TABLE OF CONTENTS

	·
CHAPTER-I: INTRODUCTORY	1
1:1 What is Evidence?	
1:2 Proof of facts in judicial Inquiries	
1:3 Process of Judicial Inquiry	
1:4 Court	
1:5 Arbitrators	5
1:6 Courts-Martial	5
CHAPTER II: Sources of the Law of Evidence in Sri Lanka	7
CHAPTER-III: The nature and scope of the law of evidence	10
3:1 Lex Fori	
3:2 Category of Laws	
3:3 Applicability of the English Law	13
CHAPTER - IV: Scheme of the Evidence Ordinance	19
CHAPTER - V: The Interpretation Section	23
5:1 Legally authorized to take evidence	23
5:2 Relevance - Admissibility and Weight	25
5:3 Fact in issue	27
5:4 "Matters before it"	
5:5 Presumptions	31
CHAPTER - VI: Classification of Evidence	38
6:1 Oral evidence and Documentary evidence	39
6:2 Best evidence and Inferior evidence	
6:3 Direct evidence and Circumstantial evidence	
6.4 Corpus Delicti	
6:5 Original evidence and Hearsay evidence	
6:6 Prima facie evidence and Conclusive evidence	
6:7 Primary evidence and Secondary evidence	
6:8 Material or Real evidence	
6:9 Affidavit evidence	
6:10 Evidence of identity	55
6:11 Admissions and Presumptions	56

CHAPTER - VII: Difference between Evidence in Civil and Criminal cases	58
7:1 Evidence in Civil and Criminal proceedings	
7:2 Plea of guilt in criminal case is relevant to civil action	
7:3 Standard of Proof in Civil cases	
7:4 Admission as to Jurisdiction	
7:5 Courts have Latent want of jurisdiction and Patent want of jurisdiction.	
7:6 Jurisdiction by Acquiescence, or by Consent or by Waiver	71
CHAPTER - VIII: Of the Relevancy of Facts	73
8:1 The Concept of Relevancy	73
8.2 Logical Relevancy and Legal Relevancy	75
8:3 Relevancy and Admissibility	75
8:4 Categories of Relevant Facts	76
8:5 RES GESTAE	⁷ 8
8:6 What is a Transaction?	80
8:7 Res gestae and Res inter alios actae	85
8:8 Facts which are the Occasion, Cause or Effect of facts in Issue	86
8:9 Motive or Preparation and Previous or Subsequent Conduct	88
8:10 Five Allied Concepts	90
8:11 Failure to Reply to Letters	96
8:12 Explanatory and Introductory Facts	100
8:13 Things said or done by Conspirator in reference to Common Intention	106
8:14 When facts not otherwise relevant are relevant	112
8:15 In suits for damages facts tending to enable court to determine	117
8:16 Facts relevant when right or custom is in question	122
8:17 Facts showing existence of state of mind or of body or bodily feeling	135
8:18 Existence of course of business, when relevant	148
CHAPTER - IX: ADMISSIONS AND CONFESSIONS	156
9:1 Admission by conduct	
9:2 Formal and Informal Admissions	
9:3 To whom admission may be made	
9:4 Persons by whom admissions may be made	
9:5 Admission by a party to the proceeding Section 18(1)	
9:6 Admission by an authorized agent (Vicarious Admissions). S. 18 (1)	
9:7 Admissions by Recognized Agent	
9:8 Admissions by Companies and Corporations	550 5000000000000000000000000000000000
9:9 Compromise or settlement by Counsel or Registered Attorneys	
9:10 Admissions by Counsel and Registered Attorneys	
9:11 Admissions by Power of Attorney holder	
9:12 Parties suing or being sued in representative character. (S. 18(2)	

