

TRINIDAD AND TOBAGO.

Criminal Evidence.

No. 23.—1905.

4th September.

AN ORDINANCE to amend the law of Evidence.

[L.S.]

H. M. JACKSON,

GOVERNOR.

14th September, 1905.

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the Criminal Evidence Ordinance 1905. Short title.

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

- (a.) A person so charged shall not be called as a witness in pursuance of this Ordinance except upon his own application:
- (b.) The failure of any person charged with an offence, or of the wife or husband, as the case may be, of the person so charged to give evidence shall not be made the subject of any comment by the prosecution:

- (c.) The wife or husband of the person charged shall not, save as in this Ordinance mentioned, be called as a witness in pursuance of this Ordinance except upon the application of the person so charged :
- (d.) Nothing in this Ordinance shall make a husband compellable to disclose any communication made to him by his wife during the marriage, or a wife compellable to disclose any communication made to her by her husband during the marriage :
- (e.) A person charged and being a witness in pursuance of this Ordinance may be asked any question in cross-examination, notwithstanding that it would tend to criminate him as to the offence charged :
- (f.) A person charged and called as a witness in pursuance of this Ordinance shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of or been charged with any offence other than that wherewith he is then charged, or is of bad character, unless—
- (i.) the proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of the offence wherewith he is then charged ; or
 - (ii.) he has personally or by his advocate asked questions of the witnesses for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or the witnesses for the prosecution ; or
 - (iii.) he has given evidence against any other person charged with the same offence :

- (g.) Every person called as a witness in pursuance of this Ordinance shall, unless otherwise ordered by the Court, give his evidence from the witness box or other place from which the other witnesses give their evidence :
- (h.) Nothing in this Ordinance shall affect the provisions of Section 10 of the Indictable Offences (Magistrates' Procedure) Ordinance (No. 2), or any right of the person charged to make a statement without being sworn.

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

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

5.—(1.) The wife or husband of a person charged with an offence under any enactment mentioned in the Schedule to this Ordinance may be called as a witness either for the prosecution or defence and without the consent of the person charged. Calling of wife or husband in certain cases.

(2.) Nothing in this Ordinance shall affect a case where the wife or husband of a person charged with an offence may at common law be called as a witness without the consent of that person.

6.—(1.) This Ordinance shall apply to all criminal proceedings, notwithstanding any enactment in force at the commencement of this Ordinance. Application of Ordinance.

(2.) But this Ordinance shall not apply to proceedings in Courts Martial unless so applied

- (a.) As to Courts Martial under the Naval Discipline Act (29 and 30 Vic. c. 109) by general orders made in pursuance of Section 65 of that Act; and
- (b.) As to Courts Martial under the Army Act (44 and 45 Vic. c. 58) by rules made in pursuance of Section 70 of that Act.

(3.) This Ordinance shall not apply to proceedings in Courts Martial under the Local Forces Ordinance, No. 131, and the Local Forces Ordinance 1905 (No. 7—1905).

Repeal.

7. Sub-section 5 of Section 48 of the Summary Conviction Offences (Procedure) Ordinance (No. 1) is hereby repealed.

Passed in Council this Fourth day of September, in the year of Our Lord one thousand nine hundred and five.

HARRY L. KNAGGS,

Acting Clerk of the Council.

SCHEDULE.

ENACTMENTS REFERRED TO IN SECTION 5.

The Offences against the Person Ordinance (No. 14)	{ Sections 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49 and 50.
The Married Women's Property Ordinance (No. 65)	—Sections 14 and 18.
The Summary Convictions (Offences) Ordinance (No. 5)	{ Sub-section 1 of Section 33.