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Law note for students for LLB of 3 Ydc

## **EVIDENCE notes for law students**



## Law of Evidence

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### **Evidence Act**

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**Q: Explain salient feature applicability and Historical Background of Evidence Act 1872?**

Law is divided into two categories and it is substantive law and procedural law. The object of law is creation of Legal rights and to enforce it. Law of evidence in administration of justice are of high importance.

**Salient feature: -**

1. It is codified law
2. It was drafted by second law commission established in 1853 and came into force from 1872 since British period.
3. There is detail relating to evidence in Kantilya Shastra, Manusmiriti, Yajnavalkya.
4. There are 167 sections in evidence act.
5. It is applicable in all type of cases which include civil and criminal cases.
6. It is also applicable before Tribunal, tax, authorities, executive Magistrates, lok adalats and all administrative authorities.
7. It is oral or in writing or in form of documents.
8. Any number of witnesses are allowed.
9. Witnesses are examined and cross examined.
10. In royal charter of Britishers also importance was given to evidence.
11. In Mofussil courts and Adalats also evidence was recorded
12. IN 1835 first attempt was made to enact and codify evidence Act. In 1853 eleven enactments were passed dealing with the Law of

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evidence.

13. IN 1868 a commission was set up under the chairmanship of Sir Henry Maine and it submitted report but it was unsuitable to Indian conditions.
14. In 1870 this task of codification of evidence was assigned to Sir James Fitz Stephen and he submitted report.
15. Report was referred to the select committee and members of bar for their opinion.

It recommended the Act and draft was placed before the legislature and it was enacted.

The Evidence Act came into force on 1<sup>st</sup> September 1872.

This is Historical background of Evidence Act 1872.

### **APPLICABILITY**

Evidence Act came into effect from 1<sup>st</sup> September 1872. It is applicable in all cases of civil and criminal nature including Labour, Taxation and tribunal arbitrator and complete ADR machinery of dispute resolution.

Evidence are of different kinds such as oral evidence, documentary evidence, Hearsay evidence, primary and secondary evidence, expert evidence, circumstantial evidence. They are produced according to its availability and requirement from both side parties to prove and disprove the facts.

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These are the provisions relating to salient features, Historical Background and applicability of Evidence Act in introductory part of the Act.

\* \_ ( Law Student Federation ) \_ \*

## UNIT – I

Q: What do you mean by relevancy of facts explain provisions of relevancy of facts with specific reference to res Gestae alibi and conspirators.

Ans: - Relevancy of facts mean all the facts which court may consider to prove of section 5. It includes legal relevancy and Logical relevancy. There are number of provisions about relevancy of facts specified from section 6-16 of evidence Act. Relevancy is not proof but means to establish proof. These facts are as follows.

1. Res Gestae – Sec.6
2. Occasion, cause, effect, opportunity, Sec 7
3. Motive and preparation. Sec -8
4. Fact introduce, explain and support Sec -9
5. Thing said or done by conspirators – Section 10
6. Probable, improbable, alibi. Sec-11
7. Amount of damages – Sec 12
8. Right or custom – Sec 13
9. State of mind or bodily feeling – sec-14
10. Accidental or intentional act – sec – 15
11. Course of business. Sec -16



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