9:13 Statements made by persons who have any proprietary or pecuniary	
9:14 Persons from whom the parties to the suit have derived their interest.	174
9:15 Admissions by Persons whose position must be proved as against	
9:16 Admissions by persons expressly referred to by a party to suit	178
9:17 Miscellaneous cases of vicarious admissions	179
9:18 Conditions of Admissibility	
9:19 Proof of admissions against the person who makes them or his	180
9:20 Proof of Admission against the Person who made it	181
9:21 The Effect of Admissions	186
9:22 Exception to the Admissibility of Evidence When oral admissions	186
9:23 Admissions in civil cases when relevant Statements made without	188
9:24 Distinction between confession and admission	194
9:25 Admissions not conclusive proof, but may estop	194
9:26 Admissions in Pleadings	196
CHAPTER - X: Statements by persons who cannot be called as witnesses	197
10:1 Section 32 refers to cases in which statement of relevant fact by perso	n197
CHAPTER - XI: Other Categories of Relevant Evidence	222
11:1 Evidence in a former judicial proceeding when relevant	222
CHAPTER - XII: Statements made under Special Circumstances	230
12:1 Sections 34 to 38	230
12:1 Sections 34 to 38	230 235
12:1 Sections 34 to 38	230 235
12:1 Sections 34 to 38	230 235
12:1 Sections 34 to 38	230 235 240 y240
12:1 Sections 34 to 38	230 235 240 y240
12:1 Sections 34 to 38	230 235 240 y240 241
12:1 Sections 34 to 38	230235240 y240241241
12:1 Sections 34 to 38	230245240 y241241241
12:1 Sections 34 to 38	230245240 y241241241
12:1 Sections 34 to 38	230235240 y241241242251
12:1 Sections 34 to 38	230245 y241241251252
12:1 Sections 34 to 38	230235240 y241241251252 - 255
12:1 Sections 34 to 38	230245241241242251252255
12:1 Sections 34 to 38	230235240 y241241242251252255270272
12:1 Sections 34 to 38	230235240 y241241242251252255270272
12:1 Sections 34 to 38	230240 y241241242251252255270272
12:1 Sections 34 to 38	230240 y241241241251252255272272

13:9 Relevancy of Conviction in Magistrate's Court and vice versa	280
13:10 Relevancy of judgment in case of Adultery in Civil Proceedings	282
13:11 Relevancy of judgment recording findings of paternity	283
13:12 Relevancy of certain other judgments - ss. 42 and 43	284
13:13 When judgments other than mentioned in Ss.40-42 are Relevant	285
13:14 Avoidance of relevant judgments - s. 44	289
CHAPTER - XIV: Opinions of third persons when relevant- Ss. 45 - 51	95
14:1 Opinions of Experts	295
14:2 Facts bearing upon Opinions of Experts	320
14:3 Opinion as to Handwritings - Ss. 47, 73	322
14:4 Opinions as to Existence of Right or Custom, when relevant - S.48	
14:5 Opinion as to usages, tenets etc., when relevant - s. 49	333
14:6 Opinion on relationship, when relevant- S. 50	334
14:7 Grounds of opinion, when relevant - S. 51	339
CHAPTER - XV: CHARACTER WHEN RELEVANT	41
15:1 CHARACTER IN CIVIL CASES WHEN RELEVANT- Ss. 52 and 55	341
15:2 Distinction between Reputation and Disposition	342
15:3 Character in civil cases	344
15:4 Findings of the Trial Judge as to demeanour of witnesses	345
15:5 Character of the victim	348
CHAPTER - XVI: FACTS WHICH NEED NOT BE PROVED- Sections 56 - 58	51
16:1 No proof required of fact judicially noticed - Ss. 56 & 57	351
16:2 'Taking Judicial Notice'	352
16:3 Facts admitted need not be proved - Section 58	359
CHAPTER - XVII: Oral evidence and Documentary evidence 3	71
17:1 Section - 1- Oral Evidence - Ss. 59 & 60	371
17:2 Production of Real Evidence	384
17:2 Production of Real Evidence	
17:3 Proof of contents of documents	385
17:3 Proof of contents of documents	387
17:3 Proof of contents of documents	387 388
17:3 Proof of contents of documents	387 388 389
17:3 Proof of contents of documents	387 388 389 390
17:3 Proof of contents of documents	387 388 389 390
17:3 Proof of contents of documents	387 388 389 390 391
17:3 Proof of contents of documents	387 388 389 390 391 395

