

lar letter which the solicitor had sent to the solicitor for the accused.

R. v. Prentice, 20 D.L.R. 791, 7 W.W.R. 271, 23 Can. Cr. Cas. 436, 7 A.L.R. 479, 29 W.L.R. 665.

WHO MAY CLAIM PRIVILEGE.

The exception rules of law which permit a witness to refuse to answer question on the ground of professional privilege or reasons of state, are to be strictly applied, and have no operation when the refusal conceals a guilty knowledge or the discovery of acts or omissions having for their object the commission of an offence. In the cause of public order the Minister of a department can invoke this privilege on the ground of reasons of state, but a subordinate cannot. Therefore, s. 13 of c. 30, R.S.C. 1906, does not protect a clerk in a post office savings bank who may be compelled to disclose the amount to a depositor's credit.

Hebert v. Latour, 15 Que. P.R. 5.

REFUSAL TO ANSWER—COMMITTAL FOR CONTEMPT—PERSON CHARGED WITH AN OFFENCE—WHEN A COMPELLABLE WITNESS.

Ex parte Ferguson, 17 Can. S.C.R. 437.

INCORPORATED COMPANY—MEMBER MAY BE REQUIRED TO GIVE EVIDENCE.

A member of an incorporated company may be compelled to give evidence against the company on a prosecution for a violation of the Liquor License Act.

The King v. Mayflower Bottling Co., 44 N.S.R. 417.

APPLICATION FOR SUMMONS OR WARRANT—WITNESSES FOR COMPLAINANT.

The King v. Johnston, 44 N.S.R. 468.

WITNESS REFUSING TO BE SWORN AND ELECTING TO AFFIRM—NECESSITY FOR ALLEGING CONSCIENTIOUS SCRUPLES.

R. v. Deakin, 19 W.L.R. 43, 16 B.C.R. 271, 19 Can. Cr. Cas. 62.

PRIVILEGE—PENAL ACTION—EVIDENCE OF DEFENDANT.

Bourque v. Bellegarde, 40 Que. S.C. 379.

EXAMINATION OF DEFENDANT—REFUSAL TO ANSWER—PRIVILEGE.

Section 5 of the Canada Evidence Act does not apply to a witness under examination in the Superior Court upon a proceeding to quash a saisie conservatoire issued in virtue of the provisions of C.C.P. Said witness may refuse to answer questions tending to incriminate him.

Robinson v. Casey, 12 Que. P.R. 94.

III. Impeaching; discrediting; corroborating.

(§ III—50)—IMPEACHING—DISCREDITING—CORROBORATING.

The denial by the defendant of a conversation which the Trial Judge finds took place is not sufficient to set aside the defendant's evidence in favour of the plaintiffs in an action for commission on the sale of land, where such denial does not appear to have been made with intent wilfully to

pervert the facts and might be attributable to the infirmities of age.

Gullivan v. Strevel, 1 D.L.R. 44, 19 W.L.R. 778, 1 W.W.R. 450.

(§ III—51)—PRIOR STATEMENT TO CONTRADICT.

Where a person under conviction for arson is called by the Crown on the trial of another person on the charge of wilfully setting the same fire, to prove that the latter had instigated him to commit the offence, the testimony of the convict that he had caused the fire at the instance and direction of accused may be rebutted by the testimony of other prisoners that the convict had admitted to them that the accused had had nothing to do with the fire, on the convict denying having made such admissions.

R. v. Webb, 16 D.L.R. 317, 24 Man. L.R. 437, 22 Can. Cr. Cas. 424, 27 W.L.R. 313, 6 W.W.R. 358.

(§ III—53)—RIGHT TO CONTRADICT OWN WITNESS.

Section 23 of The Alberta Evidence Act (1910, 2nd sess., c. 3), expressly provides that, although a party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, he may contradict him by other evidence, and there is no rule of evidence by which a party cannot contradict by other evidence the statements of any witness called on his own behalf.

Maruzeczka v. Charlesworth, 26 D.L.R. 553, 9 A.L.R. 310, 33 W.L.R. 823, 9 W.W.R. 1313.

If a witness disappoints the party calling him, another witness may be called to give a different account of the transaction. A petitioner, in an action contesting the validity of an election on account of bribery, is not bound by the testimony of a witness he called, which was adverse to the interest of the party calling him. [*Melhuish v. Collier*, 15 Q.B. 878, 19 L.J.Q.B. 493, followed.]

Hamm v. Bashford, 26 D.L.R. 573, 9 S.L.R. 68, 33 W.L.R. 473, 9 W.W.R. 1044, reversing 8 W.W.R. 793.

CONTRADICTION BY WRITTEN STATEMENT—LETTER.

A proposal to contradict a witness by means of a letter previously written by him was properly rejected where the witness' attention had not been directed to those parts of the letter which were to be used for the purpose of contradicting.

Robinson v. Haley, 42 N.B.R. 657.

(§ III—54)—CONTRADICTION ON IMMATERIAL MATTER.

Where the accused giving evidence on his own behalf in a criminal trial is asked, in the course of his cross-examination as to some previous offence about some irrelevant fact, the Crown is bound by his answer and cannot tender testimony in contradiction thereof. [*R. v. Muma*, 17 Can. Cr. Cas. 285, 22 O.L.R. 227, approved.]

R. v. Mulvihill, 18 D.L.R. 189, 22 Can. Cr. Cas. 354, 19 B.C.R. 197, 26 W.L.R.