, in order to discover or obtain proper evidence, ask any question, in any form, at any time, of any witness, or of the parties, about the any fact whether or not it is otherwise admissible; and may order the production of any document or thing; and neither the parties nor their agents shall be entitled to object to any such question or order, nor, without leave of the court, to cross-examine the witness upon any answer given in reply to any such question:

Provided that judgement shall be based only upon facts which are otherwise admissible and which have been duly proved.

2) Subsection (1) shall not authorize a judge or magistrate:-

a) to compel a witness to answer any question or to produce any document which such witness would be entitled to refuse to answer or produce under the provisions of this chapter, if the question was asked or the document was called for by the adverse party; nor

b) to ask any question which would be improper for any other person to ask under section 156 or 157; nor

c) to dispense with the primary evidence of any document, except in the cases excepted by the provisions of this Act.

Examination by Assessors

Section 173. Examination by Assessors.
In cases tried with assessors the assessors may examine to the witnesses, through or by leave of the judge or magistrate, which the judge or magistrate himself might put and which he considers proper.

Improper Admission And Rejection Of Evidence

Section 174. Effect of Improper Admission or Rejection.
The improper admission or rejection of evidence shall not of itself be ground for a new trial or for reversal of any decision in a case if it shall appear to the court before which the objection is taken that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that if the rejected evidence has been received it ought not to have varied the decision.

Chapter V
Bankers' Books

Section 175. Mode of Proof of Entries in Bankers' Books.
Subject to the provisions of this Chapter a copy of any entry in a banker's book shall in all legal proceedings be received as prima facie evidence of such entry, and of the matters, transactions and accounts therein recorded.

Section 176. Proof and Verification of Copy.
1) A copy of an entry in a banker's book shall not be received in evidence under section 175 unless it be first proved that:-

a) the book was, at the time of making the entry, one of the ordinary books of the bank; and
b) the book is in the custody and control of the bank; and

c) the entry was made in the usual and ordinary course of banking business; and
d) the copy has been examined with the original entry, and is correct.

2) Such proof may be given by an officer of the bank, or, in the case of the proof required under subsection (1) (d), by the person who has performed the examination, and may be given either orally or by an affidavit sworn before a commissioner for oaths or a person authorized to take affidavits.

Section 177. Restriction on Compelling production of Banker's Book.

A banker or officer of a bank shall not, in any proceedings to which the bank in not a party, be compelled to produce any banker's book the content of which can be proved under this Chapter or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the court made for special cause.

Section 178. Inspection of Banker's Books.

1) On the application of any party to proceedings a court may order that such party is at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceedings.

2) An order made under this section may be made either with or without summoning the bank or any other party, and shall be served on the bank three working days before it is to be executed, unless the court otherwise directs.

Section 179. Warrant to Investigate.

1) Where it is proved on oath to a judge or magistrate that in fact, or according to reasonable suspicion, the inspection of any banker's book is necessary or desirable for the purpose of any investigation into the commission of an offence, the judge or magistrate may by warrant authorize a police officer or other person named therein to investigate the account of any specified person in any banker's book, and such warrant shall be sufficient authority for the production of any such banker's book as may be required for scrutiny by the officer or person named in the warrant, and such officer or person may take copies of any relevant entry or matter in such banker's book.

2) Any person who fails to produce any such banker's book to the police officer or other person executing a warrant issued under this section or to permit such officer or person to scrutinize the book or to take copies of any relevant entry or matter therein commits an offence and shall on conviction be liable to imprisonment for a term not exceeding one year or to a fine or with both.

Section 180. Costs.

1) The costs of any application to a court under or for the purposes of this chapter and the costs of anything done or to be done under an order of a court made under or for the purposes of this Chapter, shall be in the discretion of the court, which may order them, or any part thereof, to be paid to any party by the bank where the costs were occasioned by any default or delay on the part of the bank.

2) An order under subsection (1) may be enforced as if the bank was a party to the proceedings.

Chapter VI
Miscellaneous Provisions

Section 181. Saving for Other Laws.

Save as otherwise expressly provided in this Act, nothing in this Act shall be deemed to derogate from the provisions of any other written law which relate to matters of evidence.

Given under my hand this …….. day of …….. Year, 2003 A.D.

……..…….....

Dr. John Garang de Mabior
Chairman
SPLM/CANS

Schedule

Certificate As To Photographic Print Or Enlargement

I, ……of ……

being an officer appointed by the ……

under…….(Gazette Notice No. ……

of……..) hereby certify as follows:-

1) On the ……. Day of ……20.… at …… I received in a sealed packet numbered…….. purporting to be signed by…….. exposed photographic film(s) under cover of a letter, No. …… dated……..purporting to be sent by ……, requesting that I should process the said film(s) and prepare therefrom photographic print(s) and/or enlargement(s).

2) The said letter and packet were each signed and dated by me and are attached hereto as annexes 1 and 2, respectively.

3) In pursuance of the said request (I processed) the said film(s) were processed under my supervision and (prepared) therefrom photographic print(s) and/or enlargement(s) (each of) were prepared which I have signed and now attach hereto as annex (es)……

4) The photographic print(s) and/or enlargement(s) attached hereto as annex(s)…… is/are as nearly as may be (an) exact reproduction(s) from the exposed film(s) submitted to me as aforesaid and have in no way been retouched, altered or otherwise interfered with in the process of their preparation.