17:13 Exceptions to general rule - S. 65	404
17:14 Rules as to Notice to Produce Documents - Ss. 66 and 162	414
	424
CHAPTER - XVIII: Proof of execution and handwriting of documents	
18:1 Due Execution of a document	
18:2 Signature includes a 'mark'	
18:3 Proof of Signature and Handwriting	426
18:4 Proof of execution of document required by law to be attested	427
18:5 Meaning of "to attest"	
18:6 A Notary is an Attesting witness	
18:7 Notary's evidence alone is insufficient if fraud is alleged	
18:8 Proof of due attestation	
18:9 Object of calling the witness	
18:10 Exceptions to section 68	438
18:11 Proof where no attesting witness is found	440
18:12 Mark	446
18:13 Admission of Execution by party to attested document	446
18:14 Proof when attesting witness denies the execution - S. 71	449
18:15 Proof of Document not required by Law to be Attested	451
18:16 Document admitted without Objection	453
18:17 Comparison of Handwritings	
CHAPTER - XIX 19.1 Production of documents in Civil cases	457
19:2 Objection to reception of Documents in Civil cases	459
19:3 Document produced subject to proof	
CHAPTER - XX: Public and Private Documents - Ss. 74 - 78	465
20:1 Public Documents	465
20:2 Certified copies of Public Documents	466
20:3 Proof of Documents by Production of Certified Copies	
20:4 Proof of other official documents	
20:5 Documents admitted in evidence without objection	
20:6 Documents must be duly stamped	
CHAPTER - XXI: Presumptions relating to documents - Ss. 79 - 90	472
21:1 Presumption as to genuineness of certified copies- S. 79	472
21:2 Presumption on production of record of evidence - S.80	
21:3 Presumption as to Gazette, Newspapers and other documents – S. 8	
21:5 Presumption as to maps or plans made or signed by Surveyor-Gene	
21:6 Section 83 and Section 36	
21:7 Presumption as to collections of Laws and Reports of decisions	

21:8 Presumption as to Powers of Attorney	480
21:9 Presumption as to certified copies of foreign judicial records	482
21:10 Presumption as to books, maps and charts - S. 87	482
21:11 Presumption as to Telegraphic messages - S. 88	483
21:12 Presumption as to due execution, etc., of documents not produced	484
21:13 Presumption as to documents thirty years old - S. 90	485
21:14 Unsigned document	488
21:15 Mode of Reckoning the period of 30 years	488
21:16 Proper custody	490
21:17 Custody of Member of the Family	492
21:18 Custody of Court	492
21:19 Applicability of the presumption to duplicates and certified copies	493
21:20 Rebuttal of the presumption	496
21:21 Presumptions which a Court shall draw	496
CHAPTER - XXII: BANKERS' BOOKS - Ss. 90A to 90F	498
22:1 Mode of Proof	499
22:2 Inspection of Books	500
22:3: Costs	502
CHAPTER - XXIII: THE EXCLUSION OF ORAL BY DOCUMENTARY EVIDENCE	503
23:1 First Cardinal Rule - S. 91	503
23:2 Proof of a Will	509
23:3 Contracts	514
23:4 When Parol evidence is admissible to vary Notarial document	516
23:5 Partnership	517
23:6 Lease	519
23:7 When Parol evidence is not admissible	524
23:8 Writing is in Possession of Adverse party	526
23:9 The Second Cardinal Rule - s.92	527
23:10 Deed executed under fraud or Intimidation - Proviso (1)	530
23:11 Rule of Estoppel and Section 92	
23:12 Variation or modification of a Notarial document	533
23:13 Documents Notarially executed	535
23:14 Classification of Contract	
23:15 Conditional Transfer (Pactum de retrovendendo)	
23:16 Tender of price money within stipulated time is essential	
23:17 A Third party is not bound by section 92	
23:18 Intention of parties	
23:19 Where a Trust or Fraud is alleged to defeat Section 92	
22.20 Ic transaction Dool on Cham?	P F F

.

23:21 Scope:	
20.21 ocope:	558
23:22 Separate or collateral oral agreement	
23:23 Escrow	570
23:24 Action for Use and Occupation	576
23:25 Variation or Modification of Contracts	578
23:26 The Third Cardinal Rule - Proviso (6) to S.92 and Ss.93 - 98	580
23:27 Benami Transaction	583
23:28 Exclusion of evidence to explain or amend ambiguitous documen	t- S.93584
23:29 Distinction between Patent and Latent Ambiguities	585
23:30 Distinction between Inaccuracy and Ambiguity	586
23:31 Ambiguous or Defective document	587
23:32 Limits of the Section	
23:33 Interpretation of documents	
23:34 Latent Ambiguities - Sections 95, 96, 97 and 98	590
23:35 Difference between section 95 and section 97	596
23:36 Latent Ambiguity - (2)	597
23:37 Latent Ambiguity (3) - Imperfect description - S. 97	600
23:38 Latent Ambiguity - (4) - Peculiarity of User - S. 98	603
CHAPTER - XXIV: English Law of Evidence when in force - Section 100	607
24:1 Section 100 states:	607
24:2 What questions to be determined according to English Law of Evidence	anca 608
	000
24:3 Instances of the influence of the English Law:	
24:3 Instances of the influence of the English Law:	
	611
CHAPTER - XXV: PRODUCTION AND EFFECT OF EVIDENCE 25:1 The Burden of Proof	611 612
CHAPTER - XXV: PRODUCTION AND EFFECT OF EVIDENCE 25:1 The Burden of Proof	611 612 613
CHAPTER - XXV: PRODUCTION AND EFFECT OF EVIDENCE 25:1 The Burden of Proof25:2 Presumptions of Fact25:3 Presumption of Innocence	611 612 613
CHAPTER - XXV: PRODUCTION AND EFFECT OF EVIDENCE 25:1 The Burden of Proof	611 612 613 617
CHAPTER - XXV: PRODUCTION AND EFFECT OF EVIDENCE 25:1 The Burden of Proof25:2 Presumptions of Fact25:3 Presumption of Innocence	611 612 613 617
CHAPTER - XXV: PRODUCTION AND EFFECT OF EVIDENCE 25:1 The Burden of Proof	611 612 613 617
CHAPTER - XXV: PRODUCTION AND EFFECT OF EVIDENCE 25:1 The Burden of Proof	611 612 613 617 618 619
CHAPTER - XXV: PRODUCTION AND EFFECT OF EVIDENCE 25:1 The Burden of Proof	611 612 613 617 618 619
CHAPTER - XXV: PRODUCTION AND EFFECT OF EVIDENCE 25:1 The Burden of Proof	611 612 613 617 618 619 626 626
CHAPTER - XXV: PRODUCTION AND EFFECT OF EVIDENCE 25:1 The Burden of Proof	611 612 613 617 618 619 626 626
CHAPTER - XXV: PRODUCTION AND EFFECT OF EVIDENCE 25:1 The Burden of Proof	611 612 613 617 618 619 626 626 626
CHAPTER - XXV: PRODUCTION AND EFFECT OF EVIDENCE 25:1 The Burden of Proof	611 612 613 617 618 619 626 626 627 632
CHAPTER - XXV: PRODUCTION AND EFFECT OF EVIDENCE 25:1 The Burden of Proof	611 612 613 617 618 619 626 626 627 628 632
CHAPTER - XXV: PRODUCTION AND EFFECT OF EVIDENCE 25:1 The Burden of Proof	611 612 613 617 618 619 626 626 626 627 628 632 633

26:10 Burden of proving fact necessary to be proved to make evidence	657
26:11 Burden of proving that case of accused comes within execptions	663
26:12 Burden of proving fact especially within knowledge of any person	664
26:13 Burden of Proof in Appeal	668
CHAPTER - XXVII: PRESUMPTIONS OF LAW AND OF FACTS:	670
27:1 Burden of Proving of death of a person known to have been alive	670
27:2 Burden of proving that the person is alive who has not been	
27:3 By Those who would naturally have heard of him	672
27:4 Burden of Proof as to Partnership, Tenancy and Agency - S. 109	674
27:5 Burden of proof as to ownership	677
27:6 Actual possession and Constructive possession	684
27:7 Proof of good faith in Transactions where one party is in position	687
27:8 'In a Position of Active Confidence'	690
27:9 Birth during marriage, Conclusive proof of Legitimacy	692
27:10 Proof of Parentage and Conclusive Proof	700
27:11 Presumption that, a boy under twelve years cannot commit rape	707
CHAPTER - XXVIII: PRESUMPTION OF FACTS	709
28:1 Court may presume existence of certain facts	
28:2 Possession must be Exclusive	712
28:3 Other presumptions under section 114 (General)	727
CHAPTER - XXIX: ESTOPPEL	733
29:1 The Doctrine of Estoppel	733
29:2 Estoppel by Convention of the parties	
29:3 Estoppel in Pais	
29:4 Estoppel by Record	
29:5 Estoppel by Deed	740
29:6 Representation as Estoppel	
29:7 How should Estoppel be pleaded?	
29:8 Estoppel by agreement	
29:9 "Intentionally"	758
29:10 Non-disclosure or Silence	762
29:11 Respresentation by Omission or Negligence	765
29:12 Estoppel by Election	767
29:13 Representation by Minors	768
29:14 Estoppel and Presumption	
29:15 Estoppel by Pleadings	
27.20 Bstopper by 1 readings	
29:16 Estoppel by Judgment and <i>Res judicata</i>	770

29:18 Estoppel and waiver	773
29:19 Estoppel on Point of Law and against Statute	774
29:20 Doctrine of Promissory Estoppel	775
29:21 Estoppel in Court proceedings	777
29:22 Estoppel by Attestation of Document	778
29:23 Equitable Estoppel	779
29:24 Estoppel is a Shield, not a Sword	780
29:25 Estoppel of Tenant and of Licensee of Person in Possession - S. 116	7 81
CHAPTER - XXX: OF WITNESSES	799
30:1 Who may Testify?	799
30:2 Competency, Compellability and Privilege	799
30:3 Witnesses of Tender age	803
30:4 EVIDENCE (SPECIAL PROVISIONS) ACT NO.32 OF 1999	804
30:5 Disease of body or mind	805
30:6 Minors' Interest and Oath or Affirmation	806
30:7 Dumb Witness (Witness unable to communicate orally)- S.119	811
30:8 Judges and Magistrates	816
30:9 Exclusion of Matters on grounds of Public Policy	819
30:10 Official Communications	823
30:11 Professional Communications - Ss.126 - 129	827
30:12 Privilege not waived by volunteering evidence	832
30:13 Confidential Communications with Legal advisers - S.129	834
30:14 Privileges relating to title deeds and certain documents	835
30:15 Who may not be compelled to produce documents	836
30:16 Witness not excused from answering on ground that answer	837
30:17 Evidence given in a civil action can be used in a criminal case	838
30:18 Accomplice witness	
30:19 Number of Witnesses	840
30:20 What is corroboration?	
30:21 Proof of Adultery	848
30:22 Burden of Proof in Maintenance Cases	
30:23 Sworn and Unsworn Evidence of Children	853
30:24 Claims against Estates of Deceased Person	854
CHAPTER-XXXI: OF THE EXAMINATION OF WITNESSES	855
31:1 Interrogatories	855
31:2 Evidence on Affidavit	858
31:3 Evidence on Commission	
31:4 Evidence de bene esse	
21.5 Evaluation of with any from Court Doom	

31:6 Liability of witnesses	
31:7 Order of Production and Examination of Witnesses	864
31:8 Judge has to decide as to Admissibility of Evidence	
31:9 Evidence of the Opposite Party	
31:10 Court may question witnesses at any time	
31:11 Three Principal Stages of Examination of Witnesses	874
31:12 Can a Person called to produce documents be cross-examined?	
31:13 Witnesses to Character	899
31:14 Leading Questions and Misleading Questions	899
31:15 Evidence as to Matters in Writing	907
31:16 Admission of Statements recorded by machines	912
31:17 Questions Lawful in Cross-examinations	914
31:18 Rules for Cross-examination	915
31:19 When will a witness be to compelled to answer	919
31:20 Court to decide when witness shall be compelled to answer	
31:21 Question not to be asked without reasonable grounds	921
31:22 Procedure of Court in case of question being asked without Reason	
31:23 Indecent and Scandalous Questions	923
31:24 Questions intended to insult or annoy	924
31:25 Exclusion of evidence to contradict answers to questions	
31:26 Hostile or Adverse witness	928
31:27 Impeaching credit of witness	934
31:28 Corroboration of witnesses - Sections 156, 157 & 158	938
31:29 What matters may be proved in connection with proved Statement	
31:30 Refreshing memory of a witness - Ss. 159, 160, 161	
31:31 Right of adverse party as to writing used to refresh memory	
31:32 Production of Documents	
31:33 Giving as evidence, of document called for and produced on notice	
31:34 Video recorded interview with a child may be given in evidence	
31:35 Using as evidence, of document, production of which was refused	
31:36 Judge's power to put questions or order production	
31:37 Of Improper admission and rejection of evidence	
31:38 Fresh evidence after Trial in the lower Court	
2100 11001 CVIdence diter 111d/11/11/10/10/10/10/10/10/10/10/10/10/10/	
CHAPTER - XXXII: Fresh Evidence in Appeal	984
32:1 Rules as to Fresh Evidence in Appeal Rule	
32:2 Provision as to Re-trial	
CHAPTER - XXXIII: New Issues in Appeal	991
33:1 The Tasmania Rule	

CHAPTER - XXXIV: Evidence illegally, improperly or unfairly obtained	994
34:1 Judicial discretion - Limitations	994
34:2 Personal Knowledge and Opinion of the Judge	995
34:3 Demeanour of Witnesses	998
34:4 Evidence of witnesses - How is to be Recorded	999
34:5 Conflicting Judgments	1001
34:6 Erroneous Judgment	1002
34:7 Judgement and Order <i>Per incuriam</i>	1003
34:8 Change of Trial Judge	1006
34:9 Delay in Writing and Delivering Judgment	1009
CHAPTER - XXXV: COMPUTER EVIDENCE	1010
35:1 Evidence produced by Machines	
35:2 Reliability of the Machine in Civil and Criminal cases	
35:3 Computer evidence under Evidence (Special Provisions)	1014
35:4 Contemporaneous Recordings	1016
35:5 Admissibility of Computer Evidence	1017
35:6 Affidavit Evidence	1019
35:7 Notice, Access and Inspection	1020
35:8 Relevance of the <i>Audio</i> and <i>Video</i> Evidence	1022
35:9 Admission of Statements recorded by machines	1022
35:10 Electronic Transactions Act No. 19 of 2006	1023
35:11 Electronic Signature	1024
35:12 Rules Governing Electronic Evidence	1027
35:13 Electronic Contracts	1028
35:14 Electronic Notarization of Documents	1029
TABLE OF CASES	1031

.